

**ORDINANCE NO. 2022-09**

**AN ORDINANCE AMENDING THE TOWN OF  
MORGANTOWN, INDIANA, ZONING ORDINANCE**

**WHEREAS**, Morgantown Advisory Plan Commission (“Plan Commission”), pursuant to Indiana Code Sections IC 36-7-4-602(b) has initiated proposed amendments to the text of the Town’s Zoning Ordinance;

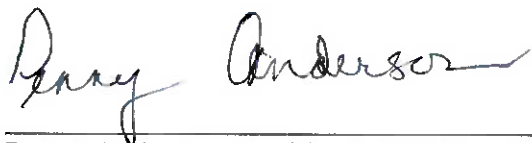
**WHEREAS**, the Plan Commission, pursuant to IC 36-7-4-604, held a public hearing on its proposed amendments to the Town’s Zoning Ordinance;

**WHEREAS**, the Plan Commission, after paying reasonable regard to (1) the Morgantown Comprehensive Plan, (2) the current conditions and the character of the current structures and use in each district, (3) the most desirable use for which the land in each district is adapted, (4) the conservation of property values throughout the jurisdiction, and (5) responsible development and growth, voted by a majority to submit to the Town Council a favorable recommendation regarding the proposed amendments to the Town’s Zoning Ordinance; and


**WHEREAS**, the Council, at its November 14, 2022 regular public meeting, considered the Plan Commission’s favorable recommendation and approved the proposed amendments to the Town’s Zoning Ordinance.

**NOW, THEREFORE, BE IT ORDAINED** by the Town Council of Morgantown, Indiana, that the full text of the Zoning Ordinance for the Town of Morgantown, Indiana, attached hereto, is approved and adopted, effective as of November 14, 2022.

Adopted by affirmative vote of the Town Council of the Town of Morgantown at its regular meeting on the 14<sup>th</sup> day of November, 2022.



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Penny Anderson, President of the Town Council

Attest:   
Sharon McIntosh, Clerk Treasurer

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**ZONING ORDINANCE**  
**TOWN OF MORGANTOWN, INDIANA**

**Section 1. Authority**

This ordinance has been adopted and amended pursuant to the Indiana Code, 600 SERIES-ZONING ORDINANCE (IC 36-7-4-600) and all amendments thereto. Adopted originally on September 3, 1989, by **Ordinance 3-1989**; amended May 5, 2014 by **Ordinance 2014-05**; amended November 2, 2015 by **Ordinance 2015-12**, and as amended November 14, 2022 by **Ordinance 2022-11**.

**Section 2. Purpose**

This ordinance is adopted for the following purposes:

1. Securing adequate light, air, convenience of access, and safety from fire, flood, and other danger.
2. Lessening or avoiding congestion in public ways.
3. Promoting the public health, safety, comfort, morals, convenience, and general welfare;
4. Otherwise accomplishing the purposes of Chapter 36-7-4 of the Indiana Code;
5. Implementing the Comprehensive Plan of the Town of Morgantown, Indiana.

To accomplish these purposes, this ordinance does the following:

1. Establishes districts for agricultural, commercial, industrial, residential, special or unrestricted uses and any subdivision or combination of these uses.
2. Regulates how real property is developed, maintained, and used, including the following:
  - A. Requirements for the area of front, rear, and side yards, courts, other open spaces, and total lot area;
  - B. Requirements for site conditions, signs, and nonstructural improvements, such as parking lots, ponds, fills, landscaping, and utilities;
  - C. Provisions for the treatment of uses, structures, or conditions that are in existence at the time this ordinance takes effect;
  - D. Restrictions on development in areas prone to flooding;
  - E. Requirements to protect the historic and architectural heritage of the community;
  - F. Requirements for structures, such as location, height, area, bulk, and floor space;
  - G. Restrictions on the kind and intensity of uses;
  - H. Performance standards for the emission of noises, gases, heat,

vibration, or particulate matter into the air or ground or across lot lines,

- I. Standards for population density and traffic circulation;
  - J. Other provisions that are necessary to implement the purposes of this ordinance.
3. In districts containing areas with special or unusual development problems or needs for compatibility, requires that the Plan Commission approve development plans for consistency with general development standards.
  4. Provides for planned unit development.
  5. Establishes in which districts the subdivision of land may occur.

### **Section 3. Jurisdiction**

This ordinance shall apply throughout the geographic areas within the jurisdiction of the Plan Commission of the Town of Morgantown as established by resolution of the commission and included within the Comprehensive Plan of the Town of Morgantown. This includes the incorporated area of Morgantown and the Extra Territorial Jurisdiction in Morgan County, if any, over which the Plan Commission may exercise jurisdiction.

### **Section 4. Subdivision of Land**

Subdivision of land may occur in any zoning district within the jurisdiction of the Plan Commission of the Town of Morgantown.

### **Section 5. Compliance**

No building may be erected or use established on any property within the jurisdiction of the Plan Commission of the Town of Morgantown except in compliance with the terms of this ordinance.

### **Section 6. Zoning Map**

An official zoning map is hereby adopted and made a part of this ordinance. The official zoning map shall be kept on file in the office of the Town Clerk. For purposes of interpretation of the zoning map, the following rules shall apply:

1. Boundaries shown on the zoning map as approximately following the center lines of a highway, street, alley, railroad, water course, or body of water shall be construed to actually follow the center lines thereof.
2. Where the street layout on the ground varies from the street layout as shown on the official zoning map, the Plan Commission may apply the designations shown on the mapped streets in such a way as to carry out the intent and purposes of this ordinance.
3. Boundaries indicated on the zoning map as approximately following shorelines shall be construed to actually follow such shorelines, and in the event of change in the shoreline, such boundaries shall be

- construed as moving with the actual shoreline.
4. Boundaries indicated on the zoning map as approximately following platted lot lines shall be construed as following such lot lines.
  5. Boundaries indicated on the zoning map as approximately following jurisdictional lines or section lines shall be construed as actually following such limits or lines.
  6. In any other case where the location of the zoning line is unclear, the Plan Commission shall make a determination as to the location of such zoning line.

### **Section 7. Interpretation**

1. The provisions of this ordinance shall be the minimum requirements, adopted for the purposes stated herein.
2. Except as expressly provided herein, this ordinance shall not repeal, abrogate, annul, or in any way impair or interfere with any existing provision of law or Town ordinance; provided that where this ordinance is in conflict with or imposes a greater restriction than imposed or required by any such existing Town ordinance, the provisions of this ordinance shall control.
3. Any use not expressly permitted in this ordinance shall be a non-permitted use. The Plan Commission, on its own or upon request by the Town Council, the Zoning Administrator, or any third party, may interpret this ordinance and decide whether a described use is permitted or the meaning, effect, or applicability of other provisions. Any such interpretation shall be made in a manner consistent with the intent and purposes of this ordinance.

### **Section 8. Enforcement; Permits**

1. This ordinance shall be enforced by the Plan Commission, and/or its duly appointed agent, pursuant to adopted enforcement procedures.
2. After the effective date of this ordinance, no land shall be used and no building, structure, or sign shall be used or erected unless it conforms to the provisions of this ordinance and the Indiana State Building Code. No improvement location permit, building permit, or occupancy permit shall be issued until it has been determined that said permit is in conformity with the provisions of this ordinance and Indiana Building Code. Uses and structures lawfully existing on the effective date of this ordinance shall be permitted to continue under the provisions of Section 27 of this Ordinance
3. The Zoning Administrator, as the authorized representative of the Plan Commission, shall be responsible for the issuance of an Improvement Location Permit or Building Permit for any alteration to the condition of land and/or structures including; construction, alteration or additions to buildings, driveways, parking areas, signs, drainage, area lighting, swimming pools, or any other permanent improvements Permits must be obtained prior to the start of any construction as required by and pursuant to a separate Permit and Fee Schedule adopted by the Plan Commission from time to time.

4. Building Permits will be valid for a period of one year. One six month extension may be authorized by the Zoning Administrator if an issue outside the control of the permit holder caused a delay.

### **Section 9. Complaints, Violations and Penalties**

1. Any person may file with the Plan Commission a written complaint alleging a violation of this ordinance. Upon its receipt of a written complaint, the Plan Commission, or its duly appointed agent, will investigate in a timely manner. If, based on its investigation, the Plan Commission concludes that a violation has occurred, the Plan Commission shall serve the person or persons believed to have violated this ordinance with a written notice of violation and an order to correct the violation within a reasonable period of time, not to exceed 60 days. If the violation is not corrected within the time allotted, the Plan Commission may issue a civil penalty or fine. The Plan Commission may, by rule, delegate the duties under this section to an individual, department, or agency.
2. Any building erected, raised or converted, or land or premises used in violation of any provision of this ordinance or regulation thereof is hereby declared to be a common nuisance and the owner thereof shall be liable for maintaining a common nuisance, which may be restrained or enjoined or abated in any appropriate action or proceeding.
3. Any property owner, and/or occupant, who violates any provision of this ordinance or fails to comply with any of its requirements, including violations of conditions and safeguards established in connection with this ordinance, may be fined in a sum not less than \$25 and not more than \$300 for each day the violation exists.
4. The owner or tenant of any building, structure, premises, or part thereof, and any architect, builder, contractor, real estate agent, or other person, who commits, participates in, assists in, or maintains such violation may be the subject of an enforcement action and suffer the penalties herein provided.
5. The Plan Commission, Board of Zoning Appeals, or any designee thereof may institute a suit for injunction in the Circuit of Superior Court of Morgan County to restrain any person, firm, corporation, or governmental unit from violating the provisions of this ordinance and may seek to recover from any party against whom an injunction is sought costs of the action and reasonable attorney's fees.
6. The Plan Commission, Board of Zoning Appeals, or any designee thereof may institute a suit for remedial action directing a property owner and/or occupant to remove a structure erected in violation of this ordinance, or to bring it into compliance with this ordinance, and may seek to recover from any party against whom an injunction is sought costs of the action and reasonable attorney's fees.

7. Nothing herein contained shall prevent the Town Council, the Plan Commission, Board of Zoning Appeals, or any designated official from taking such other lawful action as is necessary to prevent or remedy any violation.

### **Section 10. Definitions**

For the purposes of this ordinance, the following words and phrases, unless a contrary meaning is specifically prescribed, shall have the meanings set forth below. Words used in the present tense include the future tense; the singular includes the plural, and the plural includes the singular. The word *may* is permissive; *shall* is mandatory. The word *building* includes the word *structure*. Words not defined in this ordinance shall be construed to have their customary meanings.

**ACCESSORY APARTMENT** means a separate, complete housekeeping unit that is substantially contained within the structure of a single-family dwelling but can be isolated from it.

**ACCESSORY BUILDING** means a detached, subordinate building, located on the same lot with and clearly and customarily incidental to the main building.

**ACCESSORY USE** means a use clearly and/or customarily subordinate to the main use. In no case shall such accessory use dominate, in area, extent, or purpose, the principal lawful use or building.

**AGRICULTURAL USES** means farming activities such as growing of field crops, truck crops, horticulture, forestry, plant nurseries, greenhouses, grazing of animals. Uses which are listed as special exceptions in districts where agricultural uses are permitted, such as confined feeding operations, are not included.

**ALLEY** means a public way affording only secondary means of access to abutting property, not intended for general traffic circulation.

**ALTERATION** (as applied to a building) means a change or rearrangement in the structural parts or in the exit facilities, or an enlargement, whether by extending on a side or by increasing height, or the moving from one location or position to another.

**ANIMAL HUSBANDRY** means the raising, breeding, and maintaining of animals such as cattle, swine, sheep, goats, rabbits, fowl, and fish, fur-bearing animals for pelts; work animals for use or sale, and apiaries; not including confined feeding.

**ATTACHED DWELLING** means a one-family dwelling which shall be constructed as one of a sequence of three or more one-family dwellings attached horizontally by common fireproof party walls.

**AUTOMOBILES**, for purposes of this Ordinance, shall mean passenger cars, pick-up trucks,

recreational vehicles, travel trailers, motorcycles, mopeds, and boats. **AUTOMOBILE REPAIR SHOP** means any premises used for general repairs of motor vehicles, including such work as engine rebuilding, removal and repair of radiator, clutch, transmission differential axle; spring and frame repairs; spray painting, body or fender repairs, recapping of tires. Such business may include the sale of fuel and parts.

**AUTOMOBILE SALES, NEW** means a franchised retail automobile dealership that is primarily housed in a building and characterized by a mixture of secondary supporting uses; however, the principal use of the property shall be the marketing and display of new automobiles, whether by sale, rental, lease or other commercial or financial means. Secondary supporting uses may include an inventory of vehicles for sale or lease either on-site or at a nearby location of new or used automobiles in operating condition, and on-site facilities for the repair and service of automobiles previously sold, rented, or leased by the dealership as defined under "automobile repair shop". No abandoned vehicles shall be stored on the premises.

**AUTOMOBILE SALES, USED** means a retail business that sells operable, used automobiles. Secondary supporting uses may include the service of automobiles previously sold or traded as defined under "automobile repair shop". No automobile salvage or scrap activities shall be permitted and no abandoned vehicles shall be stored on the premises.

**AUTOMOBILE SERVICE STATION** means any premises where gasoline, kerosene, diesel fuel, or any other motor fuel or lubricating oil or grease for operating motor vehicles is offered for sale to the public and deliveries are made directly into motor vehicles. Such operation may include sale of tires and automotive accessories to the general public. It may also include the making of minor repairs, but not major repairs as described under *AUTOMOBILE REPAIR SHOP*, and not including the outside storage of inoperable vehicles.

**BED AND BREAKFAST USE** means an owner-occupied dwelling containing not more than three bed and breakfast units which are rented on a nightly basis for periods of one week or less. Meals may or may not be provided.

**BILLBOARD** means an outdoor advertising sign used to advertise a business, commodity, service, entertainment, or any other activity said or available elsewhere than on the premises on which the billboard is located.

**BLOCK** means an area of land bounded by streets, public or common land, railroad rights of way or other similar definite limits.

**BOARD** means the Morgantown Board of Zoning Appeals.

**BUILDING** means any structure having a roof supported by columns or walls for the shelter, enclosure, housing, or protection of persons, animals, or property.

**BUILDING HEIGHT** means the vertical distance measure from the finished grade to the highest point of the roof surface for flat roofs; to the deck line of mansard roofs; and to the average height between eaves and ridge for gable, hip and gambrel roofs.



Where a building is located on sloping terrain, the height shall be measured from the average ground level of the grade at the building wall,

**BUILDING LINE** means a line, usually parallel to the street line and extending between the side lot lines, running along the front of the principal building closest to the street as it is actually located on the lot, and along which lot width is measured.

**BUILDING SETBACK LINE** means a line delineating the minimum allowable distance between a street line or a lot line and a building or structure. For irregularly shaped lots or those with curved lot lines, it shall be measured parallel to the line closest to the street, which forms a side of the largest rectangle that can be inscribed within the lot lines.

**CAMPGROUND** means a parcel of land used for temporary overnight recreational occupancy in shelters such as seasonal cabins, tents, recreational vehicles, travel trailers, or mobile homes.

**CHURCH** means a property or structure used by a congregation of persons meeting regularly to hold religious services or worship.

**CLUB** means a building or facility owned or operated by an organization of persons for special purposes or for the promulgation of sports, arts, sciences, literature, politics; or the like, and. Open only to members and not to the general public.

**COMMERCIAL DEVELOPMENT** means a group of commercial uses under unified ownership or control, on one or more parcels of land, such as a shopping center or office park.

**COMMON OPEN SPACE** means all open space within the boundaries of a development designed and set-aside for use by all residents of the development and not designated as public lands,

**CONDITIONAL USE** means a use permitted by the Board of Zoning Appeals under the terms set forth in this ordinance.

**CONFINED FEEDING** means the production, maintenance, and breeding of animals for food, fur, or pleasure purposes in lots, pens, ponds, sheds, or buildings where food is supplied to the animals by means other than grazing. For purposes of this ordinance, confined feeding shall include such operations exceeding the following numbers of animals per acre: 4 cattle, 20 swine, 700 poultry, 10 sheep or goats, 4 horses.

**DAY CARE CENTER** means an establishment that offers general care of ten or more children (other than those related to the residents, if in a private home).

**DAY CARE HOME** means a residence in which the occupant cares for more than five but fewer

than ten children unrelated to the occupant.

**DEVELOPMENT PLAN** means a specific plan of development for a parcel of land, containing the elements required by this ordinance.

**DWELLING, MULTIFAMILY** means a building used primarily as a place of abode for more than two households, with separate kitchen, bath, and other facilities for each household.

**DWELLING, SINGLE-FAMILY** means a building used primarily as a place of abode for one household, containing at least 950 square feet in useable floor area, with at least 60 percent of the structure being at least 23 feet wide at its narrowest dimension, erected on a permanent perimeter retaining wall or foundation. Structures for temporary lodging, such as motels, hotels, and bed and breakfast operations are excluded from this definition, as are mobile homes and trailers.

**DWELLING, TWO-FAMILY** means a building other than a single-family dwelling containing an accessory apartment, used primarily as a place of abode for two families, each with a separate kitchen, bath and other facilities.

**DWELLING UNIT** means a building or part of a building provided complete housekeeping facilities for one household.

**EASEMENT** means an acquired right of use, interest, or privilege in lands owned by another.

**EDUCATIONAL USES** means public or private elementary or secondary schools, institutions of higher learning, boarding schools, and similar uses.

**ESSENTIAL SERVICES** means those land uses which are required in order for the community to provide adequate services to its citizens, including town halls, libraries, public utilities, sanitary landfills, incinerators, parking lots, fire and police stations, cemeteries, correctional institutions and similar uses. Any such use not operated by a unit of government or by a regulated utility shall not be included in this definition.

**FAMILY** means an individual or two or more persons related by blood, marriage, or adoption living together as a single housekeeping unit; or a group of not more than four persons who need not be related, living together in a single housekeeping unit.

**FLOOD OR FLOODWATER** means the water of any water body that is above the banks and/or outside the channel and banks of such watercourse,

**FORESTRY** means the clearing or management of woodland areas for the purpose of sale of timber for lumber or firewood.

**FRONTAGE** means the width of a lot measured along the right-of-way line of a street.

For irregularly shaped lots or those with curved lot lines, it shall mean the line closest to the street which forms a side of the largest rectangle that, can be inscribed within the lot lines.

**GARAGE, PRIVATE** means an accessory building or portion of a principal building designed or used for the parking or temporary storage of motor vehicles and/or recreational vehicles of the occupants in the building to which the garage is accessory, but not including the parking or storage of commercial vehicles having a capacity of one ton or more, and not including any building which has a total floor area which is greater than 90 percent of the area of the first floor of the dwelling to which it is accessory.

**HEALTH CARE USE** means a medical, dental, psychological, psychiatric, or other similar clinic or hospital, whether public or private.

**HOME OCCUPATION** means an occupation or gain or support conducted by members of a family residing on the premises and conducted entirely within the dwelling or accessory structure, provided that the use is clearly subordinate to the principal use of the property.

**HORTICULTURE** means the cultivation of ornamental plants or trees for sale for use in landscaping, orchards.

**HOTEL OR MOTEL** means a building or group of buildings designed as a temporary abode for individuals who are lodged with or without meals. Such structures may contain a restaurant, banquet halls, ballrooms, meeting rooms, or other such customary accessory uses.

**IMPROVEMENT LOCATION PERMIT** means a certificate which states that a proposed structure and its location are in conformity with the provisions of this ordinance.

**JUNKYARD** means a lot or a part thereof which is used for the storage, keeping, dismantling, abandonment, or sale of junk, scrap metal, scrap vehicles, scrap machinery, paper, rags, rubber tires, bottle, or other similar items; or the wrecking of vehicles.

**KENNEL** means any structure or premises on which five or more dogs, cats, or other similar animals more than six months of age are kept or boarded, except where such animals are kept as part of an agricultural operation.

**LOT** means a parcel of land defined by metes and bounds or by identification on a recorded plan or plat, in single or undivided ownership, used or intended to be used as the site for a principal structure and accessory structures or for use not requiring a structure.

LOT, CORNER means a lot at the junction of and fronting on two intersecting streets.

LOT COVERAGE means the amount of land area of a lot which is covered by a structure, including all accessory structures.

LOT DEPTH means the distances between the front lot line at its intersection with the street and the rear lot line, at right angles to both. For irregular lots, the lot depth is the maximum length measured between the front and rear lot lines, of the largest rectangle.

LOT LINE means a boundary line of a lot.

LOT, THROUGH means a lot having frontage on two streets which are parallel or approximately parallel,

LOT WIDTH means the distance between the side lot lines, measure along the building line.

MOBILE HOME means a transportable dwelling unit larger than 320 square feet in floor area, whether used for a dwelling or other purpose, which does not meet the criteria of DWELLING, SINGLE FAMILY.

MOBILE HOME PARK means property that has been divided into sites, whether for sale or lease, ton aggregations of mobile homes on single tracts. It may include accessory recreational, office, and other accessory uses.

OPEN SPACE USES means uses which involve little or no construction of buildings, or paving. Examples include parks, golf courses, sanctuaries for birds or wildlife, campgrounds, and uses of similar intensity.

PERSONAL CONVENIENCE SERVICES means activities such as barber or beauty shops, dry cleaning, dressmaking or tailoring, shoe repair, home appliance repair, and similar uses.

PLAN COMMISSION means the Town of Morgantown Advisory Plan Commission.

PRINCIPAL OR MAIN USE means the primary purpose for which a building, structure, and/or lot is designed, arranged, or intended, or for which it may be used, occupied; or Maintained under the provisions of this ordinance.

PROFESSIONAL AND BUSINESS SERVICES means activities such as banking and associated Service's, financial institutions, real estate, management, tax consultant, engineer accountant photographer, lawyer and medical services.

RECREATIONAL VEHICLE means a temporary dwelling for travel, recreation and vacation use, including travel trailer, camping trailer, pick-up camper, motor coach,

tent trailer, boat or other vehicular structure mounted on a chassis and designed for the aforesaid uses.

**RESEARCH USES** means laboratories, product research, or similar uses.

**RESIDENTIAL DEVELOPMENT** means the use of property for single or multifamily development or a combination thereof. It does not include mobile homes or mobile home parks. This definition is distinct from an individual single-family dwelling on a lot meeting the minimum dimensional requirements of the district in which it is located.

**RESORT MOTEL OR INN** means a motel or hotel which features sports or recreational facilities such as golf, tennis, skiing, or horseback riding, or which features a rural setting and is not primarily dependent upon visibility from a highway or overnight accommodations for the traveling public,

**RETAIL SALES ESTABLISHMENT** means a business conducted entirely within a building, the principal use of which is the display and/or sale of goods, merchandise, and products directly to consumers.

**RETIREMENT HOME** means an establishment, which provides convalescent or chronic care for the aged or infirm, not including intensive care commonly provided in hospitals.

**SIGN** means any display figure, painting, drawing, placard, poster, or other device visible from a public way or parking lot or from off the premises on which it is located which is designed, intended, or used to convey a message, advertise, inform, or direct attention to a person, institution, organization, activity, place, object, or product. It may be a structure or part thereof painted on or attached directly or indirectly to a structure.

**SIGN, AREA OF** means the area within a line drawn around the surface of a sign, including all decorations but excluding any supports whether decorative or not. In computing the area of a sign, the area of all surface used for sign purposes shall be included.

**SIGN HEIGHT** means the vertical distance measured from the ground at the base of the sign to the highest point of any portion of the sign or supporting structure.

**SIGN, OFF-SITE DIRECTIONAL** means any sign giving directions to the location of any use or activity not located upon the property upon which the sign is erected, and which may contain only the name of the use and necessary information giving directions to the use.

**SIGN, OFF-PREMISES** means any sign or advertising device, including a billboard, which advertises a use or activity not located on, or a product not sold nor manufactured on the lot on

which the sign or device is located.

**SIGN, POLE OR HIGH RISE** means any freestanding sign or other sign supported by poles, pipes, braces or frame on the ground, or any sign supported by a roof, wall or other structure when the sign face is located above the elevation of the highest part of the structure to which it is attached.

**SIGN, PORTABLE** means any sign not permanently attached to a building or structure or the ground and which is capable of being placed upon various locations. Such signs shall include but are not limited to A-frame signs, gasoline price signs, temporary announcement signs, trailer signs, balloons, and the like.

**STABLE** means all structures and facilities regularly devoted to the breeding, raising, boarding, training, showing and other care of horses or ponies. It shall include all barns and other structures containing stalls, structures for the storing and maintenance of supplies and equipment, enclosures, exercise yards, riding and show arena and trades. It shall not include pastures, paddocks, or unimproved riding trails.

**STREET** means a strip of land which provides the principal means of access to abutting property, or other vehicular public right-of-way other than an alley.

**STREET, PRIVATE** means a street which is not owned or maintained by or has not been dedicated to the public.

**STREET RIGHT-OF-WAY** means the area prescribed by the Morgantown Thoroughfare Plan, or the area actually owned or dedicated for such purpose, whichever is greater.

**STRUCTURAL ALTERATION** means any change in the supporting members of a building, such as bearing walls or partitions, columns, beams or girders, or any substantial change in the roof or in the exterior walls.

**STRUCTURE** means anything constructed or erected with a fixed location on the ground or attached to something having a fixed location on the ground.

**TRANSPORTATION USES** means uses directly related to any mode of vehicular or air transportation, including truck terminals, airports, railway or bus stations, and similar uses.

**URBAN AREA** means any incorporated area and all land or lots used for residential purposes where there are at least eight residences within a one-quarter mile square area, and other lands or lots that have been or are planned for residential areas contiguous to the municipality.

**VARIANCE** means an authorization from the Board of Zoning Appeals to vary the terms of this ordinance in accordance with the terms set forth herein.

YARD means a required open space on the same lot with a building, unoccupied and unobstructed by any structure from the surface of the ground upward, except for drives, walks, fences, and customary yard accessories and other structures specifically permitted by this ordinance.

YARD, FRONT means the yard between a street line and a line generally parallel thereto drawn through the nearest point of a building, extending between side lot lines. Each yard fronting on a street is a front yard, so that a corner lot has two front yards.

YARD, REAR means a yard extending across the full width of the lot between the rearmost building and the rear lot line.

YARD, SIDE means the area between a building and the side lot line, extending from the front yard, or front lot line where no front yard is required, and the rear lot line. The width of the required side yard shall be measured horizontally from the nearest point of the side lot line to the nearest part of the main building.

#### **Section 11. Minor Essential Services**

Essential Services, Minor as defined in Section 10, are permitted in all zoning districts.

#### **Section 12. Agricultural (AG)**

This district is intended to promote well-planned development of outlying areas. It also is intended to provide for agricultural uses and for rural residential uses. Because of the need for compatibility in this district all uses marked with an asterisk (\*) require that there be a development plan approved by the Plan commission. All property zoned on RDP on the Town's Zone Base Map shall be considered Agricultural AG.

A. The following uses are permitted as principal uses:

1. Agricultural Uses
2. Single-family Dwelling
3. Animal Husbandry
4. \*Residential Development
5. \*Open Space Uses
6. \*Transportation Uses
7. \*Manufacturing Uses
8. \*Research Uses
9. \*Educational Uses
10. \*Health Care Use
11. \*Essential Services
12. \*Mobile Home Park
13. \*Commercial Development
14. \*Resort Motel or Inn

15. \*Retirement Home
16. \*Public Accommodation Uses

B. Uses accessory (as defined in Section 10) to these uses are permitted on the same lot with the principal uses.

The following uses may be permitted by the Board of Zoning Appeals as conditional uses, under the terms set forth in Section 28:

1. Mobile Home
2. Church
3. Day Care Center
4. Confined feeding operation
5. Automobile Repair Shop
6. Automobile Service Station
7. Automobile Sales, New
8. Automobile Sales, Used
9. Commercial Development
10. Junkyard
11. Kennel
12. Mineral Extraction in Urban

C. Minimum Standards

1. Agricultural uses shall have a minimum lot area of 5 acres, a minimum of 100 feet of frontage on a street, and a minimum lot width of 300 feet.
2. Single-family dwellings shall have a minimum lot area of 5 acres and a minimum of 50 feet of frontage on a public street or other approved access.
3. Front yard-setbacks shall be at least 25 feet.
4. Side and rear yard setbacks for any dwelling shall be at least 10 feet, and for any accessory structure, at least 5 feet.
5. Off-street parking shall be provided in accordance with Section 24.
6. Minimum standards for all uses on an approved development plan shall be as shown on the plan, which shall be prepared in accordance with Section 23.

### **Section 13. Low-Density Residential District (R-40)**

This district is established to provide a transitional area between urban and rural areas and to provide for low-density residential development in areas where sewer and water services are not provided. It is intended for those areas where soils are suitable for on-site sewage disposal systems, on lots large enough to accommodate such systems. Because of the need for compatibility in this district, all uses marked with an asterisk (\*) require that there be a development plan approved by the Plan Commission.

A. The following are permitted principal uses:

1. Single-family dwelling
2. \*Open space uses



3. \*Educational Uses
4. \*Residential Development
5. \*Mobile Home Park
6. \*Health Care Use

B. Uses accessory (as defined in Section 10) to these uses are permitted on the same lot with the principal uses.

C. The following uses may be permitted by the Board of Zoning Appeals as conditional uses, under the terms set forth in Section 28.

1. Church
2. Day Care Center
3. Essential Services

D. Minimum Standards

1. Single-family dwellings shall have a minimum lot area of 40,000 square feet and a minimum of 100 feet of frontage on a public street or other approved access.
2. Front yard setbacks shall be at least 25 feet.
3. Side and rear yard setbacks for any dwelling shall be at least 10 feet, and for any accessory structure, at least 5 feet.
4. Off-street parking shall be provided in accordance with Section 24.
5. Minimum standards for all uses on an approved development plan shall be as shown on the plan, which shall be prepared in accordance with Section 23.

#### **Section 14. Medium-Density Residential District (R-10)**

This district is established to provide suburban-type residential development in areas where sewer and water services are provided. It is intended for those areas where public or approved semi-public sewage disposal systems are available. Because of the need for Compatibility in this district, all uses marked with an asterisk (\*) require: that there be a development' plan approved by the Plan Commission.

A. The following are permitted principal uses:

1. Single-family dwelling
2. \*Open space uses
3. \*Educational Uses
4. \*Residential Development
5. \*Mobile Home Park

B. Uses accessory (as defined in Section 10) to these uses are permitted on the same lot with the principal uses.

C. The following uses may be permitted by the Board of Zoning Appeals as conditional uses, under the terms set forth in Section 28.

1. Church
2. Day Care Center
3. Essential Services

D. Minimum Standards

1. Single-family dwellings shall have a minimum lot area of 10,000 square feet and a minimum of 75 feet of frontage on a public or private street,
2. Front yard setbacks shall be at least 25 feet.
3. Side and rear yard setbacks for any dwelling shall be at least 10 feet, and for any accessory structure, at least 5 feet.
4. Off-street parking shall be provided in accordance with Section 24.
5. Minimum standards for all uses on an approved development plan shall be as shown on the plan, which shall be prepared in accordance with Section 23.

#### **Section 15. High-Density Residential District (R-5)**

This district is established to provide high-density residential development on infill lots in developed areas where sewer and water services are provided. Because of the need for compatibility in this district, all uses marked with an asterisk (\*) require that there be a development plan approved by the Plan Commission,

A. The following are permitted principal uses:

1. Single-family dwelling
2. Two-family dwelling
3. \*Open space uses
4. \*Educational Uses

B. Uses accessory (as defined in Section 10) to these uses are permitted on the same lot with the principal.

C. The following uses may be permitted by the Board of Zoning Appeals as conditional uses, under the terms set forth in Section 28.

1. Church
2. Day Care Center
3. Essential Services

D. Minimum Standards

1. Single-family dwellings shall have a minimum lot area of 5,000 square feet and a minimum of 40 feet of frontage on a public street.
2. Two-family dwellings shall have a minimum of 7,500 square feet and 60 feet of frontage on a public street.
3. Front yard setbacks shall be at least 15 feet.

4. Side and rear yard setbacks for any dwelling shall be at least 10 feet and for any accessory structure, at least 5 feet,
5. Off-street parking shall be provided in accordance with Section 24.
6. Minimum standards for all uses on an approved development plan shall be as shown on the plan which shall be prepared in accordance with Section 23.

#### **Section 16. Multifamily Residential District (RM)**

This district established to provide multifamily residential development on parcels in areas where sewer and water services are provided. It is intended for those areas where public sewage disposal is available. Because of the need for compatibility in this district, all uses marked with an asterisk (\*) require that there be a development plan approved by the Plan Commission.

A. The following are permitted uses:

1. \*Multifamily Dwellings
2. \*Open Space Uses

B. Uses accessory (as defined in Section 10) to these uses are permitted on the same lot with the principal uses.

C. The following uses may be permitted by the Board of Zoning Appeals as conditional uses, under the terms set forth in Section 28.

1. Essential Services

D. Minimum Standards

1. Multifamily dwelling projects shall have a minimum lot area of 2 acres, and there shall be a minimum of lot area of 1,500 square feet per dwelling unit.
2. Off-street parking shall be provided in accordance with Section 24.
3. Minimum standards for all uses on an approved development plan shall be as shown on the plan, which shall be prepared in accordance with Section 23.

#### **Section 17. Mixed Use Development District (MXD)**

This district is intended to provide for a mixture of dense, small-scale urban uses in the community Core. This district includes the central business area, as well as a mixture of uses in the older, developed more densely developed portions of Morgantown. Because of the need for compatibility in this district, all uses marked with an asterisk (\*) require that there be a development plan approved by Plan Commission.

A. The following uses are permitted as principal uses

1. Single-family Dwelling
2. Two-family Dwelling
3. \*Multifamily Dwelling

4. \*Church
5. \*Health Care Use
6. \*Retail Sales Establishment
7. \*Personal Convenience Services
8. \*Professional and Business Services
9. \*Restaurant
10. \*Day Care Center
11. \*Bed and Breakfast Use
12. \*Public Accommodation Uses
13. \*Open Space Uses
14. \*Transportation Uses
15. \*Manufacturing Uses
16. \*Research Uses
17. \*Educational Uses
18. \*Essential Services

B. Uses accessory (as defined in Section 10) to these uses are permitted on the same lot with principal uses.

C. The following uses may be permitted by the Board of Zoning Appeals as conditional uses, under the terms set forth in Section 28.

1. Automobile Repair Shop
2. Automobile Service Station
3. Automobile Sales, New
4. Automobile Sales, Used
5. Commercial Garage

D. Minimum Standards

1. The minimum lot area is 5,000 square feet, and the minimum frontage on a public street is 40 feet.
2. The minimum front setback shall be 10 feet.
3. Side and rear yard setbacks for any structure shall be at least 5 feet.
4. No structure, other than public buildings or churches, shall contain more than 5,000 square feet per floor,
5. Off-street parking shall be provided in accordance with Section 24.

Minimum standards for all uses on an approved development plan shall be as shown on the plan, which shall be prepared in accordance with Section 23 of this Ordinance.

### **Section 18. Neighborhood Service District (C-1)**

This district is established to provide for retail commercial uses to serve residential neighborhoods. Because of the need for compatibility in this district, all uses marked with an asterisk (\*) require that there be a development plan approved by the Plan Commission.

A. The following uses are permitted as principal uses:

1. Personal Convenience Services

2. Retail Sales Establishment
3. Restaurant
4. Professional and Business Services
5. \*Health Care Use
6. Day Care Center
7. \*Educational Uses
8. \*Essential Services

B. Uses accessory (as defined in Section 10) to these uses are permitted on the same lot with the principal uses.

C. The following uses may be permitted by the Board of Zoning Appeals as conditional uses, under the terms set forth in Section 28.

1. Church
2. Automobile Repair Shop
3. Automobile Service Station
4. Automobile Sales, New
5. Automobile Sales, Used
6. Commercial Garage

D. Minimum Standards

1. The minimum lot area is 10,000 square feet, and the minimum frontage on a public street is 100 feet.
2. The minimum front setback shall be 30 feet.
3. Side and rear yard setbacks shall be at least 5 feet.
4. The maximum floor area of any building shall be 1,200 square feet.
5. Off-street parking shall be provided in accordance with Section 24.
6. Minimum standards for all uses on an approved development plan shall be as shown on the plan, which shall be prepared in accordance with Section 23.

### **Section 19. General Business District (C-2)**

This district is established to provide for a wide variety of retail and other commercial uses.

A. The following uses are permitted as principal uses:

1. All uses permitted in the C-I District.
2. Public accommodation uses.
3. Commercial recreation uses, such as auditorium, theater, bowling alley, miniature golf, skating rink, and similar indoor and outdoor amusement uses.
4. Automobile Sales, New
5. Automobile Sales, Used
6. Clubs, funeral parlors, mortuaries, and similar uses.

B. Uses accessory (as defined in Section 10) to these uses are permitted on the same lot with the principal uses.

C. The following uses may be permitted by the Board of Zoning Appeals as conditional uses, under the terms set forth in Section 28:

1. Automobile Service Station
2. Automobile Repair Shop
3. Commercial Garage
4. Essential Services
5. Car Wash
6. Drive-up window
7. Transportation Uses
8. Manufacturing Uses

D. Minimum Standards

1. The minimum lot area is 10,000 square feet, and the minimum frontage on a public street is 100 feet.
2. The minimum front setback shall be 25 feet.
3. Side and rear yard setbacks shall be at least 10 feet.
4. Off-street parking shall be provided in accordance with Section 24.
5. Minimum standards for all uses on an approved development plan shall be as shown on the plan, which shall be prepared in accordance with Section 23.

### **Section 20. Planned Commercial District (C-3)**

This district is established to provide for shopping centers, office parks, and other commercial centers which are planned and managed as a unit. Because of the need for compatibility in this district, no use is permitted without a development plan approved by the Plan Commission.

A. Any commercial or industrial use approved by the Plan Commission on the development plan is permitted in this district.

B. Minimum Standards

1. Planned Business projects shall be at least two acres in size, unless the Plan Commission finds that special circumstances warrant a smaller project size. Individual lots of smaller sizes may developed within the project, but such lots shall be oriented to the remainder of the project, and the entire project shall be unified in design and character and subject to uniform covenants running with the land.
2. At least 10 percent of the total land area of a planned business project shall be devoted to open space other than parking. This space may be useable open space for the convenience of customers or landscaped

- areas, and it may be indoors or outdoors.
3. Off-street parking shall be provided in accordance with Section 24.
  4. Other minimum standards for this district shall be those shown on the approved development plan, which shall be prepared in accordance with Section 23.

### **Section 21. Light Manufacturing District (M-1)**

This district is established to provide for industrial operations which are conducted within enclosed buildings in such a manner that nuisances will not be created for neighboring properties. Because of the need for compatibility in this district, no use shall be permitted without a development plan approved by the Plan Commission.

A. The following uses are permitted uses:

1. Light manufacturing, including processing, refining, fabricating, assembling, cleaning, testing, or repairing of goods, materials, or products.
2. Wholesaling, warehousing, packaging, storage, or distribution facilities.
3. Transportation uses
4. Research uses
5. Essential services
6. Office uses

B. Uses accessory (as defined in Section 10) to these uses are permitted on the same lot with the principal uses.

C. Minimum Standards

1. Principal uses shall have a minimum lot area of 10,000 square feet, and a minimum of 100 feet of frontage on a public street.
2. Front yard setbacks shall be at least 25 feet.
3. Side and rear yard setbacks shall be at least 10 feet.
4. Off-street parking shall be provided in accordance with Section 24.
5. In addition, the development or use shall comply with the approved development plan, which shall be prepared in accordance with Section 23.

D. The following uses may be permitted by the Board of Zoning Appeals as conditional uses, under the terms set forth in Section 28:

1. Automobile Service Station
2. Automobile Repair Shop
3. Commercial Garage
4. Retail Sales Establishment

### **Section 22. Industrial Park District (M-2)**

This district is established to provide for groupings of industrial uses in a single development which are designed and planned as a harmonious development.

Because of the need for compatibility in this district, no use is permitted without a development plan approved by the Plan Commission.

A. Any commercial or industrial use approved by the Plan Commission on the development plan is permitted in this district.

B. Minimum Standards

1. Industrial parks shall be at least ten acres in size, unless the Plan Commission finds that special circumstances warrant a smaller project size. Individual lots of smaller sizes may develop within the project, but such lots shall be oriented to the remainder of the project, and the entire project shall be unified in design and character and subject to uniform covenants running with the land.
2. At least 10 percent of the total land area of an industrial park shall be devoted to open space other than parking.
3. Off-street parking shall be provided in accordance with Section 24.
4. Other minimum standards for this district shall be those shown on the approved development plan, which shall be prepared in accordance with Section 23.

C. The following uses may be permitted by the Board of Zoning Appeals as conditional uses, under the terms set forth in Section 28.

1. Automobile Sales, New
2. Automobile Sales, Used
3. Adult Uses, which must be located a minimum of 1,000 feet from any church, school, park, day care facility, residentially zoned area, public, or cultural facility, to be measured from the closest property lines on which each use is located.

### **Section 23. Development Plans**

A. Development plans require approval by the Plan Commission. Any development plan submitted for approval shall include the following.

1. Proposed name of the development.
2. Name and address of the developer.
3. Name and address of the owner, of different than developer.
4. Description of the location of the property ("Subject Property").
5. Map including date; scale; north arrow, approximate location, size (maximum height and floor area), capacity, and use of all buildings and structures existing or to be placed in the development.
6. Nature of the operations involved in or conducted in connection with the development.
7. Site layout of the development, including the location, size, arrangement, and capacity of the area to be used for vehicular access (including driveway widths, designs, and curb radii), parking spaces, loading and unloading.
8. description of the use of adjacent property and drawing showing the relationship of surrounding properties to the Subject Property.



9. Number, types, sizes, locations, heights and designs of any proposed signs.

B. After receipt of an application for approval of a development plan, the Plan Commission shall schedule a public hearing on the proposal. The Plan Commission shall notify the applicant in writing of the date of the hearing. The applicant shall give notice by publication in accordance with IC 5-3-1, and provide for due notice to interested parties, as required by the Plan Commission's rules, at least 10 days before the date set for the hearing. The Plan Commission shall, by rule, determine who are interested parties.

C. The Plan Commission may approve or deny an application for approval of a development plan. In approving a development plan, the Commission may impose such conditions as it deems necessary to carry out the intent and purpose of this ordinance. If the Commission denies an application, it shall provide the applicant with the written reasons for the rejection.

D. In reviewing a development plan, the Plan Commission shall give consideration to any of the following factors which are relevant to the application:

1. General compatibility of the proposed development and uses therein with adjacent and nearby properties.
2. Safe and convenient ingress and egress to the property and the proposed location of structures in relation to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or other emergency.
3. Off-street parking and loading areas in relation to surrounding properties
4. Adequacy and availability of utilities.
5. Adequacy and suitability of landscaping, screening, and buffering.
6. Appearance and compatibility of any proposed signs.
7. Suitability and compatibility of lot sizes and layouts.
8. Appearance, size, height, intensity, and compatibility of building; and structures in relation to the surrounding area.
9. Any other factors which the Plan Commission deems applicable to the specific proposal

E. A development plan may be approved by the Plan Commission only if the commission makes a determination that all of the following criteria are met:

1. The use will not be detrimental to persons residing or working in the vicinity, to adjacent property, to the surrounding area, or to the community as a whole.
2. The public convenience and welfare will be substantially served,
3. That the proposal is consistent with the goals and policies established in the Comprehensive Plan of Morgantown.

F. Any development plan which has not been substantially put into effect two (2) years after the date of approval shall be null and void, unless an extension is authorized by the Plan Commission.

**Section 24. Off-street Parking and Loading**

A. No building shall be erected or altered and no land use changed or initiated after the effective date of this ordinance unless adequate off-street parking and loading space is provided for the residents, tenants, personnel, and patrons of such building or use. The regulations contained in this section are minimum requirements, if in the judgment of the Plan Commission, additional spaces are required in order to accomplish the purposes of this ordinance, such additional spaces may be required. Parking and load spaces shall comply with the requirements of this section.

B. No use lawfully established prior to the effective date of this ordinance shall be required to provide and maintain the parking and loading requirements of this ordinance, but such use shall comply with the following:

1. Parking or loading facilities in existence on the effective date of this ordinance shall not hereafter be reduced below, or if already less than, shall not further be reduced below the requirements of this ordinance.
2. When the intensity of use of any building, structure, or premises shall be increased by any means, parking and loading facilities shall be provided as required by this ordinance.

C. Off-street parking spaces and lots shall comply with the following design standards, as a minimum:

1. Parking areas shall be paved with an asphalt concrete or equivalent hard surface with spaces indicated by pavement markings.
2. The minimum dimensions of each automobile parking space shall be 9 feet in width and 18 feet in length.
3. Except on lots occupied by single- or two-family dwellings, each off-street parking space shall open directly upon an aisle or driveway at least 12 feet wide or such additional width and design in accordance with the following table, so as to provide safe and efficient means of vehicular access. Such aisle or driveway shall be unobstructed and shall allow for the passage of emergency vehicles at all times.

<u>Parking Angle</u>	<u>Aisle Width</u>
45°	14 ft
60°	18 ft
90°	24 ft

Angle shall be measured between the centerline of the parking space and the centerline of the aisle.

4. Parking areas shall be maintained in good condition, free of weeds, trash, and debris.
5. Driveway entrances or exits for off-street parking other than those required for a single or two-family dwelling or home occupation shall be no closer than 25 feet to an adjoining residential property line or 10 feet to an adjoining nonresidential property line. Shared driveways for two or more properties are encouraged, and these may be placed on or along property lines. No driveway shall exceed 30 feet in width at the edge of street

pavements, except that two adjacent driveways of 30 feet in width each may be used as a single entrance-exit driveway, provided such driveway is clearly marked to indicated the direction of traffic flow.

6. Parking areas shall be graded and properly drained in such a manner as to prevent free flow of water onto adjacent property, including street right-of-way. Storm-water generated by parking areas shall flow into an approved drainage system or contained on site.
7. Any lighting facilities used to illuminate off-street parking areas shall be so located, shielded, and directed upon the parking area in such a manner that they do not reflect or cause glare onto adjacent properties or interfere with street traffic, In no instance shall bare, unshaded bulbs be used for parking lot illumination.

D. Required off-street parking shall be located on the same premises as the use with which the parking is associated, unless a conditional use permit for off-street parking is granted by the Board of Zoning Appeals in accordance with Section 28 of this ordinance.

E. In interpreting the provisions of this section, the following rules shall apply:

1. Parking spaces shall not be considered provided pursuant to this section unless they are readily available without charge.
2. In the case of mixed uses or multiple uses on a single parcel, the required parking spaces shall be the sum of the required parking spaces for the various uses computed separately, and such spaces for one use shall not be considered as providing parking for any other use.
3. Where parking space requirements are based upon the number of employees, the number of employees shall mean the total number on the largest shift. For uses where working shifts are immediately consecutive, there shall 20 percent additional spaces shall be provided to accommodate overlap.
4. Gross floor area shall mean the total horizontal area of all floors of the building. Net floor area shall mean the total horizontal floor area of all floors of the building devoted to the use or uses for which parking is required, excluding any area devoted entirely and permanently to storage purposes, parking and loading facilities restrooms, utilities, or elevator shafts.
5. If the unit or measurement is any fraction of the unit specified in relation to the number of spaces to be provided, said fraction shall be considered as being the next unit and shall be counted as requiring one space.
6. For uses not specified in this section, or in any other case where the requirement is not clear, the Plan Commission or its designee shall determine the number required, bases upon the requirements for similar uses or other research indicating the number needed.

F. All commercial and industrial uses shall have adequate off-street loading facilities in accordance with the following requirements:

1. All commercial and industrial uses shall be deigned with appropriate means of vehicular access to a street or alley in a manner which will least interfere with traffic movement.
2. Uses and building with a gross floor area of less than 5,000 square feet shall have adequate receiving facilities so as not to obstruct the free movement of pedestrians and vehicles over sidewalks, streets, driveways,

aisles, and alleys.

3. Uses and buildings with a gross floor area of 5,000 square feet or more shall provide off-street loading spaces in accordance with the following table:

Use Description	Floor Area	Number of Spaces
Manufacturing, distribution, wholesaling, storage and similar uses	5,000-25,000	1
	25,001-60,000	2
	60,001-100,000	3
	Each 50,000 above 100,000	1
Office buildings, hotels and motels, retail sales, hospitals, institutions, and similar uses	5,000-60,000	1
	60,001-100,000	2
	Each 100,00 above 100,000	1

4. Loading facilities shall be located at the rear or side of the building.

- G. The following table indicates the minimum number of off-street parking spaces to be provided:

<b>Residential Parking Spaces</b>	
1-family dwelling	2 spaces
2-family dwelling	4 spaces
Multifamily dwellings	1.5 spaces per dwelling unit
Boarding house, bed and breakfast	1 space per sleeping room
Retirement home, elderly housing	1 space per 2 units
Mobile home	2 spaces
<b>Government, Communications, and Utilities</b>	
Libraries, Museums, Art Galleries	1 space/600 sq. ft. of gross floor area, plus 1 space/2 employees
Post Office	1 space/500 sq. ft. of gross floor area, plus 1 space/ 3 post office vehicles
Fire Station, Sewage Treatment Plant, Weigh Station, Radio or TV Station, Public Utilities	1 space/2 employees
Air, Rail and Motor Freight Terminals	1 space/2 employees, plus 1 space/vehicle maintained
<b>Medical and Professional</b>	

Sanitariums, Convalescent Homes, Children's Homes, Hospitals, In-patient Clinics	1 space/3 beds, plus 1 space/employee
Medical Office, Out-patient Clinic	1 space/100 sq. ft. of net floor area
Other professional Office	1 space/200 sq. ft. of gross floor area
<b>Commercial Parking Spaces</b>	
Retail Store (except those otherwise specified in this section)	1 space/200 sq. ft. of gross floor area
Convenience Stores, Supermarkets, Specialty Markets, Farm Markets	1 space/100 sq. ft. of gross floor area
Furniture and Appliance Stores	1 space/800 sq. ft. of net floor area, plus 1 space/employee
Carry-out or Fast Food Restaurants	1 space/60 sq. ft. of net floor area, plus 1 space/employee
Eating and Drinking Establishments	1 space/3 seats, plus 1 space/employee
Banks, Dry Cleaners, Laundries, and similar businesses	1 space/250 sq. ft. of net floor area
Banks with Drive-up Windows	10 standing spaces/drive-up window
Dry Cleaning, Laundries, and similar service businesses with drive-up windows	3 standing spaces/drive-up window
Laundromats	1 space/2 washing machines
Automobile Service Stations and Repair Shops	1 space/employee, plus 2 spaces/service stall, plus 3 standing spaces/side/pump island
Barber Shops and Beauty Shops	2 spaces/chair, plus 1 space/employee
Mortuaries or Funeral Homes	1 space/50 sq. ft. of floor area in slumber rooms, parlors, or funeral service rooms
Hotels, Motels	1 space/unit, plus 1 space/employee
Roadside Stand	4 spaces
Stables for Boarding Horses	1 space/3 stalls
Nurseries and Greenhouses with Retail Sales	1 space/200 sq. ft. of gross floor area
Kennels for Boarding Animals	1 space/5 pens
Day Care Center	1 space/3 children of total capacity, plus 1 space/employee
Industrial, Warehousing & Wholesale	Parking spaces
Manufacturing plants or other industry	1 space/1.5 employees
Contractor's Yards or Plant Storage Yard	1 space/2 employees
Warehouses	1 space/800 sq. ft. of gross floor area
Wholesale Establishments not catering to the general public	1 space/1.5 employees, plus 5 visitor spaces plus 1 space/5 vehicles maintained
<b>Recreation &amp; Amusement Parking Spaces</b>	
Auditoriums, Theaters, Sport Arenas, Other Spectator Establishments	1 space/4 seats plus 1 space/employee

Public Assembly Area without fixed seats	1 space/100 sq. ft. of floor area
Bowling alleys	5 spaces/lane
Golf Courses	10 spaces/hole plus 1 space/employee
Tennis Courts	3 spaces/court, plus 1 space/employee
Marina	1.5 spaces/boat slip or mooring station
Swimming Pool	1 space/100 sq. ft. of water area
Skating Rink	1 space/500 sq. ft. of gross floor area
Athletic Fields, Parks	At least 10 percent of total land area shall be devoted to parking
Amusement Game Complex	1 space/game machine
<b>Miscellaneous Parking Spaces</b>	
Church	1 space/3 seats in main sanctuary
Clubs, Lodges, Community Centers	1 space/300 sq. ft. of gross floor area

### **Section 25 Signs**

This section is adopted to promote and protect the public health, safety, and general welfare by regulating signs of all types. It is intended to protect property values, create a more attractive economic and business climate, enhance and protect the physical appearance of the community and preserve the scenic and natural beauty of certain areas. It is further intended to reduce distractions and obstructions that may contribute to traffic accidents, to reduce hazards which may be created by unsafe signs and to provide open space.

A. Signs Not Requiring Permits. The following signs shall conform to all applicable sign regulations of this zoning ordinance, except that they do not require an improvement location permit and will not be counted when calculating the quantity of signs permitted or the total allowable sign area for the property or use to which they relate

1. Signs identifying the name and address of inhabitants of residential property, which shall be limited, in number, to one such sign per resident or family and shall not exceed 2 square feet in area.
2. No trespassing signs, or other signs regulating the use of property on which they are located, which signs shall not exceed two square feet in area in any residential district or five square feet in area in any nonresidential district.
3. Signs advertising real estate for sale, and similar signs, shall be limited, in number to two signs for each property to which they relate and shall not exceed six square feet in area in residential districts or 20 square feet in nonresidential districts.
4. Instructional or directional signs including, but not limited to, on premise signs related to traffic, parking, or other functional activities, signs identifying rest rooms and related or similar facilities, entrance and exit signs, and building functions and services signs.
5. Signs erected by a unit of government for official purposes.
6. Memorial signs or tablets and signs denoting the date of erection of buildings which shall not exceed four square feet in area.

7. Accessory signs incidental to a business or profession conducted on the premises communicating hours of operation, forms of acceptable payment, e.g. credit cards, business affiliations and the like, wall-mounted at or immediately adjacent to the entrance of the building, not to exceed a combined total of four square feet in area.
8. Temporary signs in the window of a building, lawfully serving as the location of a business, that do not occupy more than 50 percent of the area of the window and that are not be in place more than 30 days.
9. Construction contractor's signs, not to exceed 1 per contractor working on a construction project and not larger than 6 square feet each, and only during the period of construction.
10. Temporary signs associated with special events, such as those sponsored by religious, public, or charitable organizations, which shall not exceed 24 square feet in area, posted no more than 14 days prior to the event and removed within 24 hours after the event.
11. Holiday signs and decorations for no longer than 30 days prior to and 30 days after the date of the holiday to which they relate.
12. Farm signs identifying crops produced on the premises.
13. One subdivision or similar entrance sign, not to exceed 12 square feet in area, at each entrance to a subdivision.

B. Signs Prohibited in All Districts

The following signs shall not be permitted in any zoning district:

1. Signs which have any visible moving parts,
2. Signs which incorporate in any manner hashing or moving illumination, animation or illumination which varies in color, except time/temperature signs in the MXD District or any such sign shown on an approved development plan, or barber poles.
3. Any sign or sign support which constitutes a hazard to public safety or health, including signs which by reason of size, location, content, coloring, manner, or illumination obstruct the vision of a driver or obstruct or detract from the visibility or effectiveness of any traffic control device, or which obstruct free ingress and egress, or which make use of words such as: **stop, look, one way, danger, yield**, or any similar words, phrases, symbols, lights, or characters in such a manner as to interfere with mislead, or confuse traffic.
4. Portable signs.

C. Commercial and Industrial Signs

The following signs may be erected on commercial or industrial premises upon issuance of an improvement location permit:

1. One wall-mounted sign for each principal building or use in a building. Where walls of a building front on more than one street or parking lot, one such sign may be permitted for each of those walls. The area of each wall mounted sign shall not exceed one square foot for each linear foot of the building frontage on which the sign is located.
2. Free standing signs — One free standing sign shall be allowed per lot, the base of the sign shall not be over 15 feet high, with a maximum height of 25 feet. The sign itself shall not be more than 12 feet wide nor

more than 12 foot high, with a maximum of 100 square feet.

D. Billboards

Any off-premises sign other than those otherwise specified by this ordinance shall be deemed billboards. Billboards are permitted only as follows:

1. Billboards shall be located no closer than 50 feet to the right-of-way line of any street, as defined by the Thoroughfare Plan:
2. Billboards are permitted only on streets designated in the Thoroughfare Plan as expressways or arterials.
3. Billboards shall be spaced no closer than 1,000 feet apart.
4. Billboards shall be no taller than 15 feet in height, and they shall be no larger than 300 square feet in area.
5. Billboards shall not contain any moving or changing parts or text and shall contain no flashing lights.

**Section 26. General Regulations** The following regulations and development standards apply in all zoning classifications, unless otherwise specified herein:

A. Building heights

1. The maximum heights of buildings shall be as follows:

Single or two-family dwelling	30 feet
Multifamily dwelling	35 feet
Accessory building	15 feet
Commercial building	35 feet
Industrial building	40 feet

2. Radio towers for licensed amateur radio operators may be erected to a height of 50 feet in the R-5 and R-10 Districts and to 100 feet in R-40 and RPD Districts.

B. Building setback requirements:

1. Setback lines for improved blocks shall be in accordance with the setback distance already established. In any improved block which contains existing legally established buildings on 30 percent or more of the frontage of the same block on the same side of the street, or a distance of 300 feet, whichever is the lesser, the minimum required setback line shall be the average of such established setback line, but in all districts other than MXD, the setback shall not be less than 15 feet. For the purposes of this section, the existing average setback shall be determined using the distance between the proposed right-of-way as established by the Thoroughfare Plan and the closest portion of the existing building (including roof overhangs or other structural appurtenance to the building).
2. In no case shall a structure be permitted to be constructed within the right-of-way as defined in the Thoroughfare Plan.
3. Setback dimensions shall be measured from the right-of-way line of a road or street that the parcel abuts and from neighboring property lines.



C. Vision Clearance

On any corner lot on which a front yard is required, no wall, fence, or other structure shall be erected and no hedge, tree, shrub, or other growth shall be maintain in such a manner as to cause danger to traffic by obstructing the view.

D. Buildings or Uses Per Lot

There shall be no more than one principal residential building or use per lot; except for multifamily dwellings in conformity with this ordinance: There may be more than one principal commercial or industrial building or use on a single parcel, provided that such buildings of uses are under unified ownership of control.

E. Yard Areas and Fencing

1. No accessory building or structure shall be permitted in any front yard, except for lawn ornaments, outdoor lights and other such items which customarily are located in front yard. Antennae shall not be located in a front yard in any district.
2. Fence Defined: "Fence" means a constructed vertical structure, barrier or partition of any material or combination of materials erected to enclose, screen, or separate outdoor areas, and which has no roof or overhead covering.
3. Permit Required: No person shall build, rebuild, replace, construct or erect, or cause to be built, rebuilt, replaced, constructed, or erected anywhere within the Town, any fence or wall of any kind, without first having secured a permit therefor from the Zoning Administrator, as follows:
  - a. Application: The applicant shall submit an application, signed by the property owner (if different than the applicant), which shall include a site plan showing the dimensions and location of the proposed fence. The application shall be on a form prescribed and approved by the Plan Commission.
  - b. Identification of Lines and Boundaries: The site plan submitted with the permit application shall demonstrate to the Zoning Administrator that the fence will not cross, interfere with, or encroach into or upon any neighboring property or public rights of way. It shall be the responsibility of the applicant to accurately identify the property lines and boundaries of the property and the precise location of the proposed fence. The Zoning Administrator may require the applicant to survey the property boundaries to ensure that the fence will not encroach into or upon a neighboring property or public rights of way. "Rights of way", as used herein, shall be defined as public ways, easements, streets, sidewalks, trails, and alleys, whether improved or unimproved.
4. Permitted Materials: Fencing materials shall be limited to wood, vinyl, masonry (including pressed cement boards or panels), wrought iron, decorative metal, wire

- mesh (e.g., chain-link), bamboo, and similar materials. Pallets, tarps, scrap metal, building siding, barbed wire, razor-wire, electrified fencing, tires, signs, and similar materials are not permitted for fencing purposes.
5. Height: Fences are subject to the following height limits. Fence height is measured from the finished grade of the property upon which the fence is located.
    - a. In all residential zoning districts:
      - i. Fences constructed in a front yard shall not exceed four feet (4 feet) and must be constructed of open materials that only partially obstruct the view of the property through the fence. For purposes of this section, "view obscuring" shall mean a fence that is less than forty percent (40%) open, as in the measurement of the spaces and voids between the fence components.
      - ii. Front yard fences shall be set back at least 18 inches from the edge, nearest to the building line, of any sidewalk.
      - iii. Fences constructed in a rear or side yard shall not exceed six (6) and may completely obscure the view of the enclosed area.
      - iv. All fences shall be set back from drainage ditches 5 feet from the centerline of the ditch.
    - b. In all nonresidential zoning districts (e.g., business, commercial, manufacturing, and industrial), fences shall not exceed seven (7) feet; provided, no view obscuring fence over four (4) feet shall be less than fifteen (15) feet from the edge of an arterial or collector street (measured from face of curb). For purposes of this section, "view obscuring" shall mean a fence that is less than forty percent (40%) open, as in the measurement of the spaces and voids between the fence components.
  6. Regardless of the above permitted fence heights, all fences shall be located so that required intersection sight lines are maintained at all street intersections.
  7. An applicant shall arrange for a utility line locates prior to beginning any construction or excavation.,
  8. Final Inspection: the applicant shall call for a final inspection upon completion of the fence.

#### F. Outdoor Storage or Display

Outdoor storage or display of materials shall not be permitted unless such storage is a customary accessory use to the principal use of the property. All materials stored out of doors shall be effectively screened from view of neighboring properties by an opaque fence or landscape screen.

G. Lighting

No lighting shall be permitted which creates a glare or other nuisance to neighboring property.

H. Above-Ground Fuel Tanks

Any above-ground fuel tank shall meet all applicable regulations of the National Fire Protection Association. In no case shall any tank used to dispense fuel directly to vehicles be placed above ground.

I. Home Occupations

Home occupations shall be permitted to accompany residential uses by the grant of an occupancy permit issued by the Plan Commission subject to the requirements of this ordinance.

1. Permitted home occupations shall be incidental and subordinate to the use of the premises as a residence.
2. Permitted home occupations shall not be of such scale and/or nature that they interfere with the use and enjoyment of neighboring residences or create a nuisance.
3. For purposes of this ordinance, home occupations include but are not limited to professional offices, real estate or insurance offices, writing, painting, photography, consultation, tutoring, music instruction, and clergy.
4. The primary use of the structure shall remain residential, and the operator of the home occupation shall remain a resident of dwelling unit.

J. General Regulation

A Mobile Home being any unit originally intended as a dwelling unit, whether used for a dwelling unit or other purpose, shall be subject to the applicable provisions of this ordinance.

**Section 27. Non-conforming Uses and Lots**

A. Non-conforming Use

Any use or that legally existed on the effective date of this ordinance, but which does not comply with the provisions of this ordinance, is hereby deemed a legal non-conforming use. Any structure that legally existed on the effective date of this ordinance, but which does not comply with the provisions of this ordinance, is hereby deemed a legal non-conforming structure. The burden, to prove that a use or structure qualifies as a legal non-conforming use or structure, shall rest with the property owner or occupant. In the absence of sufficient proof, the non-conforming use or structure will be deemed to be unlawful.

Non-conforming uses are subject to the following regulations:

1. No non-conforming use shall be enlarged or increased nor extended to occupy a greater area of land than was occupied on

the effective date of this ordinance except as provided in Section C.

2. No non-conforming use shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use on the effective date of this ordinance.
3. If a non-conforming structure is demolished or damaged by any means to an extent of 75 percent of its true market value in accordance with the latest tax assessment rolls at the time of such damage, such structure shall not be reconstructed except in conformity with the provision of this ordinance.
4. Any non-conforming use which is abandoned or discontinued for a period of one year shall not thereafter be used for any purpose not in compliance with this ordinance.
5. If any non-conforming use is changed to a conforming use, it shall not thereafter be changed to any non-conforming use.

### **Section 28. Board of Zoning Appeals**

A. A board of zoning appeals is hereby established, which shall consist of five (5) members representing the Town of Morgantown and the land within its extraterritorial jurisdictions as follows:

1. Three citizen members appointed by the president of the Town Council, one of whom shall be a member of the Plan Commission and two of whom shall not be members of the Plan Commission.
2. One citizen member appointed by the Town Council, who shall not be a member of the Plan Commission,
3. One citizen member appointed by the Plan Commission, other than the Plan Commission member appointed by the president of the Town Council, who shall be one of the two (2) members of the Plan Commission who resides within the unincorporated area over which extraterritorial jurisdiction exercised.

B. Other than the two (2) Plan Commission members, no member of the Board of Zoning Appeals may hold other elective or appointive office in municipal, county, or state government.

C. Organization

1. The terms of the initial members of the Board of Zoning appeals shall be as follows:
  - a) One member appointed by the president of the Town Council shall have a term of one year.
  - b) One member appointed by the president of the Town Council shall have a term of two year.
  - c) The Plan Commission member appointed by the president of the Town Council shall have a term of the lesser of three years or the duration of that person's term on the Plan Commission.

- d) The member appointed by the Town Council shall have a term of four years.
  - e) The member appointed by the Plan Commission shall have a term of the lesser of four years or the duration of that person's term on the Plan Commission.
2. After the initial terms have expired, all appointments, except for the member who resides in the unincorporated area of extraterritorial jurisdiction, shall be for four years, expiring on the 1<sup>st</sup> Monday of January of the fourth year after appointment, except that the Plan Commission members may serve only for the remainder of their terms as members of the Plan Commission. The term of the member who resides in the unincorporated area of extraterritorial jurisdiction shall not exceed two years.
  3. In the event that a vacancy occurs prior to the expiration of the normal term (including a Plan Commission Member who has less than the four year's duration on the Plan Commission), the appropriate appointing authority shall appoint another member meeting the qualifications to complete the unexpired term.
  4. Members are eligible for reappointment.

D. Alternate Members:

1. The President of the Town Council may appoint two alternate members, and the Town Council and the Plan Commission each may appoint one alternate member to the Board of Zoning Appeals, for a total of four alternate members.
2. Alternate member shall have the same qualifications as regular appointees: the president of the Town Council may appoint one citizen member of the Plan Commission and one citizen member who is not a member of the Plan Commission as alternates; the Town Council may appoint one citizen member who is not a member of the Plan Commission as an alternate, and the Plan Commission may appoint the other member who resides in the unincorporated area as an alternate member.
3. Alternate members shall have all of the rights and privileges of members of the Board of Zoning appeals and may participate in the discussion and evaluation of petitions before the hoard.
4. An alternate member may serve as a voting member of the Board of Zoning Appeals when the regular member for whom be is alternate abstains or disqualifies himself from participating in consideration of a matter before the Board.

E. Conflict of Interest

A member of the Board of Zoning Appeals shall not participate in a hearing or decision of the Board concerning a zoning matter if the member is biased or prejudiced or otherwise unable to be impartial or has a direct or indirect financial interest in the outcome of the hearing or the decision. In such an instance, the Board shall enter in its records.

F. Removal of a Member

The appointing authority may remove a member from the Board of Zoning Appeals for cause. The appointing authority shall mail notice of the removal, along with written reasons for the removal, to the member at his residence address. A member who is removed may, within thirty (30) days after receiving notice of the removal, appeal the removal to the Circuit or Superior Court of the County.

G. Promulgation of Rules

1. The Board of Zoning Appeals shall adopt rules of procedure concerning the filing of appeals, applications for variances and conditional uses, giving of notice, conduct of hearings, and other such matters as may be necessary to carry out the duties of the Board under this ordinance.
2. An affirmative vote by a majority of the membership of the Board of Zoning Appeals shall be required to approve or deny a petition before the Board.
3. Any petition approved by the Board of Zoning Appeals, unless otherwise stipulated, shall expire and become void one year after the date of its granting unless the variance or conditional use has been substantially put into place or an extension has been granted by the Board.

H. Stays Pending Appeals

1. An appeal shall stay all proceedings in furtherance of the action appealed from, unless the administrative official or body from whom the appeal is taken certifies to the Board after the notice of appeal is filed that by reason of facts stated in the certificate a stay would cause imminent peril to life or property. In such case, proceedings or work shall not be stayed except by a restraining order which may be granted by the Board of Zoning Appeals or by the Circuit or Superior Court of the County, and such notice shall be given to the administrative official or body from whom the appeal is taken and to the owner of the premises affected.
2. After the person in charge of the work on the premises affected has received notice that an appeal has been Filed with the Board of Zoning Appeals, the designated administrative official or body shall have full power to order such work discontinued or stayed, and to call upon the police power of the Town to give full force and effect to the order.

I. Appeals of Administrative Decisions

1. The Board of Zoning Appeals shall bear and decide appeals where it is alleged there is error in any of the requirements, decisions, or determinations made by an administrative official or body charged with the

administration and enforcement of this ordinance.

2. An appeal concerning interpretation or administration of this ordinance may be taken by any person aggrieved by any decision of the administrative official or body charged with the administration and enforcement of this ordinance. An appeal shall specify the grounds thereof and shall be filed within thirty (30) days of the decision alleged to be in error. The administrative official or body from whom the appeal is taken shall forthwith transmit to the Board all documents, plans and papers constituting the record of the action from which the appeal is taken.

J. Conditional Uses

1. The Board of Zoning Appeals shall hear and decide only such conditional uses as the Board is specifically authorized to permit by this ordinance. The Board shall decide such questions as are involved in determining whether conditional uses should be granted and shall apply such conditions and safeguards as are necessary and appropriate under this ordinance, or to deny conditional uses when incompatible or inconsistent with the purpose and intent of this ordinance. Before any conditional use shall be granted, the Board shall make written findings certifying compliance with any specific regulations governing individual special exceptions and that satisfactory provision and arrangement has been made concerning the following, where applicable:
  - a) There will be adequate ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or other emergency.
  - b) There will be conveniently located adequate off street parking and loading areas. Special consideration shall be given to the location and use of these areas in relation to surrounding properties and reasonable assurance shall be provided that the use of these areas will not create noise, glare, or other adverse effects on adjoining and nearby properties.
  - c) Adequate refuse disposal and service areas will be provided. Special consideration shall be given to the location and use of these areas in relation to surrounding properties and reasonable assurance shall be provided that the use of these areas will not create noise, glare, or other adverse effects on adjoining and nearby properties.
  - d) Adequate utilities will be available to serve the use.
  - e) Adequate screening and buffering will be provided to mitigate any adverse effects of the conditional use on surrounding properties.
  - f) Any signs or lighting permitted in conjunction with the conditional use shall be appropriate to the location and in harmony with the general character of the properties in the area. Special consideration shall be given to the size, design, and location of these in relation to surrounding properties and reasonable assurance shall be provided that the use of these

areas will not create noise, glare, or other adverse effects on adjoining and nearby properties.

- g) Setback distances will provide adequate open space and separation from adjoining land uses.
- 2. Before granting any conditional use, the Board shall make a written finding that such use will be in general compatibility with adjoining properties and will be consistent with the spirit and intent of this ordinance.

K. Variances

- 1. The Board of Zoning Appeals shall hear and decide variances of use and variances from the development standards (such as height, bulk or area) in accordance with the criteria established in this section.
- 2. The Board may impose such conditions as deemed necessary in the public interest. Failure to comply with any conditions imposed by the Board shall constitute a violation of this ordinance.
- 3. Conditions of variances may be in the form of written commitments signed by the owner of the real estate and shall authorize the Board to record such commitments in the office of the County Recorder upon the grant of the variance. The board may require commitments to designate any specially affected persons who shall be entitled to enforce them.
- 4. Before granting a variance of use, the Board must make written findings of fact that all the following criteria are met:
  - a) The approval will not be injurious to the public health, safety, and general welfare of the community;
  - b) The use and value of the area adjacent to the property included in the variance will not be affected in an adverse manner;
  - c) The need for the variance arises from some condition peculiar to the property involved;
  - d) The strict application of the terms of the zoning ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought; and;
  - e) The approval does not interfere substantially with the comprehensive plan.

The variance granted is the minimum necessary and will be in harmony with the general spirit, purpose and intent of this ordinance.

- 5. Before granting a variance from the development standards, the Board must make written findings of fact that all of the following criteria are met:
  - (a) the approval will not be injurious to the public health, safety, morals, and general welfare of the community;
  - (b) the use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner; and



- (c) the strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property.

**Section 29. Amendments**

1. The text of this ordinance may from time to time be amended in accordance IC 36-7-4-600 et. seq. An amendment to the text of this ordinance may be initiated by the Plan Commission or by the Town Council. The Plan Commission shall hold a public hearing on proposed amendments to the text of the zoning ordinance in accordance with the Indiana Code and with the Plan Commission's Rules of Procedure

2. The zoning map adopted as a part of this ordinance by reference may from time to time be amended in accordance with IC 36-7-4-600 et. seq. Amendments to the zoning map may be initiated by the Plan Commission, Town Council, or by petition of the owners of 50 percent or more of the area involved in the petition. The Plan Commission shall hold a public hearing on proposed amendments to the zoning map in accordance with the Indiana Code and the Plan Commission's Rules of Procedure.