
PART THIRTEEN — PROJECT AND ZONING CODE

ARTICLE 1303 Project Permits

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CROSS REFERENCES

Building regulations generally—see WV Code 8-12-5(28), 8-12-13 *et seq.*
Permits for construction or alteration—see WV Code 8-12-14
Municipal inspections—see WV Code 8-12-15

1303.01 Purpose.

The purpose of this Article 1303 is to establish rules and regulations for Projects, including the procedure for obtaining certain permits and approvals.

1303.02 Project Permit required; standards and Guidelines.

- (a) Project Permit must be obtained before any Project may proceed. Any Person before proceeding with a Project shall obtain a Project Permit therefor. To be valid, each Project Permit shall be signed by the Proper Authority and the issuance thereof shall be based on:
 - (1) The enforcement of the Zoning Ordinance; or
 - (2) The order, decision or decree of a decision-making body or court with specific jurisdiction over the subject matter.
- (b) Project Permits. Every permit issued by a decision-making body or official of the Town under this Zoning Ordinance shall be generally known as a Project Permit. Thus, a Project Permit is a general term used to identify all specific types of permits issued by a decision-making body or official of the Town under the Zoning Ordinance. Therefore, where this Zoning Ordinance makes reference to the term “Project Permit” in its singular form, more than one of the specific types of permits referenced in Section 1303.03 of this Article may be encompassed by such reference.

Example – Assume a Project consists of activities for which a Zoning Compliance Permit and a Sign Permit must be obtained. When Section 1303.02 (a) of this Article, which states that “any person before proceeding with a Project, shall obtain a Project Permit therefor”, is applied to such circumstance, the term “Project Permit” shall be construed to mean that the applicant shall obtain a Zoning Compliance Permit and a Sign Permit before proceeding with such Project.

- (c) Standards and Guidelines. All Projects shall adhere to and comply with the Standards and Guidelines set forth in this Zoning Ordinance.
- (d) E-911 coordination. If a Project encompasses the establishment of a new physical

HISTORY:

Ord. 2017-01 (passed 02-25-2017) superseded all previous building and related ordinances, including the former Article 1303, which was a section of Ord. 2015-03 (passed 01-29-2015) and Ord. 2015-07 (passed 07-13-2015).

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address or the alteration of any existing physical address, no Project Permit shall be issued without confirmation, in writing, that the applicant has requested an E-911 address from the Jefferson County Addressing Office.

1303.03 Types of Project Permits; determination of Proper Authority.

- (a) Purpose. The purpose of this section 1303.03 is to:
- (1) Identify which specific types of Project Permits an applicant is required to obtain before proceeding with a certain Project; and
 - (2) Determine which decision-making body or official of the Town is deemed the Proper Authority for issuing each specific type of Project Permit and reviewing the application therefor.
- (b) Sign Permit. If a Project includes erecting, constructing, reconstructing, altering or relocating any Sign, a Sign Permit shall be obtained from the Proper Authority before proceeding with such Project. The Ordinance Compliance Officer shall be deemed the Proper Authority for issuing a Sign Permit and reviewing the application therefor except in cases where a proposed Sign:
- (1) Does not satisfy the minimum standards of this Zoning Ordinance, and the applicant is seeking a Variance under Article 1326 of this Zoning Ordinance;
 - (2) Is not sufficiently similar to a Sign explicitly listed as a permissible Sign under this Zoning Ordinance;
 - (3) Is part of an application for a Conditional Use Permit, or is part of a condition imposed on an applicant pursuant to a Conditional Use Permit, unless the Board of Zoning Appeals expressly declares otherwise; or
 - (4) Is an Off-Premises Sign requiring a Conditional Use Permit under Section 1316.04(a)(9) of Article 1316 of this Zoning Ordinance.
- (c) Zoning Compliance Permit.
- (1) When required. If a Project includes implementing any Permitted Use or changing a Nonconforming Use to a Permitted Use, or if a Project includes the construction, reconstruction, alteration or enlargement of any Exterior Architectural Features of a Structure as seen from the public view and such construction, reconstruction, alteration or enlargement does not require the applicant to obtain a Conditional Use Permit or Variance, a Zoning Compliance Permit shall be obtained from the Proper Authority before proceeding with such Project. However, a Zoning Compliance Permit shall not be required for a proposed Repair of any Structure that replicates existing Exterior Architectural Features and uses identical materials, but if the scope of a proposed Repair encompasses more than 15% of a Structure, a concept plan shall be submitted to the Proper Authority for review to ensure that a Zoning Compliance Permit is not required.
 - (2) Proper Authority for Zoning Compliance Permit. The Ordinance Compliance Officer shall be deemed the Proper Authority for issuing a Zoning Compliance Permit and reviewing the application therefor except in cases where a proposed Project requiring a Zoning Compliance Permit:
 - A. Does not satisfy the minimum standards of this Zoning Ordinance, and the applicant is seeking a Variance under Article 1326;
 - B. Concerns a proposed Use that is not sufficiently similar to a Use explicitly listed as a Permitted Use under this Zoning Ordinance;
 - C. Concerns a proposed Use that is listed as a Conditional Use under this Zoning Ordinance; or
 - D. Concerns any proposed Exterior Architectural Feature that is not

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sufficiently similar to an Exterior Architectural Feature explicitly listed as permissible under this Zoning Ordinance.

- (d) Conditional Use Permit. If a Project encompasses a Conditional Use that is set forth in this Zoning Ordinance, a Conditional Use Permit shall be obtained from the Board of Zoning Appeals in accordance with Article 1324 of this Zoning Ordinance before proceeding with such Project. The Board of Zoning Appeals shall be deemed the Proper Authority for issuing a Conditional Use Permit and reviewing the application therefor.
- (e) Determination of Proper Authority. In any case where the Ordinance Compliance Officer is not deemed the Proper Authority for the purpose of (i) issuing a Sign Permit and reviewing the application therefor or (ii) issuing a Zoning Compliance Permit and reviewing the application therefor, the Board of Zoning Appeals shall be deemed the Proper Authority.
- (f) Variance. If a proposed Project for which an applicant is seeking to obtain a Project Permit does not satisfy the minimum standards of this Zoning Ordinance, the applicant must request a Variance from the Board of Zoning Appeals in accordance with Article 1326 of this Zoning Ordinance, and the applicant shall not proceed with such Project unless and until the Board of Zoning Appeals approves the requested Variance and issues the related Project Permit.

1303.04 Site Plan Review.

- (a) Purpose. The purpose of Site Plan Review is to prescribe a review procedure for Projects by which consistency with the 2007 Harpers Ferry Comprehensive Plan, as amended by Town Council from time to time, can be achieved.
- (b) When required. Site Plan Review shall be required for all Projects in which the Board of Zoning Appeals is deemed the Proper Authority under Section 1303.03 of this Article. If a Project that encompasses more than one Project Permit is subject to Site Plan Review and the applicant has been permitted to submit only one Project Permit application, such Project shall only be subject to one Site Plan Review. In all other cases, the Board of Zoning Appeals shall conduct a Site Plan Review for each Project Permit in which the Board of Zoning Appeals is deemed the Proper Authority under Section 1303.03 this Article.
- (c) Contents of Site Plan. If a Project is subject to Site Plan Review, the applicant for such Project shall submit a Site Plan to the Boarding of Zoning Appeals at the same time the corresponding Project Permit application is submitted. A Site Plan shall include, at a minimum, a scaled drawing of the Site or, if practical, photographs of the Site, either of which shall include, if applicable, the following:
 - (1) Lot Lines and Easements;
 - (2) Roof plan of any Structures;
 - (3) Location of existing and proposed Structures and permanent signs;
 - (4) Location of existing trees six inches or greater diameter at breast height, indicating which trees are proposed to be removed;
 - (5) Location of Off-Street Parking and any Loading Spaces;
 - (6) Location and dimensions of Street and Right-of-Way dedications;
 - (7) Location of points of entry and exits for vehicles and pedestrians and internal vehicle circulation patterns upon the property;
 - (8) Location of any Fences and Retaining Walls, including an indication of their height and material of construction;
 - (9) Location of exterior lighting devices;
 - (10) Locations of all paved and Impervious Surfaces and Landscaped Areas; and

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- (11) Location(s) of temporary construction fence(s).
- (d) Additional requirements. Depending on the size and scope of the Project, the Board of Zoning Appeals may also require any or all of the following:
- (1) A grading plan, prepared by a registered Engineer licensed to practice in the State of West Virginia, for grading intended to support a Structure grading that will divert a Drainage course, showing:
 - A. Existing and proposed contours on the Site in increments of two feet;
 - B. Proposed storm water Drainage and Erosion control measures; and
 - C. All trees greater than six inches in diameter at 4.5 feet above average ground level at the base of the Tree.
 - (2) A Historic Resources Plan.
 - (3) A construction plan for any Project where the total value exceeds \$100,000.
 - (4) A preliminary Landscaping Plan showing the main features of intended Landscaping.
 - (5) A scale model of the Project or computer generated 3D views of the Project from designated viewpoints may be required of larger Projects, as determined by the Board of Zoning Appeals.
 - (6) A Performance Bond when there is substantial apparent risk to publicly owned infrastructure.
 - (7) A lighting plan when substantial outdoor luminaires exist or are to be added. A lighting plan shall include the following elements:
 - A. A key legend to the proposed lighting that provides the following information:
 1. Type and number of luminaire equipment (fixtures), including the "cut off characteristics", indicating manufacturer and model number(s).
 2. Lamp source type (bulb type, i.e. high pressure sodium), lumen output, and wattage.
 3. Mounting height with distance noted to the nearest property line for each luminaire.
 4. Types of timing devices used to control the hours set for illumination, as well as the proposed hours when each fixture will be operated.
 5. Total lumens for each fixture, and total square footage of areas to be illuminated.
 6. Lighting manufacturer-supplied specifications ("cut sheets") that include photographs of the fixtures, indicating the certified "cut off characteristics" of the fixture.
 - B. Foot-candle distribution, plotting the light levels in foot-candles on the ground, at the designated mounting heights for the proposed fixtures. Maximum luminance levels should be expressed in foot-candle measurements on a grid of the Site showing foot-candle readings in every five or ten-foot square. The grid shall include light contributions from all sources (i.e. pole mounted, wall mounted, Sign, and Street lights.) and shall show foot-candle renderings five feet beyond the property lines.
 - C. If requested by the Board of Zoning Appeals, an environmental impact statement regarding the impact of the exterior lighting proposed on flora, fauna, and the night sky.
 - (8) Other information which is pertinent and which may, by general policy, be required by all applicants.

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- (e) Site Plan Review procedure. Notwithstanding any provision of this Zoning Ordinance to the contrary and if practical and reasonable under the circumstances, Site Plan Review shall be conducted concurrently with the review of any Project Permit application.
- (f) Findings required. Before granting approval of a Site Plan, the Board of Zoning Appeals shall find that the proposed Site Plan:
 - (1) Meets the intent and specific standards and criteria prescribed in this Zoning Ordinance; and
 - (2) Is consistent with the Comprehensive Plan. ^[1303.04]

1303.05 Scope of projects.

- (a) Scope of Projects. A Project shall be limited to and only take place upon one Site. However, the property on which an Off-Premise Sign is located shall be considered part of the Site of the Project if the following conditions are met:
 - (1) An applicant is applying for a Project Permit to erect, alter, reconstruct or relocate an Off-Premises Sign;
 - (2) Such applicant is also applying for a Project Permit for any other purpose except an Off-Premise Sign; and
 - (3) Such applicant has been permitted to submit one Project Permit application to obtain both Project Permits.
- (b) Projects taking place on more than one Lot. In addition to the provisions under Section 1316.04(a)(9), Article 1316 of this Zoning Ordinance concerning Off-Premises Signs, there are circumstances under which the Site of a Project is limited to one Lot, and there are other circumstances under which the Site of a Project includes more than one Lot.
 - (1) Site of a Project is limited to one Lot. For a Single Family Dwelling, Duplex Dwelling and any single-occupancy Structure, the Site shall be limited to the subdivided Lot on which such Single Family Dwelling, Duplex or single-occupancy Structure is or will be located.
 - (2) Site of a Project may include more than one Lot. For multi-Family Dwellings and multiple-occupancy Structures, the Site shall be all land that is or will be occupied by such Multi-Family Dwellings or multiple-occupancy Structures as well as all adjoining property under the same ownership. For vacant property, the Site shall be all of the Adjoining vacant property under the same ownership. However, if explicitly stated in a Project Permit application, adjoining property under the same ownership may be excluded from a Site so long as any and all activities conducted on such adjoining property do not and will not violate any provision of this Zoning Ordinance.

1303.06 Procedure; Project Permit application; fees.

- (a) Submission of application and supporting documents. Each person desiring a Project Permit shall submit an application therefor together with any documents, exhibits, reports, studies or other items required by the Proper Authority or desired by such person. An application for a Project Permit shall be submitted in writing along with four additional copies and signed by the owner of record of the property or his designee. For Projects of a smaller scale, some requirements for supporting documents may be waived by the Proper Authority so long as any such waivers are permitted by West

FOOTNOTES:

- 1303.04 Ord. 2022-01 (passed 03-24-2022) created provisions for the regulation of fences and retaining walls. See also § 1304.02, Appendix A, and Appendix B.

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- Virginia law and acknowledged in writing.
- (b) Project requiring multiple Project Permits. If a Project requires an applicant to obtain more than one Project Permit, a separate Project Permit application for each such Project Permit shall be filed with and submitted to the Proper Authority. However, if practical, appropriate and otherwise permissible under this Zoning Ordinance, the Proper Authority may permit an applicant to submit one Project Permit application for more than one Project Permit.
- (c) Review of application and issuance of Project Permit by Proper Authority. A Project Permit shall be issued by the Proper Authority, and the application for such Project Permit shall be reviewed by the Proper Authority. The specific type of Project Permit for which a Project Permit application is submitted shall determine which decision-making body or official of the Town has the authority to issue such specific type of Project Permit and review the application therefor. When a decision-making body or official of the Town has the authority to issue a Project Permit and review the application therefor, such decision-making body or official shall be deemed the Proper Authority for purposes related only to the issuance of such Project Permit and review of the application therefor. Where reference is made to the Proper Authority in any provision of this Zoning Ordinance, the meaning given to any such reference shall be determined in accordance with Section 1303.03 of this Article.
- (d) Complete application required. No application for a Project Permit shall be approved unless it is complete; including all required supporting documents or, in lieu thereof, a duly executed waiver from the Proper Authority waiving the requirements for any such supporting documents. If a Project requires Site Plan Review under Section 1303.04 of this Article, no application for a Project Permit shall be complete until the applicant shall have provided at least five copies of the documents required by Site Plan Review.
- (e) Payment of application fee. At the time a Project Permit application is submitted, the applicant shall pay a non-refundable application fee to the Clerk of the Town, which will provide for the cost of review, administration, and management of the application process. No Project Permit application shall be considered complete until the application fee therefor and other required deposits are paid in full to the Clerk of the Town. The applicable fee schedule shall be established by resolution of the Town Council, and no part of any application fee paid pursuant to this Zoning Ordinance shall be returnable to the applicant unless specifically provided for in the fee schedule approved by Town Council. However, government agencies shall be exempt from the application fee imposed by this Zoning Ordinance.
- (f) Approval required before amending terms or conditions of Project Permit. It shall be a violation of this Zoning Ordinance for any person to modify or alter any terms or conditions of a Project Permit application after its submission unless such person obtains prior approval from the Proper Authority for such modification or alteration. It shall also be a violation of this Zoning Ordinance for any person to whom a Project Permit has been issued to take any action, or fail to take any action, that is contrary to any term or condition on which such Project Permit was issued.
- (g) Resubmittal of Project Permit application. No Project Permit application shall be accepted if the corresponding Project has been previously denied within the preceding 12 months.

1303.07 Validity and expiration of Sign Permits for projects; inspections.

- (a) Sign Permit.
(1) Validity period. Once issued, a Sign Permit shall expire 24 months after the

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date of issuance unless authorized implementation of the Project for which the Sign Permit was issued has commenced. If authorized implementation of such Project has commenced within 24 months, a Sign Permit shall expire 36 months after the date of issuance. Once a Project for which a Sign Permit was issued is complete, a Sign Permit shall remain valid so long as the terms and conditions on which such Sign Permit was issued remain satisfied.

- (2) Extension. If authorized implementation of a Project for which a Sign Permit has not commenced, within 24 months of the issuance of such Sign Permit and upon written request, the Proper Authority may extend the validity period for such Sign Permit for an additional 12 months. Only one extension may be granted.
- (3) Inspection. For every Project in which a Sign Permit is issued, the Proper Authority shall conduct an initial inspection and upon completion of such Project, a final inspection.
- (4) Maintenance of Permit. Upon such final inspection, if the Proper Authority determines that the subject Sign complies with all terms and conditions of such Sign Permit, the applicant therefor shall keep and maintain such Sign Permit at the location to which it relates and shall, upon request, make such Sign Permit available for inspection by the Proper Authority or another official or decision making body of the Town.

(b) Zoning Compliance Permit.

- (1) Validity period. Once issued, a Zoning Compliance Permit shall expire 24 months after the date of issuance unless authorized implementation of the Project for which the Zoning Compliance Permit was issued has commenced. If authorized implementation of such Project has commenced within 24 months, a Zoning Compliance Permit shall expire 36 months after the date of issuance. Once a Project for which a Zoning Compliance Permit was issued is complete, such Zoning Compliance Permit shall remain valid so long as the terms and conditions, if any, on which such Zoning Compliance Permit was issued remain satisfied.
- (2) Extension. If authorized implementation of a Project for which a Zoning Compliance Permit has not commenced, within 24 months of the issuance of such Zoning Compliance Permit and upon written request, the Proper Authority may extend the validity period for such Zoning Compliance Permit for an additional 12 months. Only one extension may be granted.
- (3) Inspection. For every Project in which a Zoning Compliance Permit is issued, the Proper Authority shall conduct an initial inspection and upon completion of such Project, a final inspection.
- (4) Maintenance of Permit. Upon such final inspection, if the Proper Authority determines that the subject Project complies with all terms and conditions of such Zoning Compliance Permit, the applicant therefor shall keep and maintain such Zoning Compliance Permit at the location to which it relates and shall, upon request, make such Zoning Compliance Permit available for inspection by the Proper Authority or another official or decision making body of the Town.

(c) Conditional Use Permit.

- (1) Validity period. Once issued, a Conditional Use Permit shall expire 24 months after the date of issuance unless authorized implementation of the Project for which the Conditional Use Permit was issued has commenced. If authorized implementation of such Project has commenced within 24 months, such Conditional Use Permit shall expire 36 months after the date of issuance. Once

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a Project for which a Conditional Use Permit was issued is complete, such Conditional Use Permit shall remain valid so long as the terms and conditions including all future terms and conditions as set forth by the Board of Zoning Appeals, on which such Conditional Use Permit was issued, are and remain satisfied.

- (2) Extension. If authorized implementation of a Project for which a Conditional Use Permit has not commenced, within 24 months of the issuance of such Conditional Use Permit and upon written request, the Board of Zoning Appeals may extend the validity period for such Conditional Use Permit for an additional 12 months. Only one extension may be granted.
 - (3) Inspection. For every Project in which a Conditional Use Permit is issued, the Board of Zoning Appeals shall conduct an initial inspection and upon completion of such Project, a final inspection.
 - (4) Maintenance of Permit. Upon such final inspection, if the Board of Zoning Appeals determines the subject Project complies with all terms and conditions of such Conditional Use Permit, the applicant therefor shall keep and maintain such Conditional Use Permit at the location to which it relates and shall, upon request, make such Conditional Use Permit available for inspection by the Board of Zoning Appeals or another official or decision making body of the Town.
- (d) Authority to conduct Inspections. The Proper Authority shall have the authority to conduct the inspections referenced in this Section 1303.07 of this Article. The Proper Authority, or a designee of the Proper Authority, may conduct additional inspections of Projects for which a Project Permit application has been submitted or for which a Project Permit has been issued. The Proper Authority shall have a reasonable basis for conducting any such additional inspections and shall conduct such additional inspections in a reasonable manner. In circumstances when the Board of Zoning Appeals is deemed the Proper Authority, the Board of Zoning Appeals may nominate an individual member of the Board of Zoning Appeals to conduct any inspections that are required or permitted under this Zoning Ordinance.