WEST VIRGINIA CODE: §8A-1-2

§8A-1-2. Definitions.

As used in this chapter, the following words and terms have the following meanings, unless the context clearly indicates otherwise:

(a) "Abandonment" means the relinquishment of property or a cessation of the use of the property by the owner or lessee without any intention of transferring rights to the property to another owner or resuming the nonconforming use of the property for a period of one year.

(b) "Aggrieved" or "aggrieved person" means a person who:

(1) Is denied by the planning commission, board of subdivision and land development appeals, or the board of zoning appeals, in whole or in part, the relief sought in any application or appeal; or

(2) Has demonstrated that he or she will suffer a peculiar injury, prejudice or inconvenience beyond that which other residents of the county or municipality may suffer.

(c) "Comprehensive plan" means a plan for physical development, including land use, adopted by a governing body, setting forth guidelines, goals and objectives for all activities that affect growth and development in the governing body’s jurisdiction.

(d) "Conditional use" means a use which because of special requirements or characteristics may be permitted in a particular zoning district only after review by the board of zoning appeals and upon issuance of a conditional use permit, and subject to the limitations and conditions specified in the zoning ordinance.

(e) "Contiguous" means lots, parcels, municipal boundaries or county boundaries that are next to, abutting and having a boundary, or portion thereof, that is coterminous. Streets, highways, roads or other traffic or utility easements, streams, rivers, and other natural topography are not to be used to determine lots, parcels, municipal boundaries or county boundaries as contiguous.

(f) "Essential utilities and equipment" means underground or overhead electrical, gas, communications not regulated by the federal communications commission, water and sewage systems, including pole structures, towers, wires, lines, mains, drains, sewers, conduits, cables, fire alarm boxes, public telephone structures, police call boxes, traffic signals, hydrants, regulating and measuring devices and the structures in which they are housed, and other similar equipment accessories in connection therewith. Essential utility equipment is recognized in three categories:

(1) Local serving;

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(2) Nonlocal or transmission through the county or municipality; and

(3) Water and sewer systems, the activities of which are regulated, in whole or in part, by one or more of the following state agencies:

(A) Public service commission; or

(B) Department of environmental protection; or

(C) The Department of Health.

(g) "Existing use" means use of land, buildings or activity permitted or in existence prior to the adoption of a zoning map or ordinances by the county or municipality. If the use is nonconforming to local ordinance and lawfully existed prior to the adoption of the ordinance, the use may continue to exist as a nonconforming use until abandoned for a period of one year: *Provided*, That in the case of natural resources, the absence of natural resources extraction or harvesting is not abandonment of the use.

(h) "Exterior architectural features" means the architectural character and general composition of the exterior of a structure, including, but not limited to, the kind, color and texture of the building material, and the type, design and character of all windows, doors, massing and rhythm, light fixtures, signs, other appurtenant elements and natural features when they are integral to the significance of the site, all of which are subject to public view from a public street, way or place.

(i) "Factory-built homes" means modular and manufactured homes.

(j) "Flood-prone area" means any land area susceptible to repeated inundation by water from any source.

(k) "Governing body" means the body that governs a municipality or county.

(l) "Historic district" means a geographically definable area, designated as historic on a national, state or local register, possessing a significant concentration, linkage or continuity of sites, buildings, structures or objects united historically or aesthetically by plan or physical development.

(m) "Historic landmark" means a site, building, structure or object designated as historic on a national, state or local register.

(n) "Historic site" means the location of a significant event, a prehistoric or historic occupation or activity, or a building or structure whether standing, ruined or vanished, where the location itself possesses historical, cultural or archaeological value regardless of the value of any existing structure and designated as historic on a national, state or local register.

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(o) "Improvement location permit" means a permit issued by a municipality or county, in accordance with its subdivision and land development ordinance, for the construction, erection, installation, placement, rehabilitation or renovation of a structure or development of land, and for the purpose of regulating development within flood-prone areas.

(p) "Infill development" means to fill in vacant or underused land in existing communities with new development that blends in with its surroundings.

(q) "Land development" means the development of one or more lots, tracts or parcels of land by any means and for any purpose, but does not include easements, rights-of-way or construction of private roads for extraction, harvesting or transporting of natural resources.

(r) "Manufactured home" means housing built in a factory according to the federal manufactured home construction and safety standards effective June 15, 1976.

(s) "Modular home" means housing built in a factory that meets state or local building codes where the homes will be sited.

(t) "Non-traditional zoning ordinance" means an ordinance that sets forth development standards and approval processes for land uses within the jurisdiction, but does not necessarily divide the jurisdiction into distinct zoning classifications or districts requiring strict separation of different uses, and does not require a zoning map amendment.

(u) "Permitted use" means any use allowed within a zoning district, subject to the restrictions applicable to that zoning district and is not a conditional use.

(v) "Plan" means a written description for the development of land.

(w) "Planning commission" means a municipal planning commission, a county planning commission, a multicounty planning commission, a regional planning commission or a joint planning commission.

(x) "Plat" means a map of the land development that becomes its official recorded representation in the office of the clerk of the county commission where a majority of the land to be developed lies.

(y) "Preferred development area" means a geographically defined area where incentives may be used to encourage development, infill development or redevelopment in order to promote well designed and coordinated communities.

(z) "Public place" means any lots, tracts or parcels of land, structures, buildings or parts thereof owned or leased by a governing body or unit of government.

(aa) "Sprawl" means poorly planned or uncontrolled growth, usually of a low-density nature, within previously rural areas, that is land consumptive, auto-dependent, designed without respect to its surroundings, and some distance from existing development and

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infrastructure.

(bb) "Streets" means streets, avenues, boulevards, highways, roads, lanes, alleys and all public ways.

(cc) "Subdivision or partition" means the division of a lot, tract or parcel of land into two or more lots, tracts or parcels of land, or the recombination of existing lots, tracts, or parcels.

(dd) "Unit of government" means any federal, state, regional, county or municipal government or governmental agency.

(ee) "Urban area" means all lands or lots within the jurisdiction of a municipal planning commission.

(ff) "Utility" means a public or private distribution service to the public that is regulated by the Public Service Commission.

(gg) "Zoning" means the division of a municipality or county into districts or zones which specify permitted and conditional uses and development standards for real property within the districts or zones.

(hh) "Zoning map" means a map that geographically illustrates all zoning district boundaries within a municipality or county, as described within the zoning ordinance, and which is certified as the official zoning map for the municipality or county.

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