Ordinance ___

Councilmember Smith introduced the following Ordinance and moved for its adoption, which motion was seconded by Councilmember Miller. The Ordinance being in the following words and figures:

"AN ORDINANCE TO ESTABLISH MINIMUM SETBACK REQUIREMENTS"

WHEREAS, pursuant to the authority granted by W. Va. Code §§ 8-11-1, et seq., and § 8-12-13, the council of the TOWN OF MARLINTON desires to enact an ordinance, to be known as § 150.042 of the Code of the Town of Marlinton, West Virginia, establishing minimum setback requirements for buildings, as defined below, within the corporate limits of the Town.

NOW, THEREFORE, THE TOWN OF MARLINTON HEREBY ORDAINS:

150.042 – MINIMUM SETBACK REQUIREMENTS.

(A) Definitions. For purposes of this section, the following definitions shall apply:

(1) "Building" – shall mean any dwelling, garage, storage building, or other structure in excess of 100 square feet.

(2) "Building Setback Line" – shall mean a line establishing the minimum allowable distance between the nearest part of any building, including decks, patios, covered porches, steps, and landings exceeding twenty-four (24) square feet, but excluding eaves, overhangs, bay windows, sills, belt courses, cornices, and ornamental features not exceeding two (2) feet in width, to the nearest edge of a street right-of-way, property line, or easement line, when measured perpendicular thereto.

(B) Minimum Building Setback Line.

(1) The Minimum Building Setback Line for all buildings located in a business or commercial district shall be five (5) feet.

(2) The Minimum Building Setback Line for all buildings located in the residential district shall be ten (10) feet.

(C) Existing Buildings. The Town Council recognizes that many existing buildings within the Town of Marlinton do not currently meet the Minimum Building Setback Line requirements set forth herein. In the event of the demolition, destruction or removal of an existing building, a replacement building may be erected using the setback lines that existed at the time of the enactment hereof, provided, that said replacement building must meet all other applicable building code and floodplain requirements.

(D) Violations and Penalties.

(1) Any person who violates any provision of this chapter is guilty of a misdemeanor, and upon conviction, shall be punished for each offense by a fine not less than fifty dollars ($50.00)

nor more than five hundred dollars ($500.00). Each day the violation continues shall be considered a separate offense.

(2) Any buildings erected, raised, or converted, or land or premises used in violation of any provision of this ordinance is declared a common nuisance and the owner of the building, land, or premises shall be liable for maintaining a common nuisance.

(E) Injunction.

(1) The Town Council, or any designated enforcement official, may seek an injunction in the Circuit Court of Pocahontas County, West Virginia, to restrain the owner, tenant, occupant, other person or persons responsible, from violating the provision of this ordinance or any rule, regulation, or requirement adopted or established hereunder.

(2) The Town Council, or any designated enforcement official, may also seek a mandatory injunction in the Circuit Court of Pocahontas County, West Virginia, directing the owner, tenant, occupant, other persons or persons responsible, to remove a structure erected in violation of the provisions of this ordinance or rule, regulation, or requirement adopted or established hereunder.

(3) If the Town Council, or any designated enforcement official, is successful in any suit brought under this section, the respondent shall bear the costs of the action.

(F) Severability. If any provision of this ordinance shall be declared invalid or unconstitutional, such declaration shall not invalidate any other provision of this ordinance.

This Ordinance shall be effective upon passage.

I, the undersigned Recorder of the Town of Marlinton, State of West Virginia, do hereby certify that the foregoing amendment to an Ordinance was duly passed and adopted by the Town Council of the Town of Marlinton, and that the proposed Ordinance was read by title at not less than three (3) meetings of the Town Council with at least one (1) week intervening between each meeting, and that the Ordinance is now in full force and effect.

11/04/24
Passed First Reading

12/02/24
Passed Second Reading

_____
Passed Third Reading

_____
Mary Clendenen, Recorder