

FAIRMONT CITY COUNCIL
REGULAR MEETING
TUESDAY, FEBRUARY 25, 2025
7:00 P.M.
COUNCIL CHAMBERS
PUBLIC SAFETY BUILDING
500 QUINCY STREET
FAIRMONT, WEST VIRGINIA

A M E N D E D A G E N D A

- I. CALL TO ORDER – Mayor Bolyard
- II. ROLL CALL OF MEMBERS – Janet L. Keller, City Clerk
- III. OPENING CEREMONIES
 - A. Prayer/Meditation – Rev. Leo Riley
Agape Life Ministries
 - B. Pledge Of Allegiance – Councilmember Moran
- IV. APPROVAL OF MINUTES
 - Regular Meeting – February 11, 2025
- V. PUBLIC HEARINGS AND ANNOUNCEMENTS
 - A. PUBLIC HEARINGS
 - 1. An Ordinance Of The Council Of The City Of Fairmont Amending And Supplementing Chapter Nine – Judicial, Article 189 Municipal Court Of The Fairmont City Code To Implement And Provide For The Assessment Of Actual Costs To Reimburse The City Of Fairmont For Certified Mail Service Relating To The Enforcement Of The Provisions Of The Codified Ordinances Of The City Of Fairmont.

B. ANNOUNCEMENTS

VI. CITIZENS PETITIONS

VII. CITY MANAGER'S REPORT

1. MRDC Update

VIII. CONSIDERATION OF COUNCIL BUSINESS

A. PENDING BUSINESS

1. Adoption, An Ordinance Of The Council Of The City Of Fairmont Amending And Supplementing Chapter Nine – Judicial, Article 189 Municipal Court Of The Fairmont City Code To Implement And Provide For The Assessment Of Actual Costs To Reimburse The City Of Fairmont For Certified Mail Service Relating To The Enforcement Of The Provisions Of The Codified Ordinances Of The City Of Fairmont.

B. NEW BUSINESS

2. Introduction, First Reading, Set Public Hearing, An Ordinance To Approve And Adopt Current Replacement Pages To The Fairmont City Code.
3. Introduction, First Reading, Set Public Hearing, An Ordinance Of The Council Of The City Of Fairmont Amending And Supplementing *Article 2.0 Definitions And Measurements* Of The Provisions Of The City Of Fairmont's Codified Planning And Zoning Code And More Particularly 2.2 Intent To Define, Redefine, Relocate And/Or Combine Certain Definitions, Namely Accessory Dwelling Unit, Boarding Houses, Lodging House And Congregate Living Facilities, Dwelling Type, Family Functional And Factual Equivalent, Group Residential Home, Housekeeping Unit, Townhouses, Consumer Fireworks, Consumer Fireworks Retail Sales Establishment, Wholesale Establishment, And Wholesale Establishment Consumer Fireworks.
4. Introduction, First Reading, Set Public Hearing, An Ordinance Of The Council Of The City Of Fairmont Amending And Supplementing *Article 3.0 Zoning Districts* Of The Provisions Of The City's Codified Planning And Zoning Code To Amend And Supplement The Use Chart, Table 3-A Permitted Principal Uses, As Set Forth Below:

1. To Reflect Clarified Language Regarding Detached Dwelling, Attached Dwelling (Single-Family Duplex), Attached Townhouse Dwelling, Boarding Houses, Lodging Houses, And Congregate Facilities;
 2. To Reflect Certain Stylistic Changes From Child Care Home, Child Care Facility, And Child Care Center To Day Care Home, Day Care Facility, And Day Care Center; And
 3. To Add Consumer Fireworks Retail Sale Establishment, Wholesale Establishment, And Wholesale Establishment, Consumer Fire Works.
5. Introduction, First Reading, Set Public Hearing, An Ordinance Of The Council Of The City Of Fairmont Amending And Supplementing *Article 3.4 Neighborhood Residential (NR)* Of The City's Codified Planning And Zoning Code To Provide For Supplemental Regulations With Regard To Pedestrian Pathways And Townhouse Parking In Said District.
 6. Introduction, First Reading, Set Public Hearing, An Ordinance Of The Council Of The City Of Fairmont Amending And Supplementing *Article 4.0 Use Standards* Of The Provisions Of The City's Codified Planning And Zoning And More Particularly *Section 4.18 Family Functional And Factual Equivalent* And *4.35 Temporary Uses* To Establish And/Or Modify The Use Standards Relating Thereto.
 7. Introduction, First Reading, Set Public Hearing, An Ordinance Of The Council Of The City Of Fairmont Amending And Supplementing *Article 5.0 Site Standards* Of The Provisions Of The City's Codified Planning And Zoning Code And More Particularly *Section 5.4.E Parking Requirements By Use* To Provide For Minimum Parking Requirements For Detached Dwelling, Attached Dwellings (Single-Family Duplex) Attached Townhouse Dwellings, And Boarding Houses, Lodging House And Congregate Living Facilities.
 8. Adoption, A Resolution Of The Council Of The City Of Fairmont Acknowledging That Certain Employees Of The City Of Fairmont Police Department Who Are Members Of The Municipal Police And Firefighters' Retirement System (MPFRS) On January 9, 2025, Conducted A Referendum Whether To Have Extended To Them The Social Security Program Embodied In The Social Security Act.

EXECUTIVE SESSION – Pending Litigation - City of Fairmont v.
Kirk Naternicola

IX. ADJOURNMENT

MINUTES

2/11/25

February 11, 2025

The regular meeting of the City Council of the City of Fairmont was held at 7:00 p.m. on the 11th day of February, 2025, at the Public Safety Building located at 500 Quincy Street in Fairmont, West Virginia.

Mayor Bolyard called the meeting to order.

Roll call of members was taken by the City Clerk.

Councilmembers present were:

First District	Joshua D. Rice
Second District	Anne E. Bolyard
Third District	Rebecca Moran
Fourth District	Anthony T. Horton
Fifth District	Charles "Chuck" Warner
Sixth District	Daniel "Dan" Weber
Seventh District	Julia "Julie" Sole
Eighth District	Bruce McDaniel
Ninth District	Kandice "Kandi" Nuzum

Also present were:

City Manager	Travis L. Blosser
City Clerk	Janet L. Keller
City Attorney	Kevin V. Sansalone
Director of Planning	Shae Strait

IN RE: OPENING CEREMONIES

Rev. Tony Jones with Morningstar Baptist Church gave the invocation followed by the Pledge of Allegiance to the Flag led by Councilmember Moran.

IN RE: STATEMENT ON BLACK HISTORY MONTH

The Mayor publicly read a statement highlighting the importance of Black History Month.

APPROVAL OF MINUTES

Mayor Bolyard noted that each member of Council had received a copy of the minutes from the Regular Meeting held on January 28, 2025. She asked if there were any corrections, deletions, or amendments.

Councilmember Rice moved to approve the January 28, 2025 Regular Meeting minutes as submitted. The motion was seconded by Councilmember McDaniel.

The Mayor declared the minutes approved as submitted by voice vote of Council.

PUBLIC HEARINGS

IN RE: AN ORDINANCE PROVIDING FOR THE PUBLIC AUCTION OF SURPLUS PERSONAL PROPERTY OF THE CITY OF FAIRMONT; RESERVATION OF RIGHTS

Pursuant to a notice duly published in the Times-West Virginian on January 31, 2025, a public hearing was convened to obtain citizen input on an ordinance providing for the public auction of surplus personal property of the City of Fairmont.

The Mayor asked if anyone present desired to speak to the proposed ordinance.

There being no one to speak, the public hearing was called to a close at 7:05 p.m.

ANNOUNCEMENTS

IN RE: RANDY HINES – NAMED EXTRA MILE HERO

Councilmember Rice read a thank you card from Randy Hines who was recently nominated by Mayor Bolyard and received public recognition as an Extra Mile Hero.

Mayor Bolyard mentioned Council's deepest appreciation to Randy Hines and said in nominating him, there was not enough space on the form to highlight and celebrate all that he does for the City and his community.

CITIZENS PETITIONS

There were no petitions for this meeting.

CITY MANAGER'S REPORT

IN RE: BUDGET MEETINGS

Mr. Blosser thanked Council for attending the Budget work sessions last week. He reminded City Council of the next steps. He said that there will be a public hearing with a resolution to adopt the budget on the March 11th agenda. He mentioned that a copy of the budget and his budget message is available at City Hall for public inspection for anyone who would so choose to visit City Hall during normal business hours to inspect that document.

IN RE: DOH MEETING UPDATE

The City Manager highlighted a discussion he had with the WV DOH at a meeting last week. He said that the Gateway Connector, there are certain sections of that, there was a discussion about skip patching. He noted that there are sections of lanes of that road that are not just going to be skipped patched, they are going to have to skip patch the entire lane. The new DOH district manager said that they have a paving machine and additional milling equipment to mill those lanes. He said that work is going to happen and he will stay in touch with them. The Connector is slated for paving in FY27, however, that is not feasible given its current condition so we are going back and forth with them over some potential solutions of our involvement as the City with them.

Mr. Blosser also shared that paving of all of the downtown streets are still on schedule to be paved this summer. He noted that there is some stormwater work that will probably start happening when spring breaks in order to do the stormwater work before paving starts. He said that he wants to make sure that the water is getting where it needs to but we also do not want any delays to that asphalt pavement. He said whatever we need to do to work with the State, we will do.

The Manager mentioned that on an upcoming Council agenda, there will be an item to ratify working with the WV DOH on a larger maintenance agreement around several different items within the City with regard to their roadways in which we can partner with them to deliver better services to our constituents.

IN RE: TWO AGENDA ITEMS

Mr. Blosser said that there is a resolution on tonight's agenda adopting the Goals, Objectives, and Priorities, the 5-year Strategic Plan. He noted that he adjusted that plan based on feedback from that work session and from feedback that Council delivered to him after the work session.

He explained that another agenda item is for the introduction of an ordinance when folks are going to municipal court and are not responsive and we are

sending out notifications to them through certified mail, the cost continues to increase with that and this ordinance allows for that to be processed as part of their court costs that they would have to pay for the reimbursement of that mailing. He noted that any law-abiding citizen will not be charged this fee only when it reaches those stages where we are sending out certified mail notifications, it is when this would be triggered.

CONSIDERATION OF COUNCIL BUSINESS

IN RE: ADOPTION, AN ORDINANCE PROVIDING FOR THE PUBLIC AUCTION OF SURPLUS PERSONAL PROPERTY OF THE CITY OF FAIRMONT; RESERVATION OF RIGHTS

The City Clerk read the proposed ordinance by title.

Mayor Bolyard entertained a motion for the adoption of an ordinance providing for the public auction of surplus personal property of the City of Fairmont.

Motion:

Councilmember Warner moved for the adoption of the proposed ordinance. Councilmember Sole seconded the motion.

Roll call was taken by the Clerk.

The Mayor declared the ordinance adopted by unanimous vote of Council and the ordinance designated as Ordinance No. 2062 was duly adopted.

IN RE: INTRODUCTION, FIRST READING, SET PUBLIC HEARING, AN ORDINANCE OF THE COUNCIL OF THE CITY OF FAIRMONT AMENDING AND SUPPLEMENTING CHAPTER NINE – JUDICIAL, ARTICLE 189 MUNICIPAL COURT OF THE FAIRMONT CITY CODE TO IMPLEMENT AND PROVIDE FOR THE ASSESSMENT OF ACTUAL COSTS TO REIMBURSE THE CITY OF FAIRMONT FOR CERTIFIED MAIL SERVICE RELATING TO THE ENFORCEMENT OF THE PROVISIONS OF THE CODIFIED ORDINANCES OF THE CITY OF FAIRMONT

The City Clerk read the proposed ordinance by synopsis for the first time.

Mayor Bolyard entertained a motion for the introduction of an ordinance providing for the assessment of actual costs to reimburse the City of Fairmont for certified mail service.

Motion:

Councilmember Nuzum moved for the introduction of the proposed ordinance. Councilmember Warner seconded the motion.

Discussion:

Councilmember Weber asked how much does it cost for a citizen to be in court and what are those costs.

KEVIN SANSALONE, City Attorney, stated that a DUI situation is the most and it is \$177.00 in court costs because there are regional jail fees, teen court fees, and other fees that have been mandated by the WV Supreme Court of Appeals and other statutes and ordinances of the City of Fairmont. He said that for parking violations, there are no costs, just the \$20.00 penalty that is established by the Code for non-payment if you let the ticket go more than 30 days. He stated that is what this is for because the Clerk has to send the notice to the person who failed to pay the parking ticket, certified mail notice to come to court so the penalty is all eaten up by the certified mail costs and the City only realizes \$2.44 of that \$20.00 penalty. He added that the driving force behind this ordinance was the fact that there was no assessment of costs related to parking meter violations. Mr. Sansalone went on to say that this will allow the same in Code Enforcement cases which also require notice by certified mail return receipt for the City to be able to re-coup the \$17.56.

The Mayor declared the public hearing set for February 25, 2025.

IN RE: ADOPTION, A RESOLUTION OF THE COUNCIL OF THE CITY OF FAIRMONT APPROVING THE GOALS, OBJECTIVES AND PRIORITIES DATED FEBRUARY 2025

The Clerk read the proposed resolution by synopsis.

Mayor Bolyard entertained a motion for the adoption of a resolution approving the Goals, Objectives and Priorities dated February 2025.

Councilmember Sole moved for the adoption of the proposed resolution. Councilmember Nuzum seconded the motion.

Roll call was taken by the Clerk.

The Mayor declared the resolution adopted by unanimous vote of Council.

ADJOURNMENT

The Mayor entertained a motion for adjournment.

Motion:

Councilmember Warner moved to adjourn the meeting. The motion was seconded by Councilmember Rice.

The Mayor declared the meeting adjourned by voice vote of Council at 7:19 p.m.

PUBLIC HEARINGS

PUBLIC HEARING
FEBRUARY 25, 2025

1. An Ordinance Of The Council Of The City Of Fairmont Amending And Supplementing Chapter Nine – Judicial, Article 189 Municipal Court Of The Fairmont City Code To Implement And Provide For The Assessment Of Actual Costs To Reimburse The City Of Fairmont For Certified Mail Service Relating To The Enforcement Of The Provisions Of The Codified Ordinances Of The City Of Fairmont.

ITEM 1

ORDINANCE NO. _____

AN ORDINANCE OF THE COUNCIL OF THE CITY OF FAIRMONT AMENDING AND SUPPLEMENTING CHAPTER NINE – JUDICIAL, ARTICLE 189 MUNICIPAL COURT OF THE FAIRMONT CITY CODE TO IMPLEMENT AND PROVIDE FOR THE ASSESSMENT OF ACTUAL COSTS TO REIMBURSE THE CITY OF FAIRMONT FOR CERTIFIED MAIL SERVICE RELATING TO THE ENFORCEMENT OF THE PROVISIONS OF THE CODIFIED ORDINANCES OF THE CITY OF FAIRMONT

SYNOPSIS

By this proposed ordinance, the Council of the City of Fairmont provides for the assessment of a court cost of \$17.56 or the actual cost of service of process by United States certified mail return receipt requested restricted delivery, whichever is greater, upon persons who are found guilty, plead guilty or plead no contest to a violation of any ordinance of the City of Fairmont.

No law-abiding citizen will pay the fee.

ORDINANCE NO. _____

AN ORDINANCE OF THE COUNCIL OF THE CITY OF FAIRMONT AMENDING AND SUPPLEMENTING CHAPTER NINE – JUDICIAL, ARTICLE 189 MUNICIPAL COURT OF THE FAIRMONT CITY CODE TO IMPLEMENT AND PROVIDE FOR THE ASSESSMENT OF ACTUAL COSTS TO REIMBURSE THE CITY OF FAIRMONT FOR CERTIFIED MAIL SERVICE RELATING TO THE ENFORCEMENT OF THE PROVISIONS OF THE CODIFIED ORDINANCES OF THE CITY OF FAIRMONT

NOW THEREFORE, THE CITY OF FAIRMONT HEREBY ORDAINS THAT:
(Matter to be deleted bracketed; New matter double-underlined)

CHAPTER NINE – JUDICIAL

ARTICLE 189 MUNICIPAL COURT

SECTION 189.08 CERTIFIED MAIL COURT COST

In addition to paying any other cost which may be assessed and imposed, there is hereby imposed upon every person who is found guilty of or pleads guilty or nolo contendere to a violation of any ordinance of the City of Fairmont, a mandatory court cost of \$17.56 or the actual cost of service of process by United States certified mail return receipt requested restricted delivery, whichever is greater.

This Ordinance shall become effective thirty (30) days after adoption.

Adopted this _____ day of _____, 2025.

MAYOR

ATTEST:

CITY CLERK

ITEM 2

ORDINANCE NO. _____

**AN ORDINANCE TO APPROVE AND ADOPT CURRENT
REPLACEMENT PAGES TO THE FAIRMONT CITY CODE**

SYNOPSIS

Various ordinances have been passed by Council which should be included in the City Code Book. This ordinance approves and adopts the ordinances as prepared and published by Walter H. Drane Company to be included in the City Code as the December 2024 replacement pages.

ORDINANCE NO. _____

**AN ORDINANCE TO APPROVE AND ADOPT CURRENT
REPLACEMENT PAGES TO THE FAIRMONT CITY CODE**

WHEREAS, Various ordinances of a general and permanent nature have been passed by Council, which should be included in the City Code; and

WHEREAS, Council has heretofore entered into a contract with the Walter H. Drane Company to prepare and publish such revision, the adoption of which is presently before Council;

NOW, THEREFORE, THE CITY OF FAIRMONT ORDAINS THAT:

SECTION 1. The ordinances of the City of Fairmont, of a general and permanent nature, as revised, recodified, rearranged, and consolidated into component codes, chapters, articles, and sections within the December 2024 Replacement Pages to the City Code, are hereby approved and adopted.

This Ordinance shall become effective thirty (30) days after adoption.

Passed this the ____ day of _____, 2025.

MAYOR

ATTEST:

CITY CLERK

INSTRUCTIONS FOR INSERTING
DECEMBER 2024 REPLACEMENT PAGES
FOR THE
CITY CODE OF FAIRMONT, WEST VIRGINIA

All new replacement pages bear the footnote "December 2024 Replacement". Please discard old pages and insert these new replacement pages immediately as directed in the following table.

Discard Old Pages

Insert New Pages

PRELIMINARY UNIT

Cover and Certification Page	Cover and Certification Page
15, 16	15, 16
31, 32	31, 32
43	43

PART ONE - ADMINISTRATIVE CODE

21, 22	20A through 21
35, 36	35, 36

PART NINE - STREETS, UTILITIES AND PUBLIC SERVICES CODE

Table of Contents Page through 4 22A through 22G	Table of Contents Page through 4 22A through 22G
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PART THIRTEEN - PLANNING AND ZONING CODE

19 through 28	19 through 28B
41 through 46	41 through 46
55 through 58	55 through 58
79 through 88	79 through 88
90A, 90B	90A, 90B
111 through 114 (Keep 114A thru 114H)	111 through 114
115, 116	115, 116
119 through 126	119 through 126A
135 through 143	135 through 144

PART SEVENTEEN - BUILDING AND HOUSING CODE

41 through 46	41 through 46A
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TO: Mayor and Councilmembers

FROM: Janet Keller, City Clerk

SUBJECT: Replacement Pages to City Code

DATE: February 4, 2025

Listed below are the replacement pages to the City Code footnoted as the "December 2024 Replacement Pages".

Preliminary Unit

- Updated cover page, Roster of Officials, and Index.

Part One – Administrative Code

- Remove old pages 21 and 22 and replace with new pages. The new pages amended Article 113 of the Purchasing Code.
- Remove old pages 35 and 36 and replace with new pages. The new pages are updated pages of Article 143, Finance Department, and amends the reproduction costs for an automobile crash/traffic accident report.

Part Nine – Street, Utilities and Public Service Code

- Remove old pages 22A through 22G and replace with new pages. The replacement pages allow for Sidewalk Repair and Replacement to be used out of the funds dedicated for Street Maintenance.

Part Thirteen – Planning and Zoning Code

- Remove old pages 19 through 28 and replace with new pages. The new pages are updated Definitions for the Planning Code.
- Remove old pages 41 through 46 and replace with new pages. The new pages are updated pages for Article 3.0 Zoning Districts.
- Remove old pages 55 through 58 and replace with new pages. These pages also contain new pages for Zoning Districts and setbacks.

- Remove old pages 79 through 88 and replace with new pages. The new pages amend Use Standards.
- Remove old pages 90A and 90B and replace with new pages. The new pages amend Residential Districts.
- Remove old 111 through 114 and replace with new pages. This section of the code amends Site Standards.
- Remove old pages 115 and 116 and replace with new pages. These pages amend the Site Standards.
- Remove old pages 119 through 126 and replace with new pages. This section amends the Site Standards.
- Remove old pages 135 through 143 and replace with new pages. These pages replace the old pages that were in the Subdivision Regulations.

Part Seventeen – Building and Housing Code

- Remove old pages 41 through 46 and replace with new pages. The new pages amend the Rental Dwelling Units portion of the City Code.

ITEM 3

ORDINANCE NO. _____

AN ORDINANCE OF THE COUNCIL OF THE CITY OF FAIRMONT AMENDING AND SUPPLEMENTING *ARTICLE 2.0 DEFINITIONS AND MEASUREMENTS* OF THE PROVISIONS OF THE CITY OF FAIRMONT'S CODIFIED PLANNING AND ZONING CODE AND MORE PARTICULARLY 2.2 INTENT TO DEFINE, REDEFINE, RELOCATE AND/OR COMBINE CERTAIN DEFINITIONS, NAMELY ACCESSORY DWELLING UNIT, BOARDING HOUSES, LODGING HOUSE AND CONGREGATE LIVING FACILITIES, DWELLING TYPE, FAMILY FUNCTIONAL AND FACTUAL EQUIVALENT, GROUP RESIDENTIAL HOME, HOUSEKEEPING UNIT, TOWNHOUSES, CONSUMER FIREWORKS, CONSUMER FIREWORKS RETAIL SALES ESTABLISHMENT, WHOLESALE ESTABLISHMENT, AND WHOLESALE ESTABLISHMENT CONSUMER FIREWORKS.

SYNOPSIS

By this proposed ordinance, if enacted, Council amends and supplements Article 2.0 *Definitions and Measurements* of the provisions of the City of Fairmont's Planning and Zoning Code to define, redefine, relocate and/or combine certain definitions, namely accessory dwelling unit, boarding houses, lodging house and congregate living facilities, dwelling type, family functional and factual equivalent, group residential home, housekeeping unit, townhouses, consumer fireworks, consumer fireworks retail sales establishment, wholesale establishment, and wholesale establishment consumer fireworks.

The Planning Commission for the City of Fairmont on February 7, 2024, after public hearing duly noticed, recommended to the Council for the City of Fairmont the adoption of an ordinance providing for the modifications set forth in the title.

The proposed modifications are consistent with the City of Fairmont's Comprehensive Plan.

ORDINANCE NO. _____

AN ORDINANCE OF THE COUNCIL OF THE CITY OF FAIRMONT AMENDING AND SUPPLEMENTING *ARTICLE 2.0 DEFINITIONS AND MEASUREMENTS* OF THE PROVISIONS OF THE CITY OF FAIRMONT'S CODIFIED PLANNING AND ZONING CODE AND MORE PARTICULARLY 2.2 INTENT TO DEFINE, REDEFINE, RELOCATE AND/OR COMBINE CERTAIN DEFINITIONS, NAMELY ACCESSORY DWELLING UNIT, BOARDING HOUSES, LODGING HOUSE AND CONGREGATE LIVING FACILITIES, DWELLING TYPE, FAMILY FUNCTIONAL AND FACTUAL EQUIVALENT, GROUP RESIDENTIAL HOME, HOUSEKEEPING UNIT, TOWNHOUSES, CONSUMER FIREWORKS, CONSUMER FIREWORKS RETAIL SALES ESTABLISHMENT, WHOLESALE ESTABLISHMENT, AND WHOLESALE ESTABLISHMENT CONSUMER FIREWORKS.

WHEREAS, the Planning Commission for the City of Fairmont on February 7, 2024, after public hearing duly noticed, recommended to the Council for the City of Fairmont the adoption of an ordinance providing for certain amendments to the provisions of the City's codified planning and zoning code to implement the proposed modifications to Article 2.0 Definitions and Measurements set forth in the title.

WHEREAS, the proposed modifications are consistent with the City of Fairmont's Comprehensive Plan.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF FAIRMONT THAT:

ARTICLE 2 Definitions and Measurements of the provisions of City's codified planning and zoning code be and is hereby amended and supplemented as follows: (Matter to be deleted stricken through; New matter double underlined)

2.2 INTENT

For the purpose of interpreting this Zoning Ordinance, certain words, concepts, and ideas are defined herein. Except as defined herein, all other words used in this Zoning Ordinance shall have their everyday meaning as determined by their dictionary definition.

...

SEVERABILITY:

If any provision of this ordinance is invalidated by any court, commission or board of competent jurisdiction, the remaining provisions shall not be affected and shall continue in full force and effect.

SAVINGS:

Nothing in this Ordinance shall be construed to affect any other ordinance or code of the City of Fairmont, or any suit or proceeding pending in any court, or right or rights acquired or liability incurred, or any cause or causes under any other ordinance or code of the City of Fairmont, including any act or ordinance repealed; nor shall any just or legal cause, right or remedy of any character be lost, impaired or affected by this Ordinance, and all such other ordinances, codes, causes, rights and remedies are hereby saved.

EFFECTIVE DATE:

This ordinance shall become effective thirty (30) days after adoption.

Adopted this the _____ day of _____, 2025.

MAYOR

ATTEST:

CITY CLERK

Zoning Code Amendments Overview

The following pages contain amendments to the City of Fairmont Zoning Code. To better understand the amendments, please note the following:

- Removed / Deleted text is indicated with a strikethrough - ~~Deleted~~
- New text is indicated by a double underline - New text
- Text omitted for brevity is indicated by three dots - ...

2.0 DEFINITIONS AND MEASUREMENTS

...
2.2 INTENT

...

A

...

~~Accessory Dwelling Unit - A residential living unit that provides independent living facilities for one or more persons, including provisions for sleeping, eating, cooking, and sanitation on the same parcel of land as the principal dwelling unit it accompanies. There are two types of ADUs:~~

~~Attached - An ADU that is within or attached to a single family dwelling in which the ADU has its own exterior pedestrian entrance.~~

~~Detached - An ADU that is located in a detached structure on the same parcel as the principal dwelling unit.~~

...

B

...

Boarding Houses, Lodging Houses, and Congregate Living Facilities - A building or portion of a mixed-use building that provides sleeping accommodations for no more than 16 people on a permanent basis (more than 30 consecutive days), without personal care services or separate cooking facilities for individual occupants. A college fraternity or sorority house used as a residence shall be considered a type of boarding house. The following restrictions shall apply:

1. A building that contains this use may not contain any other residential dwelling use or transient living facilities.
2. A boarding house shall not include a use that meets the definition of hotel, dormitory, motel, residential care facility, group residential home, group residential facilities, or nursing home.

...

C

...

Consumer Fireworks - Small fireworks devices that are designed to produce visible effects by combustion that are required to comply with the construction, chemical composition and labeling regulations promulgated by the United States Consumer Product Safety Commission under 16 C.F.R. (Code of Federal Regulations) Parts 1500 and

1507 (2014), and that are listed in American Pyrotechnics Association (APA) Standard 87-1. Consumer fireworks do not include sparking devices, novelties, toy caps or model rockets.

Consumer Fireworks Retail Sales Establishment - A retail sales establishment having as its primary function the supply of consumer fireworks to the end consumer. Such sales constitute the "primary function" of the business when such sales equal at least sixty (60) percent of the gross sales of the business within a fiscal or calendar year.

...

D

...

Dormitory - A building with sleeping accommodations, without in-room cooking facilities, for residents affiliated with an educational, religious, or other institution.

...

Duplex - A structure containing two dwelling units, totally separated from each other by an unperceivable wall extending from the ground to the roof, each of which has direct access to the outside.

Dwelling or Dwelling Unit - A building, or any portion thereof, providing complete and permanent human living facilities. This term shall not apply to a hotel, motel, guesthouse, or other structures designed for transient residence.

1. A one or single family dwelling means a building designed for or occupied exclusively by one family.
2. A two family dwelling means a building designed for or occupied exclusively by two families.
3. A multiple dwelling means a building designed for or occupied by more than two families.

Dwelling Type:

1. Accessory Dwelling Unit - A dwelling unit, also known as an ADU, that provides independent living facilities for one or more persons, including provisions for sleeping, eating, cooking, and sanitation on the same parcel of land as the principal dwelling unit it accompanies. There are two types of ADUs:

Staff Recommended Text Amendment

- A. Attached: An ADU that is within or attached to a single-family dwelling in which the ADU has its own exterior pedestrian entrance.
- B. Detached – An ADU that is located in a detached structure on the same parcel as the principal dwelling unit.
- 2. Detached Dwelling – A dwelling unit which is designed for and occupied by not more than one-family and surrounded by open space or yards.
- 3. Attached Dwelling (Single-Family Duplex) - A structure containing two (2) dwelling units, totally separated from each other by an unpierced wall or floor, each of which has direct access to the outside and surrounded by open space or yards.
- 4. Attached Townhouse Dwelling – Also known as a “Rowhouse.” A one-family dwelling unit, 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.
- 5. Mixed-Use Dwelling - A dwelling unit located within a Mixed-Use Building as permitted in the zoning district. Any number of these dwellings may be permitted within a Mixed-Use Building so long as all of requirements of that number of dwellings and other related standards are met.
- 6. Multi-Family Dwelling - Any building or structure having more than two dwelling units.

F

Family, Functional And Factual Equivalent - A group of unrelated individuals living together and functioning together as a traditional family. See the Use Standards section for this defined use for more information. See also Group Residential Home and Family/Household Unit.

Family/Household Unit –All persons living in the same household who are related by birth, marriage, or adoption. Additionally, family refers to the following:

- 1. An individual, or two (2) or more persons related by blood, marriage, adoption, or foster relationship, living together in a dwelling unit.
- 2. A group of not more than four (4) unrelated people living together as a single housekeeping unit in a dwelling unit sharing common facilities as considered reasonably appropriate for a

family related by blood, marriage, or adoption. For a Group Residential Home, a single staff person may reside on the premises and shall not be included in the total number of occupants. Any additional staff shall be included in the total number of occupants. See also Family, Functional and Factually Equivalent; Group Residential Home; and Group Residential Facility.

G

Group Residential Facility - A facility which is owned, leased or operated by a behavioral health service provider and which:

- 1. Provides residential services and supervision for individuals who are developmentally disabled or behaviorally disabled;
- 2. Is occupied as a residence by not more than eight individuals who are developmentally disabled and not more than three supervisors or is occupied as a residence by not more than twelve individuals who are behaviorally disabled and not more than three supervisors;
- 3. Is licensed by the Department of Health and Human Resources; and
- 4. Complies with the State Fire Commission for residential facilities.

Group Residential Home - A building owned or leased by developmentally disabled or behaviorally disabled persons for purposes of establishing a personal residence. A behavioral health service provider may not lease a building to such persons if the provider is providing services to the persons without a license as provided for in this article. See also Family/Household Unit and Group Residential Facility.

H

~~Housekeeping Unit – The maximum number of unrelated individuals permitted to reside in any single dwelling unit in the various zoning districts. See Section 4.18 for specifications.~~

Staff Recommended Text Amendment

...

T

...

~~Townhouses — A single family dwelling unit constructed in a group of three or more attached units in which each unit extends from foundation to roof and with a yard or public way on at least two sides.~~

...

Two-Family Home - See Attached Dwelling (Duplex). Also see the definition for Dwelling Unit.

...

W

...

Wholesale Establishment – The sale of commodities to retailers or jobbers and shall include the sale of commodities for the purpose of carrying on any trade or business even if the said trade or business is the consumer or end user of the commodity.

Wholesale Establishment, Consumer Fireworks - A wholesale establishment that sells consumer fireworks to a retailer or any other persons for resale and any establishment selling articles of pyrotechnics, display fireworks, and special effects to a person licensed to possess and use those devices.

...

ITEM 4

ORDINANCE NO. _____

AN ORDINANCE OF THE COUNCIL OF THE CITY OF FAIRMONT AMENDING AND SUPPLEMENTING *ARTICLE 3.0 ZONING DISTRICTS* OF THE PROVISIONS OF THE CITY'S CODIFIED PLANNING AND ZONING CODE TO AMEND AND SUPPLEMENT THE USE CHART, TABLE 3-A PERMITTED PRINCIPAL USES, AS SET FORTH BELOW:

1. TO REFLECT CLARIFIED LANGUAGE REGARDING DETACHED DWELLING, ATTACHED DWELLING (SINGLE-FAMILY DUPLEX), ATTACHED TOWNHOUSE DWELLING, BOARDING HOUSES, LODGING HOUSES, AND CONGREGATE FACILITIES;

2. TO REFLECT CERTAIN STYLISTIC CHANGES FROM CHILD CARE HOME, CHILD CARE FACILITY, AND CHILD CARE CENTER TO DAY CARE HOME, DAY CARE FACILITY, AND DAY CARE CENTER; AND

3. TO ADD CONSUMER FIREWORKS RETAIL SALE ESTABLISHMENT, WHOLESALE ESTABLISHMENT, AND WHOLESALE ESTABLISHMENT, CONSUMER FIRE WORKS

SYNOPSIS

By this proposed ordinance, the Council for the City of Fairmont provides for certain amendments to Article 3 Zoning Districts of the provisions of the City of Fairmont's codified planning and zoning code, and more particularly the Use Chart, Table 3-A Permitted Principal Uses as follows:

1. To reflect clarified language regarding detached dwelling, attached dwelling (single-family duplex), attached townhouse dwelling, boarding houses, lodging houses, and congregate facilities;

2. To reflect certain stylistic changes from previously adopted ordinances which changed the names of child care home, child care facility, and child care center to day care home, day care facility, and day care center;

3. To limit consumer firework retail sale establishments to Main Corridor Commercial, Highway Commercial, and Industrial Districts;

4. To limit wholesale establishments to Highway Commercial and Industrial Districts; and

5. To limit wholesale establishment, consumer fireworks to Industrial Districts.

ORDINANCE NO. _____

AN ORDINANCE OF THE COUNCIL OF THE CITY OF FAIRMONT AMENDING AND SUPPLEMENTING *ARTICLE 3.0 ZONING DISTRICTS* OF THE PROVISIONS OF THE CITY'S CODIFIED PLANNING AND ZONING CODE TO AMEND AND SUPPLEMENT THE USE CHART, TABLE 3-A PERMITTED PRINCIPAL USES, AS SET FORTH BELOW:

1. TO REFLECT CLARIFIED LANGUAGE REGARDING DETACHED DWELLING, ATTACHED DWELLING (SINGLE-FAMILY DUPLEX), ATTACHED TOWNHOUSE DWELLING, BOARDING HOUSES, LODGING HOUSES, AND CONGREGATE FACILITIES;

2. TO REFLECT CERTAIN STYLISTIC CHANGES FROM CHILD CARE HOME, CHILD CARE FACILITY, AND CHILD CARE CENTER TO DAY CARE HOME, DAY CARE FACILITY, AND DAY CARE CENTER; AND

3. TO ADD CONSUMER FIREWORKS RETAIL SALE ESTABLISHMENT, WHOLESALE ESTABLISHMENT, AND WHOLESALE ESTABLISHMENT, CONSUMER FIRE WORKS

WHEREAS, the Planning Commission for the City of Fairmont on February 7, 2025, after public hearing duly noticed, recommended to the Council for the City of Fairmont the adoption of an ordinance providing for certain amendments to the provisions of the City 's codified planning and zoning code, to implement the proposed modifications as set forth in the ordinance title.

WHEREAS, the proposed modifications are consistent with the City of Fairmont's Comprehensive Plan.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF FAIRMONT THAT:

ARTICLE 3 Zoning Districts, Use Chart, TABLE 3-A Permitted Principal Uses of the provisions of the City of Fairmont Codified Planning and Zoning Code be and is hereby amended and supplemented as follows: (Matter to be deleted stricken through; New matter double underlined)

SEVERABILITY:

If any provision of this ordinance is invalidated by any court, commission or board of competent jurisdiction, the remaining provisions shall not be affected and shall continue in full force and effect.

SAVINGS:

Nothing in this Ordinance shall be construed to affect any other ordinance or code of the City of Fairmont, or any suit or proceeding pending in any court, or right or rights acquired or liability incurred, or any cause or causes under any other ordinance or code of the City of Fairmont, including any act or ordinance repealed; nor shall any just or legal cause, right or remedy of any character be lost, impaired or affected by this Ordinance, and all such other ordinances, codes, causes, rights and remedies are hereby saved.

EFFECTIVE DATE:

This ordinance shall become effective thirty (30) days after adoption.

Adopted this the _____ day of _____, 2025.

MAYOR

ATTEST:

CITY CLERK

Zoning Code Amendments Overview

The following pages contain amendments to the City of Fairmont Zoning Code. To better understand the amendments, please note the following:

- Removed / Deleted text is indicated with a strikethrough - ~~Deleted~~
- New text is indicated by a double underline - New text
- Text omitted for brevity is indicated by three dots - ...

3.0 ZONING DISTRICTS

3.1 DISTRICTS ESTABLISHED

For the purpose of this Ordinance, the City of Fairmont is hereby divided into the following districts:

Residential Districts

GR	General Residential
NR	Neighborhood Residential
MHN	Manufactured Home Neighborhood
MHP	Mobile Home Park
E	Education
R	Recreation

Neighborhood Commercial Districts

NMU	Neighborhood Mixed Use
CC	City Center
MCC	Main Corridor Commercial

Commercial Districts

HC	Highway Commercial
T	Technology
I	Industrial

Special Use or Overlay Districts

Downtown Historic Overlay
Planned Development Area

3.2 PERMITTED USES

1. Determination. The Planner shall make the determination if a proposed use is permitted, a conditional use, or a prohibited use under the provisions of this section.
2. Substantially Similar Land Use Determinations. The Planner may determine that a proposed use is substantially similar to a use that is permitted or a conditional use established in Table 3.A based on the proposed use activities, character of the business, similarity to existing uses within the city, or information on the use as may be available from third-party land use resources such as documentation from the American Planning Association, Urban Land Institute, or similar organizations. If the Planner finds that the proposed use is substantially similar to a use established in Table 3.A, the application shall be processed in the same manner as the similar use.
 - A. In finding that a proposed use is similar to a use established in Table 3.A, the Planner shall make a note of the similar use in the approved application form.
 - B. If the Planner makes the determination that a use is prohibited, the application shall not be processed.
3. Uses not Expressly Permitted or Conditional. It is recognized that new types or forms of land use will develop within the City of Fairmont that are not anticipated by this Zoning Ordinance. In order to provide for such changes and contingencies, the classification of any new or unlisted land use shall be made by the Planning Commission to determine if the use can reasonably be interpreted to fit into a similar use category described in the ordinance. The Planning Commission may make such a determination after conducting a public hearing. It is also recognized that certain allowed uses of land may pose significant impacts to adjacent properties, surrounding neighborhoods, and regional infrastructure. In order to provide for the appropriate review and approval of such uses, the Planning Director may designate, in her discretion, that any such uses be processed as conditional uses in accordance with the provisions set forth in Article 4 of this Code, upon a determination of their potential for adverse impact. Unless a use is allowed as a "permitted use by right", "use permitted with conditions", "conditional use", "nonconforming use", or "temporary use", then such use is prohibited.
4. If the applicant disagrees with the Planner's determination regarding the proposed use, the applicant may choose to take one of the following actions:
 - A. The applicant may appeal the determination of the Planner to the BZA; or
 - B. The applicant may petition for a text amendment to the Zoning Code as outline within the zoning code.
5. Multiple Permitted Uses in a Principal Structure.
 - A. Any principal building may contain more than one use and organization. Each use must be permitted or an approved conditional use within the zoning district where it is located.
 - B. Exceptions. This does not permit a structure or parcel to exceed the maximum number of dwellings units permitted. For example, if a district allows both Duplexes and Detached Single-Family uses, this does not mean a principal structure may contain three dwelling units, rather it may not exceed the limit of two dwelling units permitted within a Duplex.
6. Reading the Permitted Use Charts
 - A. The tables within this section identify the uses permitted within each district, with cross references to use specific standards that may apply. The key for the tables is as follows:
 - i. Permitted (●) indicates that the use is permitted by right in the district.
 - ii. Conditional Use (○) indicates that the use requires a Conditional Use approval from the Board of Zoning Appeals.
 - iii. If the cell is blank, this indicates that the use is prohibited within the district.

Table 3.A Permitted Principal Uses														
	GR	NR	MHN	MHP	NMU	CC	MCC	HC	I	T	E	R	Reserved	Use Standards
Residential														
Single-Family Dwellings														
Accessory Dwelling Units (ADUs)		●	●		●	●	●	●	●					4.25
Detached Dwelling, Detached (Single-Family)	●	●	●	●	●	●	●		●					
Attached Dwelling (Single-Family Duplex) Dwelling, Duplexes (Attached Two-Family Homes)		●	●		●	●	●		●					
Attached Townhouse Dwelling Dwelling, Townhomes (Attached Single-Family)		○			●	●	●	●	●					
Other Dwellings														
Boarding Houses, Lodging Houses, and Congregate Facilities		○			●	●	●		●					4.18
Dormitory		○			●	●	●				●			4.37
Group Residential Facilities	●	●			●	●	●	●	●					
Group Residential Homes	●	●	●	●	●	●	●	●	●					
Mobile Home Parks				●										4.23
Multi-Family Dwelling		○			○	●	●	●	●					
Residential Care Facility	●	●			●	●	●	●	●					
Residential Based Businesses														
Child Day Care Home	○	●	●	●	●	●	●	●	●					4.7
Home Occupations, Minor	●	●	●	●	●	●	●	●	●	●	●	●		4.17
Home Occupations, Major		●	●	●	●	●	●	●	●	●	●	●		4.17
Live-Work Units					●	●	●	●	●					4.22
Lodging														
Bed & Breakfast Inns		●			●	●	●	●	●					4.5
Hotel						○	○	●	●	○		○		4.14
Inns							○							4.14
Motels							○							4.14
Civic														
Assembly					●	●	●	●	●	●	●			
Cemetery	○	○	○		○		○					○		4.6
Civic Uses	○	○			●	●	●	●	●	●	●	●		4.9 & 4.19
College / University					●	●	●	●	●	●	●			4.9
Emergency Shelter					○	○	●	○						4.41
Medical Institution					○	○	○	○	○	○				4.14
Primary / Secondary School	○	○			○	○	○				○			4.9
Religious Uses	○	○	○	○	●	●	●	●	●		○			4.8
Commercial														
Accessory Structures (as a Principal Use)											●			4.16
Adult Entertainment									○					4.2
Animal Boarding Establishment								●	●					4.44

Table 3.A Permitted Principal Uses														
	GR	NR	MHN	MHP	NMU	CC	MCC	HC	I	T	E	R	Reserved	Use Standards
Animal Care Establishment					●	○	●	●	●					4.44
Bars and Nightclubs						○	○	○						4.4
Bars, Neighborhood					○	●	●	●	○					
Brewpub						●	●	●	●					
Car Wash							○	●	●					
Commercial School					○	●	●	●	●	●	○			
Consumer Fireworks Retail Sales Establishment							●	●	●					
Convenience Store (with Fuel Sales)							○	●	●					4.11 & 4.3
Craft Production Facility (Microbrewery / Microdistillery / Microcidery)						○	○	●	●					
Crematorium							○	●	●					4.51
Child Day Care Center					●	●	●	●	●	●				4.7
Child Day Care Facility		○	○	○	○	●	●	●	●	●				4.7
Drive-through Facilities						○	○	●	●					4.13
Dry Cleaning Establishments									●					
Entertainment Uses						○	○	●	●					
Funeral Services					○	○	●	●	●					4.51
Limited Video Lottery						○		○						4.21
Manufacturing and Sale, Artisan					●	●	●	●	●					4.27
Medical Clinic					○	●	●	●	●	●				
Mixed-Use Buildings					●	●	●	●	●					4.22
Mobile Vending (Vehicle, Street, Sidewalk)						●	●	●	●			●		4.24
Nanobrewery						●	●	●	●					
Office Use, not to exceed 2,500 sq ft					●	●	●	●	●	●				4.27
Office Use, not to exceed 5,000 sq ft					○	●	●	●	●	●				4.27
Office Use, not to exceed 15,000 sq ft						●	●	●	●	●				4.27
Office Use, 15,000 sq ft to 30,000 sq ft						●	○	●	●	●				4.27
Office Use, exceeding 30,000 sq ft						○		○	○	●				4.10 & 4.27
Recreational Facilities	○	●	○	○	●	○	○	●	●	●		●		4.30
Restaurants					●	●	●	●	●	●				
Restaurant with Alcohol Sales					○	●	●	●	●	○				4.31
Retail and Service use, not to exceed 2,500 sq ft					●	●	●	●	●					4.27
Retail and Service use, not to exceed 5,000 sq ft					○	●	●	●	●					4.27
Retail and Service use, not to exceed 15,000 sq ft						●	●	●	●					4.27
Retail and Service use, 15,000 sq ft to 30,000 sq ft						●	○	●	●					4.27
Retail and Service use, exceeding 30,000 sq ft						○		○	○					4.10 & 4.27
Retail and Services, Heavy								○	●					4.3
Temporary Uses					●	●	●	●	●					4.35

Table 3.A Permitted Principal Uses														
	GR	NR	MHN	MHP	NMU	CC	MCC	HC	I	T	E	R	Reserved	Use Standards
Vehicle Repair, Major								○	●					4.42
Vehicle Repair, Minor							○	●	●					4.42
Vehicle Rental or Sales								●	●					4.43
Industrial														
Manufactured Home Sales and Service								○	○					4.3 & 4.32
Manufacturing, Heavy									○					
Manufacturing, Light								○	●	●				4.20 & 4.33
Outdoor Storage									○					4.28
Outdoor Storage, as an accessory use								○	●					4.28
Recycling, Indoor									○					
Self-Storage Facility									●					
Towing Services									●					4.38
Warehouse or Distribution								○	●					
Wholesale Establishment								●	●					
Wholesale Establishment, Consumer Fireworks								●	●					
Agriculture														
Agricultural Tourism	○													4.50
Commercial Greenhouse					●	●	●	●	●					4.47
Community Garden	●	●	●	●	●							●		
Market Farm	●	○	○	○	●		●	●						4.48
Private Garden	●	●	●	●	●									4.49
Urban Farm	○													4.50
Infrastructure														
Essential Services	●	●	●	●	●	●	●	●	●	●	●	●		
Solar Farm								●	●	●	●			
Wind Farm									●	●		○		4.45
Wireless Communications	○	○	○	○	○	○	○	●	●	●				4.34
Transportation														
Bicycle Parking Station					●	●	●	●	●	●	●	●		
Bus Shelters	●	●	●	●	●	●	●	●	●	●	●	●		
Heliport							○	○	○	○	○			
Parking Lot, Commercial						○	●	●	●	●	●			
Parking Structure						●	●	●	●	●	●			
Passenger Terminal					●	●	●	●	●	●				
Marina, Recreational						●	●	●	●			●		
Pedestrian or Bicycle Path	●	●	●	●	●	●	●	●	●	●	●	●		
Railway Facilities							●	●	●	●				

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3.4 NR - Neighborhood Residential

A. INTENT

The Neighborhood Residential district is coded to preserve the traditional building pattern of mixed residential development, which historically has been integrated to form a vibrant, active, and cohesive neighborhood unit.

B. DEVELOPMENT STANDARDS

	Detached Single-Family	Duplex	Townhouses	Multi-Family Dwellings	Civic Uses
Lot					
Lot area (min)	2,400 SF	3,200 SF	1,600 SF	3,200 SF	N/A
Lot width (min/max)	30' / 120'	40' / 120'	15'-20' / 40'	40' / 160'	N/A
Lot coverage (max)	70%	70%	70%	80%	80%
Building coverage (max)	60%	60%	60%	60%	70%
Setbacks					
Front yard (min/max)	10' / 25', or Prevailing Setback (min & max) ¹	10' / 25', or Prevailing Setback (min & max) ¹	10' / 25', or Prevailing Setback / Prevailing Setback + 10' ¹	10' / 25', or Prevailing Setback (min & max) ¹	10' / 25'
Built-to percentage, front façade (min)	50% but no greater than a 40' min	60%	80% <u>50%</u>	60%	N/A
Side yards (min total/min each side)	20% of lot width / 5' ²	20% of lot width / 5' ²	20% of lot width / 5'; common walls have a setback of 0'	20% of lot width / 5' ²	20% of lot width / 5' ²
Rear yard (min)	25'				
Building Height					
Building height, principal uses (max)	3 stories / 40'	3 stories / 40'	3 stories / 40'	3 stories / 40'	3 stories / 40'
Building height, accessory buildings (max)	15'	15'	15'	15'	Shall not exceed the height of the principal structure.
Finished ground floor height (min/max)	0'/4'	0'/4'	0'/4'	0'/4'	0'/5'
Roof Slope (min)	4/12	4/12	4/12	4/12	N/A
Transparency³					
Ground floor transparency, front facade (min)	20%		20%		20%
Ground floor transparency, corner side facade (min)	20%		20%		20%
Upper floors transparency, front facade (min)	15%		20%		20%
Upper floors transparency, corner side facade (min)	15%		15%		20%

Transparency, all other ground floor and above facades (min)	15%	15% exempt for Common Walls	15%	15%
Building Orientation and Pedestrian Access				
Main entrance location (required)	Front facade			

1. See Section 2.3.3.C for Prevailing Front Yard Setback. 2. See Section 2.3.3.F for Prevailing Side Yard Setback. 3. Transparency is measured according to Article 2.3.5

C. SUPPLEMENTAL REGULATIONS

1. Residential Use Only Structures

- A. Entrance. Primary entrance shall be architecturally and functionally designed on the front façade of the building facing the primary public street. Such entrances shall be designed to convey their prominence on the fronting facade.
- B. Front Facade. The front facade of the building shall extend parallel to the front lot frontage line.
- C. Pedestrian Pathways. All residential only structures shall have a sidewalk which extends from the primary entrance to the edge of curb, edge of asphalt, or edge of sidewalk within the principal street. If there are site features which make this not feasible, the Planner may approve for a sidewalk to instead be constructed from the principal entrance to the secondary street.

2. Garages, Detached or Attached

- A. All garages shall be setback a minimum of twenty (20) feet from the property line which the garage door(s) primarily faces.
- B. All garages with more than two bays shall be turned such that the bay are not visible from the street.

3. Exterior Lighting. See [Article 5.1](#).

4. Architectural Requirements. See [Article 5.2](#)

5. Signs. See [Article 5.3](#).

6. Parking. See [Article 5.4](#).

- A. Location. Off-street parking shall only be permitted in the side or rear yards with the following exceptions:
 - i. If the side and rear yard are inaccessible due to topography or permanent natural water feature, then parking may be permitted in the front yard.
 - ii. Parking on a garage apron or driveway in the front yard shall be permitted.
 - iii. Parking areas, driveways, and garage aprons shall not exceed 40% of the front yard area.

B. Townhouse Parking Area Exception.

Townhouses located on lots where the rear yards are not feasibly accessible due to topography or other natural features may have a maximum of 50% parking area coverage in the front yard and for the driveway to encroach upon the required five (5) foot setback from the interior lot line so long as no individual driveway or sidewalk is closer than two and a half (2 1/2) feet to the interior lot lines dividing the townhouses or the centerline of the common wall of townhouses on the same lot. The sidewalk to the frontage element must be separated from the driveway either by a raised curb or a landscaped area except for an optional maximum five (5) foot wide, mostly perpendicular, connection.

- a. If Townhouses have a garage on the front façade, frontage elements on Townhouses must extend beyond the portion of the front façade closest to the front lot line into the front yard a minimum of four feet.

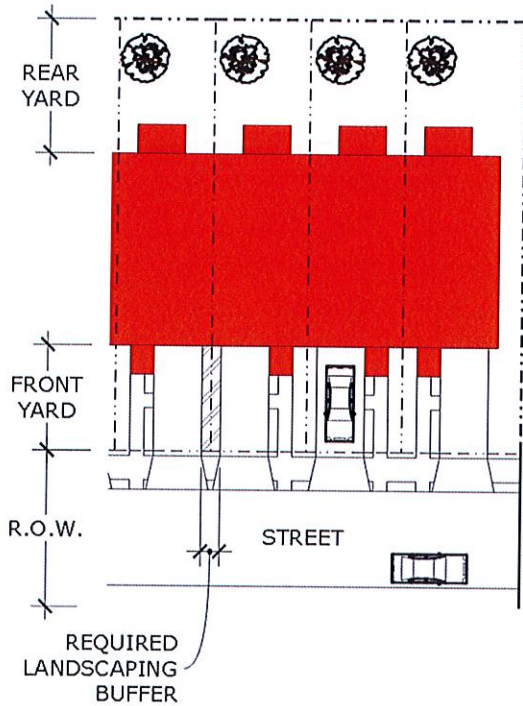


Figure 3.4.A Townhouse Front Yard Parking

- C. B. Access. Vehicle access to off-street parking areas on lots with an improved alley access shall be from such alley to the maximum extent practicable.
- 7. Accessory Buildings and Structures. See [Article 5.10](#).

...

ITEM 5

ORDINANCE NO. _____

AN ORDINANCE OF THE COUNCIL OF THE CITY OF FAIRMONT AMENDING AND SUPPLEMENTING *ARTICLE 3.4 NEIGHBORHOOD RESIDENTIAL (NR)* OF THE CITY'S CODIFIED PLANNING AND ZONING CODE TO PROVIDE FOR SUPPLEMENTAL REGULATIONS WITH REGARD TO PEDESTRIAN PATHWAYS AND TOWNHOUSE PARKING IN SAID DISTRICT.

SYNOPSIS

By this proposed ordinance, if enacted, Council amends and supplements Article 3.4 Neighborhood Residential District to provide for supplemental regulations as follows:

1. Requiring that all residential only structures in said district have a pedestrian pathway from the primary entrance to the edge of a principal street, with limited exceptions; and
2. Permitting townhouse parking areas to be located in the front yard as an exception only based upon inaccessibility to the rear yard due topography and other natural features.

ORDINANCE NO. _____

AN ORDINANCE OF THE COUNCIL OF THE CITY OF FAIRMONT AMENDING AND SUPPLEMENTING *ARTICLE 3.4 NEIGHBORHOOD RESIDENTIAL (NR)* OF THE CITY'S CODIFIED PLANNING AND ZONING CODE TO PROVIDE FOR SUPPLEMENTAL REGULATIONS WITH REGARD TO PEDESTRIAN PATHWAYS AND TOWNHOUSE PARKING IN SAID DISTRICT.

WHEREAS, the Planning Commission for the City of Fairmont on February 7, 2025, after public hearing duly noticed, recommended to the Council for the City of Fairmont the adoption of an ordinance providing for certain amendments to the provisions of the City's codified planning and zoning code to implement the proposed modifications as set forth in the title.

WHEREAS, the proposed modifications are consistent with the City of Fairmont's Comprehensive Plan.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF FAIRMONT THAT:

ARTICLE 3.4 Neighborhood Residential (NR) be and is hereby amended and supplemented as follows: (Matter to be deleted stricken through; New matter double underlined)

Remainder of Page Blank

SEVERABILITY:

If any provision of this ordinance is invalidated by any court, commission or board of competent jurisdiction, the remaining provisions shall not be affected and shall continue in full force and effect.

SAVINGS:

Nothing in this Ordinance shall be construed to affect any other ordinance or code of the City of Fairmont, or any suit or proceeding pending in any court, or right or rights acquired or liability incurred, or any cause or causes under any other ordinance or code of the City of Fairmont, including any act or ordinance repealed; nor shall any just or legal cause, right or remedy of any character be lost, impaired or affected by this Ordinance, and all such other ordinances, codes, causes, rights and remedies are hereby saved.

EFFECTIVE DATE:

This ordinance shall become effective thirty (30) days after adoption.

Adopted this the _____ day of _____, 2025.

MAYOR

ATTEST:

CITY CLERK

3.4 NR - Neighborhood Residential

A. INTENT

The Neighborhood Residential district is coded to preserve the traditional building pattern of mixed residential development, which historically has been integrated to form a vibrant, active, and cohesive neighborhood unit.

B. DEVELOPMENT STANDARDS

	Detached Single-Family	Duplex	Townhouses	Multi-Family Dwellings	Civic Uses
Lot					
Lot area (min)	2,400 SF	3,200 SF	1,600 SF	3,200 SF	N/A
Lot width (min/max)	30' / 120'	40' / 120'	15'-20' / 40'	40' / 160'	N/A
Lot coverage (max)	70%	70%	70%	80%	80%
Building coverage (max)	60%	60%	60%	60%	70%
Setbacks					
Front yard (min/max)	10' / 25', or Prevailing Setback (min & max) ¹	10' / 25', or Prevailing Setback (min & max) ¹	10' / 25', or Prevailing Setback / Prevailing Setback + 10' ¹	10' / 25', or Prevailing Setback (min & max) ¹	10' / 25'
Built-to percentage, front façade (min)	50% but no greater than a 40' min	60%	80% 50%	60%	N/A
Side yards (min total/min each side)	20% of lot width / 5' ²	20% of lot width / 5' ²	20% of lot width / 5'; common walls have a setback of 0'	20% of lot width / 5' ²	20% of lot width / 5' ²
Rear yard (min)	25'				
Building Height					
Building height, principal uses (max)	3 stories / 40'	3 stories / 40'	3 stories / 40'	3 stories / 40'	3 stories / 40'
Building height, accessory buildings (max)	15'	15'	15'	15'	Shall not exceed the height of the principal structure.
Finished ground floor height (min/max)	0'/4'	0'/4'	0'/4'	0'/4'	0'/5'
Roof Slope (min)	4/12	4/12	4/12	4/12	N/A
Transparency³					
Ground floor transparency, front facade (min)	20%		20%		20%
Ground floor transparency, corner side facade (min)	20%		20%		20%
Upper floors transparency, front facade (min)	15%		20%		20%
Upper floors transparency, corner side facade (min)	15%		15%		20%

Transparency, all other ground floor and above facades (min)	15%	15% exempt for Common Walls	15%	15%
Building Orientation and Pedestrian Access				
Main entrance location (required)	Front facade			

1. See Section 2.3.3.C for Prevailing Front Yard Setback. 2. See Section 2.3.3.F for Prevailing Side Yard Setback. 3. Transparency is measured according to Article 2.3.5

C. SUPPLEMENTAL REGULATIONS

1. Residential Use Only Structures
 - A. Entrance. Primary entrance shall be architecturally and functionally designed on the front façade of the building facing the primary public street. Such entrances shall be designed to convey their prominence on the fronting facade.
 - B. Front Facade. The front facade of the building shall extend parallel to the front lot frontage line.
 - C. Pedestrian Pathways. All residential only structures shall have a sidewalk which extends from the primary entrance to the edge of curb, edge of asphalt, or edge of sidewalk within the principal street. If there are site features which make this not feasible, the Planner may approve for a sidewalk to instead be constructed from the principal entrance to the secondary street.
2. Garages, Detached or Attached
 - A. All garages shall be setback a minimum of twenty (20) feet from the property line which the garage door(s) primarily faces.
 - B. All garages with more than two bays shall be turned such that the bay are not visible from the street.
3. Exterior Lighting. See [Article 5.1](#).
4. Architectural Requirements. See [Article 5.2](#)
5. Signs. See [Article 5.3](#).
6. Parking. See [Article 5.4](#).
 - A. Location. Off-street parking shall only be permitted in the side or rear yards with the following exceptions:
 - i. If the side and rear yard are inaccessible due to topography or permanent natural water feature, then parking may be permitted in the front yard.
 - ii. Parking on a garage apron or driveway in the front yard shall be permitted.
 - iii. Parking areas, driveways, and garage aprons shall not exceed 40% of the front yard area.

- B. Townhouse Parking Area Exception. Townhouses located on lots where the rear yards are not feasibly accessible due to topography or other natural features may have a maximum of 50% parking area coverage in the front yard and for the driveway to encroach upon the required five (5) foot setback from the interior lot line so long as no individual driveway or sidewalk is closer than two and a half (2 1/2) feet to the interior lot lines dividing the townhouses or the centerline of the common wall of townhouses on the same lot. The sidewalk to the frontage element must be separated from the driveway either by a raised curb or a landscaped area except for an optional maximum five (5) foot wide, mostly perpendicular, connection.
 - i. If Townhouses have a garage on the front façade, frontage elements on Townhouses must extend beyond the portion of the front façade closest to the front lot line into the front yard a minimum of four feet.

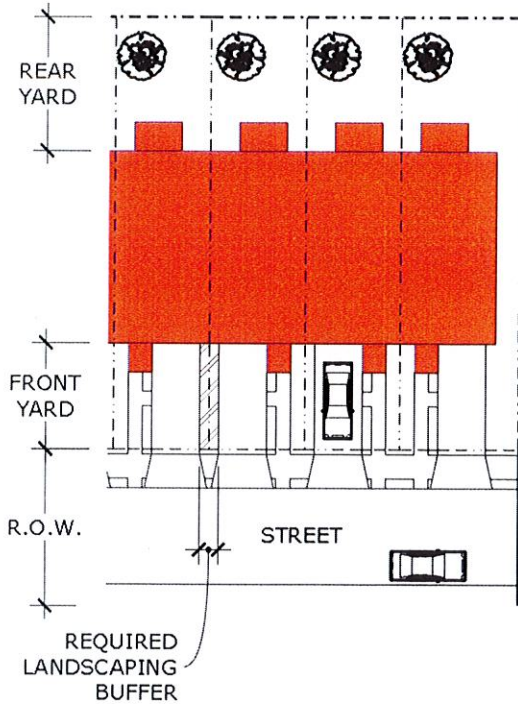


Figure 3.4.A Townhouse Front Yard Parking

- C. B. Access. Vehicle access to off-street parking areas on lots with an improved alley access shall be from such alley to the maximum extent practicable.
7. Accessory Buildings and Structures. See [Article 5.10](#).

ITEM 6

ORDINANCE NO. _____

AN ORDINANCE OF THE COUNCIL OF THE CITY OF FAIRMONT AMENDING AND SUPPLEMENTING *ARTICLE 4.0 USE STANDARDS* OF THE PROVISIONS OF THE CITY'S CODIFIED PLANNING AND ZONING AND MORE PARTICULARLY *SECTION 4.18 FAMILY FUNCTIONAL AND FACTUAL EQUIVALENT* AND *4.35 TEMPORARY USES* TO ESTABLISH AND/OR MODIFY THE USE STANDARDS RELATING THERETO.

WHEREAS, the Planning Commission for the City of Fairmont on February 7, 2025, after public hearing duly noticed, recommended to the Council for the City of Fairmont the adoption of an ordinance providing for certain amendments to the provisions of the City's codified planning and zoning code, to implement the proposed modifications as set forth in the title.

WHEREAS, the proposed modifications are consistent with the City of Fairmont's Comprehensive Plan.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF FAIRMONT THAT:

ARTICLE 4 Use Standards of the provisions of the City of Fairmont Planning and Zoning Code be and is hereby amended and supplemented as follows: (Matter to be deleted stricken through; New matter double underlined)

Remainder of page blank

SEVERABILITY:

If any provision of this ordinance is invalidated by any court, commission or board of competent jurisdiction, the remaining provisions shall not be affected and shall continue in full force and effect.

SAVINGS:

Nothing in this Ordinance shall be construed to affect any other ordinance or code of the City of Fairmont, or any suit or proceeding pending in any court, or right or rights acquired or liability incurred, or any cause or causes under any other ordinance or code of the City of Fairmont, including any act or ordinance repealed; nor shall any just or legal cause, right or remedy of any character be lost, impaired or affected by this Ordinance, and all such other ordinances, codes, causes, rights and remedies are hereby saved.

EFFECTIVE DATE:

This ordinance shall become effective thirty (30) days after adoption.

Adopted this the _____ day of _____, 2025.

MAYOR

ATTEST:

CITY CLERK

ORDINANCE NO. _____

AN ORDINANCE OF THE COUNCIL OF THE CITY OF FAIRMONT AMENDING AND SUPPLEMENTING *ARTICLE 4.0 USE STANDARDS* OF THE PROVISIONS OF THE CITY'S CODIFIED PLANNING AND ZONING AND MORE PARTICULARLY *SECTION 4.18 FAMILY FUNCTIONAL AND FACTUAL EQUIVALENT* AND *4.35 TEMPORARY USES* TO ESTABLISH AND/OR MODIFY THE USE STANDARDS RELATING THERETO

SYNOPSIS

By this proposed ordinance, if enacted, Council amends and supplements Article 4.0 *Use Standards* of the provisions of the City of Fairmont's codified planning and zoning code as follows:

1. To amend Section *4.18 FAMILY FUNCTIONAL AND FACTUAL EQUIVALENT*, to require the issuance of a Conditional Use Permit to be granted upon application to the Zoning Board of Appeals based on the criteria and factors set forth in the section. In addition, the amendment provides for the deletion of "housekeeping unit," which defined the number of unrelated individuals which were permitted to reside in a single-family dwelling unit; and
2. To amend Section *4.35 TEMPORARY USES* to require the issuance of a Certificate of Zoning Compliance upon application to the Planning Department based on the criteria and factors set forth in the section.

Zoning Code Amendments Overview

The following pages contain amendments to the City of Fairmont Zoning Code. To better understand the amendments, please note the following:

- Removed / Deleted text is indicated with a strikethrough - ~~Deleted~~
- New text is indicated by a double underline - New text
- Text omitted for brevity is indicated by three dots - ...

4.0 USE STANDARDS

4.18 FAMILY, FUNCTIONAL AND FACTUAL EQUIVALENT HOUSEKEEPING UNIT

1. Determination. In determining whether or not a group of unrelated individuals comprise a functional and factual family equivalent, a Conditional Use Permit petition will be presented before the Zoning Board of Appeals, which will consider, among other things, the following factors:

- A. Whether the occupants share the entire dwelling unit or act as separate roomers.
- B. Whether the household has stability akin to a permanent family structure. The criteria used to determine this test may include the following:
 - i. Length of stay together among the occupants in the current dwelling unit or other dwelling units.
 - ii. The presence of minor, dependent children regularly residing in the household.
 - iii. Proof of sharing expenses for food, rent or ownership costs, utilities, and other household expenses.
 - iv. Common ownership of furniture and appliances among the members of the household.
 - v. Whether the household is a temporary living arrangement or a framework for transient living.
 - vi. Whether the composition of the household changes from year to year or within the year.
 - vii. Any other factor reasonably related to whether or not the group of persons is the functional equivalent of a family.

2. Approval. The Conditional Use Permit shall only be valid so long as the conditions considered above are maintained and consistent, and if the sharing of a dwelling unit in this nature does not cease for more than 12 months as is consistent with other Conditional Uses.

- A. This approval shall apply to those already living in or pursuing to live in the dwelling unit together at the time of the application

apart from minors or dependents of the adults dwelling there which may move in later or for new adults which are not dependents of the current occupants which are newly related by marriage, adoption, or other legal means after the approval of the Conditional Use Permit.

3. Non-qualifying Groups. A group of individuals living in the same dwelling unit shall be presumed not to be a "functional family unit", as defined above, if such dwelling unit contains five or more unrelated persons whose association is temporary or seasonal in character or nature or a group whose sharing of a dwelling unit is merely for convenience and economics.
4. College Students. A group of individuals living in the same dwelling unit shall be presumed not to be a "functional family unit", as defined above, if such dwelling unit contains three or more college students over the age of sixteen years.
 - A. A college student is a person who attends, at least half time, any college, university, or other institution authorized to confer degrees by the State of West Virginia.
 - B. For the purpose of this presumption, dependent children of any other member of the household shall be excluded in calculating the number of college students in the household.
5. Rebuttal. The presumptions set forth in subsections 3 and 4 of this definition may be rebutted by sufficient evidence of the characteristics set forth in subsection 1 of this Use Standard.

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

- ~~1. General Residential 2 persons;~~
- ~~2. Neighborhood Residential 3 persons;~~
- ~~3. Neighborhood Mixed Use 3 persons;~~
- ~~4. City Center 4 persons;~~

- ~~5. Main Corridor Commercial – 3 persons;~~
- ~~6. Highway Commercial – 3 persons;~~
- ~~7. Industrial – 3 persons;~~
- ~~8. Factory built home neighborhoods – 2 persons;~~
- ~~9. Mobile home parks – 2 persons; and~~
- ~~10. All districts not specifically provided – 3.~~

...

4.35 TEMPORARY USES

1. Approval. All Temporary Uses must receive approval of a Certificate of Zoning Compliance from the Planning Department and be located within a permitted zoning district.
2. Certificate of Zoning Compliance. The Certificate of Zoning Compliance may be conditioned upon such special requirements as the Planner or Building Inspector may determine are necessary to achieve the purposes of this Ordinance and protect the public health, safety and welfare.
3. Produce Sales. Produce stands may be permitted for a maximum of six (6) months but may be re-permitted upon submission of a new application. Failure to meet the requirements of this Ordinance and conditions of the Certificate of Zoning Compliance will necessitate the revocation of the Certificate.
4. Retail Sales. Christmas tree sales, fireworks, book buy back, sidewalks sales, and similar temporary retail sales are permitted as temporary uses within nonresidential districts and are limited to a maximum duration of forty-five (45) days within a calendar year. The following standards must be met:
 - A. Consumer firework sales must be located within an approved zoning district in accordance with the Permitted Principal Uses table in Article 3, regardless of their

temporary nature, and if located in a tent or other temporary structure the sales and storage areas must be located at least 100 feet from any structure used only for residential dwellings.

- B. Truck trailers and flat beds are not permitted except for short-term delivery services.
- C. Temporary uses utilizing a tent or similar canopy shall secure approval from the Fire Prevention and Training Officer of the City of Fairmont Fire Department.
5. Temporary Offices. Contractor's offices and real estate's offices/ trailers and equipment sheds may be permitted for the period of active construction or selling of units. No sleeping or cooking accommodations are allowed.
- ~~6. Produce stands may be permitted for a maximum of six (6) months but may be re-permitted upon submission of a new application.~~
- ~~7. Temporary uses shall present proof of property owner approval prior to the issuance of a permit.~~
- ~~6. 8. Bazaars, Carnivals, and Circuses, and similar temporary uses.~~ The activities shall be open to the general public. Such activities outside of local event parks within the City shall be limited to ten (10) days and must comply with the requirements of Building and Fire standards.
7. Property Owner. Temporary uses shall present proof of property owner approval prior to the issuance of a permit.
8. Revocation. Failure to meet the requirements of this Ordinance and conditions of the Certificate of Zoning Compliance will necessitate the revocation of the Certificate.

ITEM 7

ORDINANCE NO. _____

AN ORDINANCE OF THE COUNCIL OF THE CITY OF FAIRMONT AMENDING AND SUPPLEMENTING *ARTICLE 5.0 SITE STANDARDS* OF THE PROVISIONS OF THE CITY'S CODIFIED PLANNING AND ZONING CODE AND MORE PARTICULARLY *SECTION 5.4.E PARKING REQUIREMENTS BY USE* TO PROVIDE FOR MINIMUM PARKING REQUIREMENTS FOR DETACHED DWELLING, ATTACHED DWELLINGS (SINGLE-FAMILY DUPLEX) ATTACHED TOWNHOUSE DWELLINGS, AND BOARDING HOUSES, LODGING HOUSE AND CONGREGATE LIVING FACILITIES.

SYNOPSIS

By this proposed ordinance, if enacted, Council amends and supplements *Article 5.0 Site Standards* of the provisions of the City of Fairmont Planning and Zoning Code and more particularly Section 5.4.E Parking Requirements to provide for the minimum number of vehicle parking spaces for the use types identified in the ordinance title.

ORDINANCE NO. _____

AN ORDINANCE OF THE COUNCIL OF THE CITY OF FAIRMONT AMENDING AND SUPPLEMENTING *ARTICLE 5.0 SITE STANDARDS* OF THE PROVISIONS OF THE CITY'S CODIFIED PLANNING AND ZONING CODE AND MORE PARTICULARLY *SECTION 5.4.E PARKING REQUIREMENTS BY USE* TO PROVIDE FOR MINIMUM PARKING REQUIREMENTS FOR DETACHED DWELLING, ATTACHED DWELLINGS (SINGLE-FAMILY DUPLEX) ATTACHED TOWNHOUSE DWELLINGS, AND BOARDING HOUSES, LODGING HOUSE AND CONGREGATE LIVING FACILITIES.

WHEREAS, the Planning Commission for the City of Fairmont on February 7, 2025, after public hearing duly noticed, recommended to the Council for the City of Fairmont the adoption of an ordinance providing for certain amendments to the provisions of the City's codified planning and zoning code to implement the proposed modifications as set forth in the title.

WHEREAS, the proposed modifications are consistent with the City of Fairmont's Comprehensive Plan.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF FAIRMONT THAT:

ARTICLE 5.0 Site Standards and more particularly, *Section 5.4.E PARKING REQUIREMENTS BY USE* be and is hereby amended and supplemented as follows: (Matter to be deleted stricken through; New matter double underlined)

Remainder of page blank

SEVERABILITY:

If any provision of this ordinance is invalidated by any court, commission or board of competent jurisdiction, the remaining provisions shall not be affected and shall continue in full force and effect.

SAVINGS:

Nothing in this Ordinance shall be construed to affect any other ordinance or code of the City of Fairmont, or any suit or proceeding pending in any court, or right or rights acquired or liability incurred, or any cause or causes under any other ordinance or code of the City of Fairmont, including any act or ordinance repealed; nor shall any just or legal cause, right or remedy of any character be lost, impaired or affected by this Ordinance, and all such other ordinances, codes, causes, rights and remedies are hereby saved.

EFFECTIVE DATE:

This ordinance shall become effective thirty (30) days after adoption.

Adopted this the _____ day of _____, 2025.

MAYOR

ATTEST:

CITY CLERK

Zoning Code Amendments Overview

The following pages contain amendments to the City of Fairmont Zoning Code. To better understand the amendments, please note the following:

- Removed / Deleted text is indicated with a strikethrough - ~~Deleted~~
- New text is indicated by a double underline - New text
- Text omitted for brevity is indicated by three dots - ...

5.0 SITE STANDARDS

...

Table 5.4.E: Parking Requirements by Use

Use Type	Vehicle Parking Spaces (required)	Bike Parking Spaces (required)
Residential		
Dwelling, Detached (Single-Family); Detached Dwelling (Dwelling, Duplexes (Attached Two- Family Homes); Attached Dwellings (Single-Family Duplex) Dwelling, Townhomes Attached Townhouse Dwellings (Attached Single- Family)	1 per 2 bedrooms	None
Multi-Family Dwelling Units, Group Residential Facility, or Dormitory	1 per 1 bedroom unit 1.5 per 2 bedroom unit 2 per 3 bedroom unit or fraction thereof	None
Boarding Houses, Lodging Houses, and Congregate Living Facilities	<u>1 per 4 beds plus 1</u>	<u>None</u>
Residential Care Facility	1 per 4 bedrooms plus 1 for each full time equivalent employee (at typical maximum shift)	None
Lodging		
Bed and Breakfast	0.6 per 1 bedroom	None
Hotel / Inn, or Motel	0.8 per guest room in addition to the requirement for the dwelling unit for any family or household permanently residing therein. If a restaurant in connection with these uses is open to the public, the off-street parking facilities for the restaurant may be reduced by one-half	1 space per 20 bedrooms

...

ITEM 8

RESOLUTION

A RESOLUTION OF THE COUNCIL OF THE CITY OF FAIRMONT ACKNOWLEDGING THAT CERTAIN EMPLOYEES OF THE CITY OF FAIRMONT POLICE DEPARTMENT WHO ARE MEMBERS OF THE MUNICIPAL POLICE AND FIREFIGHTERS' RETIREMENT SYSTEM (MPFRS) ON JANUARY 9, 2025, CONDUCTED A REFERENDUM WHETHER TO HAVE EXTENDED TO THEM THE SOCIAL SECURITY PROGRAM EMBODIED IN THE SOCIAL SECURITY ACT.

SYNOPSIS

The City of Fairmont in 2017 closed the City of Fairmont's existing Police Pension and Relief Fund and Fire Pension and Relief Fund to new hires and elected to become a participating employer of the West Virginia Municipal Police Officers and Firefighters Retirement System (MPFRS) pursuant to the provision of West Virginia Code Section §8-22A-28 thereby placing all newly hired police officers and firefighters into said system.

On January 9, 2025, the eligible employees of the City of Fairmont Police Department who are members of MPFRS conducted a referendum whether to have extended to them the Social Security Program embodied in the Social Security Act.

By this proposed resolution, the Council for the City of Fairmont acknowledges that the Police Department employees who are members of MPFRS voted **NOT TO** have extended to them the Social Security Program embodied in the Social Security Act.

The results of the vote are attached.

RESOLUTION

A RESOLUTION OF THE COUNCIL OF THE CITY OF FAIRMONT ACKNOWLEDGING THAT CERTAIN EMPLOYEES OF THE CITY OF FAIRMONT POLICE DEPARTMENT WHO ARE MEMBERS OF THE MUNICIPAL POLICE AND FIREFIGHTERS' RETIREMENT SYSTEM (MPFRS) ON JANUARY 9, 2025, CONDUCTED A REFERENDUM WHETHER TO HAVE EXTENDED TO THEM THE SOCIAL SECURITY PROGRAM EMBODIED IN THE SOCIAL SECURITY ACT.

WHEREAS, City of Fairmont in 2017 closed the City of Fairmont's existing Police Pension and Relief Fund and Fire Pension and Relief Fund to new hires and elected to become a participating employer of the West Virginia Municipal Police Officers and Firefighters Retirement System (MPFRS) pursuant to the provision of West Virginia Code Section §8-22A-28 thereby placing all newly hired police officers into said system.

WHEREAS, on January 9, 2025, the eligible employees of the City of Fairmont Police Department who are members of MPFRS conducted a referendum whether to have extended to them the Social Security Program embodied in the Social Security Act.

WHEREAS, given that members who were not present counted as a "nay vote," the referendum was unsuccessful.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL FOR THE CITY OF FAIRMONT:

The Council for the City of Fairmont hereby acknowledges that certain employees of the City of Fairmont Police Department who are members of the Municipal Police and Firefighters Retirement System (MPFRS) on January 9, 2025, conducted a referendum whether to have extended to them the Social Security Program embodied in the Social Security Act.

The referendum was unsuccessful. The results of the referendum are attached hereto and made a part hereof as if fully recorded herein.

Passed this 25th day of February, 2025.

MAYOR

ATTEST:

CITY CLERK



State of West Virginia

Mark A. Hunt

State Auditor

Office of the State Auditor
State Capitol, Building 1, Suite W-100
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305

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Fax: (304) 558-5200
www.wvsao.gov

February 12, 2025

Priscilla Hamilton
Finance Director
City of Fairmont
PO Box 1428
Fairmont, WV, 26555-1428

Dear Ms. Hamilton:

Pursuant to Section 218(d)(3) of the Social Security Act, the West Virginia State Auditor's Office conducted a referendum on Thursday, January 9, 2025, for employees of the Fairmont Police Department participating in the West Virginia Municipal Police and Fire Retirement System (MPFRS). The referendum was held to determine whether the City of Fairmont Police employees participating in the West Virginia Municipal Police and Fire Retirement System would be covered under the State of West Virginia's Section 218 agreement.

The referendum was held at the Fairmont Public Safety Building, located at 500 Quincy St. Fairmont, WV 26554 at 1:00 PM. The State Auditor's Office provided ample notice to eligible members via e-mail utilizing e-mail addresses provided by the City of Fairmont Finance Director at least 90 days prior to the referendum.

Referendum #1: Police

"Shall eligible employees of the City of Fairmont who are members of the West Virginia Municipal Police and Firefighters Retirement System (MPFRS) have extended to them the Social Security program embodied in the Social Security Act, with coverage under such program effective as to services performed on and after January 20, 2025?"

On this question, the official results are as follows:

Yes- 7

No- 6

Not Present - 4

Pursuant to Section 218(d)(3)(E) of the Social Security Act, referendums require the majority of eligible employees to vote in favor of extending coverage. Therefore, non-present members are counted as a nay vote.

As the majority of eligible employees did not vote to extend coverage, the WV State Auditor's Office declares the referendum for the Fairmont Police Department's MPFRS members unsuccessful.

Pursuant to Section 218(d)(3), the City of Fairmont Police Department's MPFRS members must wait one year to request another referendum to extend coverage.

We hope you find this information helpful. Please contact our office with any questions.

Sincerely,

A handwritten signature in black ink that reads "Austin McVey". The signature is written in a cursive, flowing style.

Austin McVey
Director of Social Security

Cc: Priscilla A. Hamilton, Finance Director