

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Introduced

House Bill 3026

By Delegates Funkhouser, Ridenour, Flanigan, and

Linville

[Introduced February 27, 2025; referred to the
Committee on Government Organization]

1 A BILL to amend and reenact §8A-7-10 of the Code of West Virginia, 1931, as amended, relating
 2 to zoning ordinances and their effects; and defining the word "use" to mean domestic use,
 3 farming, or activities on the land from where water was drawn, and not extraction for
 4 transport to another jurisdiction via bottling, storage, pipeline or otherwise.

Be it enacted by the Legislature of West Virginia:

ARTICLE 7. ZONING ORDINANCE.

§8A-7-10. Effect of enacted zoning ordinance.

1 (a) After enactment of a zoning ordinance by a municipality or county, all subsequent land
 2 development shall be done in accordance with the provisions of the zoning ordinance.

3 (b) All zoning ordinances, and all amendments, supplements and changes thereto, legally
 4 adopted under any prior enabling acts, and all actions taken under the authority of any such
 5 ordinances, are hereby validated and continued in effect until amended or repealed by action of
 6 the governing body of the municipality or the county taken under authority of this article. These
 7 ordinances shall have the same effect as though previously adopted as a comprehensive plan of
 8 land use or parts thereof.

9 (c) Land, buildings or structures in use when a zoning ordinance is enacted may continue
 10 the same use and that use may not be prohibited by the zoning ordinance so long as the use of the
 11 land, buildings or structures is maintained, and no zoning ordinance may prohibit alterations or
 12 additions to or replacement of buildings or structures owned by any farm, industry or manufacturer,
 13 or the use of land presently owned by any farm, industry or manufacturer but not used for
 14 agricultural, industrial or manufacturing purposes, or the use or acquisition of additional land which
 15 may be required for the protection, continuing development or expansion of any agricultural,
 16 industrial or manufacturing operation of any present or future satellite agricultural, industrial or
 17 manufacturing use. A zoning ordinance may provide for the enlargement or extension of a
 18 nonconforming use, or the change from one nonconforming use to another.

19 (d) If a use of a property that does not conform to the zoning ordinance has ceased and the

20 property has been vacant for one-year, abandonment will be presumed unless the owner of the
21 property can show that the property has not been abandoned: *Provided*, That neither the absence
22 of natural resources extraction or harvesting nor the absence of any particular agricultural,
23 industrial or manufacturing process may be construed as abandonment of the use. If the property
24 is shown to be abandoned, then any future use of the land, buildings or structures shall conform
25 with the provisions of the zoning ordinance regulating the use where the land, buildings or
26 structures are located, unless the property is a duly designated historic landmark, historic site or
27 historic district.

28 (e) Nothing in this chapter authorizes an ordinance, rule or regulation preventing or limiting,
29 outside of municipalities or urban areas, the complete use (i) of natural resources by the owner; or
30 (ii) of a tract or contiguous tracts of land of any size for a farm or agricultural operation as defined in
31 §19-19-2 by the owner. For purposes of this article, agritourism includes, but is not limited to, the
32 definition set forth in §19-36-2. The word "use" in this subsection means domestic use, farming, or
33 activities on the land from where water was drawn, including use on property owner's land or a
34 separate parcel of land owned or leased by the property owner, but not extraction for commercial
35 sale, nor shipment outside of West Virginia directly or indirectly.

NOTE: The purpose of this bill relates to zoning ordinances and their effects; and defines the word "use" to mean "domestic use, farming, or activities on the land from where water was drawn, and not extraction for transport to another jurisdiction via bottling, storage, pipeline or otherwise."

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.