

Greenbrier County Zoning Ordinance

Executive Summary of Proposed Redline Changes

Source document

Greenbrier County Zoning Ordinance, redlined by County Commission 3/10/26 (file dated 3/27/26), 115 pages.
Published by Greenbrier County at greenbrierwv.gov;
retrieved July 8, 2026.

Scope of markup

Tracked changes appear on approximately 65 of 115 pages, comprising roughly 100 substantive edits plus extensive automatic renumbering

Bottom line. This is not a housekeeping pass. Three things are happening at once: (1) a preemption framework is being built into the ordinance; (2) the permitted and conditional use tables are being substantially liberalized in every district, most dramatically in Residential; and (3) a series of substantive standards governing agriculture, alcohol production, events, and home occupations are being stripped out or relaxed.

1. Preemption is the organizing theme

- **New § 101.08 “Preemption”** declares the ordinance inapplicable where state or federal law occupies the field — agricultural operations, essential utilities, and federal facilities are named. Where the field is not fully occupied, the County may still regulate setbacks, height, bulk, parking, noise, and lighting, but only so long as it does not “effectively prohibit” the use. The Code Official may demand documentary proof of exempt status, and the ordinance snaps back into force once the preempted use is abandoned.
- **New § 301.13 “Preempted Uses”** establishes an asterisk convention: uses whose regulation is likely preempted are marked with an asterisk in the district tables. Asterisks land on Agriculture, Agritourism, Farm, Brewery, Brewery Pub, Cidery, Distillery, Winery, Farmer’s Market, Essential Utilities, Commercial Greenhouse, Slaughterhouse, and Stockyards.
- **Boilerplate inserted into roughly eleven definitions**, stating that the term is definitional only and that preempted uses are neither permitted, conditional, nor prohibited.
- **Old scattered qualifiers deleted.** The phrase “except to the extent preempted by the West Virginia Code” is struck from individual definitions and consolidated into § 101.08.

Counsel’s margin note on § 101.08 confirms the intent: the section was added “to conform with the law.”

2. Definitions overhauled

- **Housing typology rewritten** to federal standards: *Manufactured Home* (HUD Code, post-6/15/76, permanent chassis, HUD label), *Mobile Home* (pre-6/15/76, not HUD Code), and a new *Modular Home* definition (state building code, permanent foundation, no chassis).
- **New “Accessory Dwelling Unit”** — one per single-family dwelling per parcel; attached, detached, or internal; capped at 50% of the primary dwelling’s square footage. Mother-in-law and caregiver suites are simultaneously deleted from the *Accessory Structure* definition. Counsel’s note: added to make clear ADUs are allowed and to “avoid development of slum housing.”
- **“Recreational Vehicle”** replaces “Trailer, Camping and Recreational Equipment.” The *Boat* and *Utility Trailer* sub-definitions are deleted entirely.

- **New terms:** Art Studio, Historic Site, Recycling Facility.
- **“Farm”** is collapsed to mean simply “an agricultural operation.” **“Agricultural Operation”** adds *equine* and loses the carve-out excluding farm wineries, wineries, breweries, cideries, and distilleries — a change with obvious preemption consequences.
- The sentence subjecting agritourism enterprises to mass-gathering permitting is deleted.

3. District use tables — broad liberalization

District	Direction of change
R Residential	Art Studio, Historic Site, and Park added by right. The conditional list roughly triples, now including Automobile Repair/Service, Bakery, Brewery*, Brewery Pub*, Cidery*, Catering Business, Cemetery/Mausoleum, Clinic, Gas Station, Golf Course, Hospital, Medical Adult Day Care, Personal and Professional Services, Retail Store/Shop, Reception/Event Facility, Tattoo Parlor, and Tavern/Drinking Establishment.
OC Open Space Conservation	Campground, small multi-family dwellings, and Historic Site added by right. Roughly 24 conditional uses added, including Amphitheater, Gas Station, Self-Storage Facility, Drive-in Theater, Tavern, Tattoo Parlor, schools, and retail.
FR Forest Recreation	Campground, Child Care Classes 1–2, and Historic Site added by right. Roughly 20 conditional uses added, including Brewery*, Convenience Store, Gas Station, Farmer’s Market*, Self-Storage, and retail.
C Commercial	Child Day Care Classes 1–4 promoted from conditional to permitted by right. Medical Adult Day Care Center and Reception/Event Facility added by right. Stockyards* added as a conditional use.
I Industrial	Automobile Car Wash, Automobile Repair/Service, Clinic, Dry Cleaner, Photographic Studio, Slaughterhouse*, and Wholesale Establishment added by right. Office Supply Establishment and Dry Cleaner added as conditional uses.

An asterisk denotes a use the redlines flag as likely preempted from local regulation.

4. Agriculture, alcohol, and hospitality standards removed

- **Agritourism (§ 402.05).** Deletes the five-acre minimum, the “on-site products only” requirement, the 75-foot lot-line setback, the 10:00 a.m.–9:00 p.m. operating window, and the Code Official’s inspection authority. Four generic conditions remain: sanitation, food safety, parking, and right-of-way.
- **Farm Winery, Brewery, Distillery, and Cidery (§ 402.13).** The entire substantive regime is deleted — ten-acre minimum, on-site parking, the one-tasting-facility-per-parcel limit, the restriction of tasting rooms to on-premises products, merchandise limits, and food-service limits. Replaced by four lines covering ABCA compliance, sanitation, food safety, and right-of-way parking.

5. Events regulation loosened

Mass Gathering Events (§ 402.21)

Provision	Current	Proposed
Permits per parcel, per year	12	36

Provision	Current	Proposed
Earliest start time	10:00 a.m.	7:00 a.m.
Liability insurance	\$2,000,000	\$1,000,000 (only when a permit is required)
Minimum contiguous acreage	20 acres	5 acres
Private landowner events	Permit required	Exempt from permitting
Land alteration	"Shall cause no alteration"	Allowed if compliant with state and local requirements

Reception and Event Facilities

The 150-foot setback from any property line for outdoor activities, temporary structures, and parking is deleted; temporary structures now simply follow district setbacks. The amplified-music standard (no music audible beyond the property line) and the lighting-glare standard are replaced with a general clause that operation "shall not impose a nuisance on the contiguous residents or landowners."

Special Events

The overnight-participant prohibition is deleted. The parking-plan requirement is replaced with a right-of-way prohibition. The per-parcel cap rises from 12 to 36 events per year, and private landowner events are exempted from permitting. EMS-only notice is expanded to a full agency list: the Sheriff's Department, a licensed EMS provider, a licensed garbage hauler, a licensed towing company, the county health department, the WV Division of Highways, and County Homeland Security.

6. Residential and site standards

- **Recreational vehicles.** The flat ban on living in an RV is replaced with an affirmative allowance: a licensed, road-ready RV may be used for "temporary, recreational or seasonal living," but not as an alternative dwelling unit or short-term rental, and may not connect to permanent utilities. The prohibition on outdoor storage of inoperable RVs is narrowed to the Residential district only (Forest Recreation and Open Space are struck) and expanded to prohibit *occupying* them.
- **Home-based business.** Customer hours extend to 9:00 p.m. (from 6:00 p.m.). The eight-visits-per-day cap and the accompanying definition of a "visit" are deleted, as is the provision permitting one employee not residing in the dwelling.
- **Garage sales.** The cap of eight sales per rolling twelve-month period is deleted.
- **Swimming pools.** The rear-yard restriction now applies to in-ground pools, with the ten-acre exemption removed. All pools, in-ground or above-ground, must meet district setbacks. The reference to protective barriers is struck.
- **Fences.** Tires are added to the prohibited materials list. **Self-storage:** the ban on auctions and retail or garage sales on the premises is deleted, and woven-wire screening is now permitted.
- **Dwellings.** Perimeter fascia enclosure is now required of *all* dwellings, not just single-family, except as needed to comply with floodplain regulations.
- **Signs.** The exemption for flags up to sixteen square feet is deleted.

7. Administration and procedure

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- The Code Official is now appointed by the County Commission **with the consent of the Planning Commission**.
 - Nonconforming-use termination no longer triggers on expiration of a County business license.
 - Rezoning notice: the **certified-mail requirement is struck**; notice must now include contiguous landowners *and residential addresses*; and the amendment is clarified as a “district map amendment.”
 - Posted-notice signs must be **legible** rather than *visible* from a public road.

8. Issues worth flagging before adoption

- 1 **Dry Cleaner is added to the Industrial district as both a permitted-by-right use (#9) and a conditional use (#2).** This is a direct internal conflict.
- 2 The tension between the new preemption chapter and the deletion of the agricultural-operation carve-out for wineries, breweries, cideries, and distilleries — combined with asterisking those same uses — could be read as functionally deregulating alcohol production countywide.
- 3 The private-landowner-event exemption is nowhere defined. Combined with a five-acre threshold and 36 events per year, the practical ceiling on unpermitted mass gatherings is unclear.
- 4 Deleting “may employ one (1) individual not residing in the dwelling” is ambiguous: it removes both the express permission and the implied cap.
- 5 Typographical errors introduced in the markup: “setbck” (§ 304.07 heading), “Ampitheater,” “Cemetary,” and “Facilty.”
- 6 The rewritten § 505.05(2) reads “Cause to be delivered written notice by to the landowner(s)” — an orphaned “by” left behind when “certified mail” was struck.

Prepared by Mike Sheridan Digital. This summary reflects the tracked changes as they appear in the redlined document and is provided for informational purposes only. It is not legal advice and should not be relied on as a substitute for review by qualified counsel. It takes no position on the merits of the proposed changes.

Full source: https://www.greenbrierwv.gov/document_center_uploads/4i_greenbrier-county-zoning-ordinance-cc-redlines-3.27.26.pdf