

**TOWN OF MORGANTOWN, INDIANA
PLAN COMMISSION**

RESOLUTION NO. 2015-1

**A RESOLUTION TO AMEND THE MORGANTOWN,
INDIANA ZONING ORDINANCE AND ZONE MAP**

WHEREAS, the Morgantown Town Council and the Morgantown Advisory Plan Commission ("Plan Commission") may initiate and approve amendments to the Morgantown Zoning Ordinance and the Morgantown Zone Map;

WHEREAS, the Plan Commission initiated recent amendments to the Town's Zoning Ordinance and Zone Map, as set forth in proposed town ordinance 2015-12, and has given notice and held a public hearing on the proposed amendments to the Town's Zoning Ordinance as required by IC 36-7-4-604;

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;

NOW, THEREFORE, BE IT RESOLVED, by the Advisory Plan Commission of the Town of Morgantown, Indiana, that:

Section 1. In accordance with I.C. 36-7-4-605, the Morgantown Advisory Plan Commission hereby submits to the Town Council a favorable recommendation of proposed Ordinance 2015-12 and recommends that Ordinance 2015-12 be adopted by the Morgantown Town Council.

Section 2. The Secretary of the Plan Commission is hereby authorized and directed to certify and forward this resolution to the Morgantown Town Council.



Mark Smith, President of the Morgantown
Plan Commission

ORDINANCE NO. 2015-12

**AN ORDINANCE AMENDING THE TOWN OF
MORGANTOWN, INDIANA, ZONING ORDINANCE AND ZONE MAP**

WHEREAS, Morgantown Advisory Plan Commission (“Plan Commission”), pursuant to Indiana Code Sections IC 36-7-4-602(b) and 607 has initiated proposed amendments to the Town’s Zoning Ordinance;

WHEREAS, the Plan Commission, pursuant to Indiana Code Sections IC 36-7-4-602(c) and 608 has initiated proposed changes to the Town’s Zone Map;

WHEREAS, the amendments to the Town’s Zoning Ordinance and changes to the Town’s Zoning Map are consistent with the statutory purposes as enumerated in I.C. 36-7-4-601(c):

WHEREAS, the Plan Commission, on October 8, 2015 and pursuant to IC 36-7-4-604, held a public hearing on its proposed amendments to the Town’s Zoning Ordinance and proposed changes to the Town’s Zone Map;

WHEREAS, the Plan Commission, pursuant to IC 36-7-4-604, at least ten (10) days prior to its October 8, 2015 public hearing, published notice in the Morgan County Reporter Times;

WHEREAS, the Plan Commission, pursuant to IC 36-7-4-604, at least ten (10) days prior to its October 8, 2015 public hearing, mailed notice of the proposed changes to the Town’s Zoning Map to all interested parties, as that term has been defined by the Plan Commission;

WHEREAS, the Plan Commission, after paying reasonable regard to applicable statutory criteria, voted by a majority to approve the proposed amendments to the Town’s Zoning Ordinance and changes to the Town’s Zoning Map and has submitted to the Morgantown Town Council (the “Council”) its favorable recommendation; and

WHEREAS, the Council, at its November 2, 2015 regular public meeting, considered the Plan Commission’s favorable recommendation and the proposed amendments to the Town’s Zoning Ordinance and proposed changes to the Town’s Zoning Map.

NOW, THEREFORE, BE IT ORDAINED by the Town Council of Morgantown, Indiana, that:

1. The Morgantown Zoning Ordinance is hereby amended as follows:

a. Added to Section 10., Definitions, of the Town's Zoning Ordinance are the following:

Automobiles, for purposes of this Ordinance, shall mean passenger cars, pick-up trucks, recreational vehicles, travel trailers, motorcycles, mopeds, and boats.

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.

b. Automobile Sales, New and Automobile Sales, Used are included, as conditional uses, under the following Sections and Zoning Districts of the Town's Zoning Ordinance:

Section 12. Rural Planned Development (RPD)
Section 17. Mixed Use Development District (MXD)
Section 18. Neighborhood Service District (C-1)
Section 21. Industrial Park District (M-2)

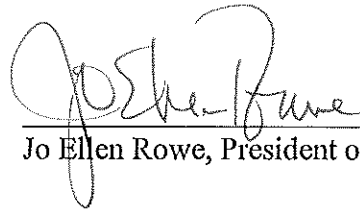
c. Automobile Sales, New and Automobile Sales, Used are included, as permitted principal uses, under Section 19. General Business District (C-2), of the Town's Zoning Ordinance.

2. The Morgantown Zoning Map is hereby amended as follows:

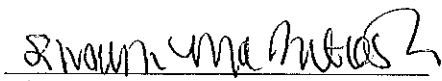
The property commonly known as 420 W. Washington Street, Morgantown, Indiana is rezoned from the High Density Residential District (R-5) to the General Business District (C-2).

3. All ordinances and sections of ordinances in conflict herewith are hereby repealed to the extent that they conflict with any of the provisions contained herein.
4. The Morgantown Plan Commission is hereby authorized and instructed to make the above-described changes to the Town's Zoning Ordinance and the Town's Zoning Map.
5. This Ordinance shall be in full force and effect from and after its passage and approval as provided by law.

Adopted by affirmative vote of the Town Council of the Town of Morgantown at its regular meeting on the 2nd day of November, 2015.



Jo Ellen Rowe, President of the Town Council

Attest: 
Sharon McIntosh, Clerk Treasurer

**TOWN OF MORGANTOWN
ORDINANCE NO. 2015-001**

**AN ORDINANCE AMENDING ORDINANCE 2012-001 TO REMOVE THE
MORGANTOWN PLAN COMMISSION AS THE HEARING AUTHORITY
FOR THE MORGANTOWN UNSAFE BUILDINGS AND PREMISES LAW AND
TO APPOINT THREE INDIVIDUAL MEMBERS AS THE HEARING AUTHORITY**

WHEREAS, the Morgantown Town Council, by its adoption of Town Ordinance 2012-001, established for the Town regulations regarding unsafe buildings and premises entitled the Morgantown Unsafe Buildings and Premises Law;

WHEREAS, pursuant to Town Ordinance 2012-001, the Morgantown Plan Commission was appointed as the Hearing Authority for the Unsafe Buildings and Premises Law;

WHEREAS, the Morgantown Town Council has concluded that the enforcement of the Town's Unsafe Buildings and Premises Law may be better and more efficiently supervised by a smaller board consisting of three (3) members appointed by the Town Council to serve exclusively as the Hearing Authority;

WHEREAS, Ind. Code Sections 36-7-9-2 neither requires nor contemplates that a local plan commission serve as the Hearing Authority for an Indiana town and, in pertinent part, reads as follows:

"Hearing authority" refers to a person or persons designated as such by the executive of a city or county, or by the legislative body of a town. An employee of the enforcement authority may not be designated as the hearing authority

ACCORDINGLY, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF MORGANTOWN, INDIANA, THAT:

Section 1. Morgantown Town Ordinance 2012-001 is hereby amended to remove the Morgantown Plan Commission as the Hearing Authority for the Morgantown Unsafe Buildings and Premises Law and to substitute, in its place, as the Hearing Authority, three (3) persons to be appointed by and serve at the pleasure of the Morgantown Town Council.

Section 2. Persons appointed by the Morgantown Town Council to serve as the Hearing Authority for the Morgantown Unsafe Buildings and Premises Law shall serve for an indefinite term, without regard to political affiliation, and may resign or be removed at any time. All references to Hearing Authority in Ordinance 2012-001 or in the Indiana Code, for purposes of Morgantown, Indiana, shall refer to those persons appointed by the Morgantown Town Council to serve as the Hearing Authority.

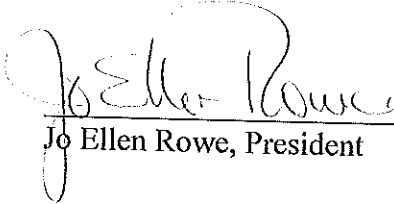
Section 3. Action by the Hearing Authority shall be valid upon vote of any two (2) members, voting together, at any meeting duly called.

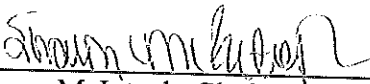
All ordinances or sections thereof in conflict with this Ordinance are hereby repealed and replaced accordingly. Morgantown Town Ordinance 2012-001, except as expressly amended herein, shall remain in full force and effect.

This Ordinance shall be in full force and effect upon passage.

Passed and adopted, on first reading, by majority vote of the Morgantown Town Council at its regular meeting on the January 5th, 2015.

Passed and adopted, on second and final reading, upon suspension of rules, by majority vote of the Morgantown Town Council at its regular meeting on the January 5th, 2015


Jo Ellen Rowe, President


Sharon McIntosh, Clerk Treasurer

ORDINANCE NO. 2014-5

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

WHEREAS, the Morgantown Advisory Plan Commission (“Plan Commission”) has reviewed and considered provisions of the Town’s Zoning Ordinance and has determined that amendments to the Town’s Zoning Ordinance are in order;

WHEREAS, the Plan Commission has initiated proposed amendments to the Town’s Zoning Ordinance pursuant to IC 36-7-4-602(b);

WHEREAS, the amendments herein are consistent with the purposes as enumerated in I.C. 36-7-4-601(c);

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 on March 13, 2014;

WHEREAS, the Plan Commission, pursuant to IC 36-7-4-604 and on or before March 3, 2014, published in the Morgan County Reporter Times and mailed to owners of real property, to a depth of two (2) ownerships or one-eighth ($\frac{1}{8}$) of a mile into Brown and Johnson Counties, notice of its March 13, 2014 public hearing;

WHEREAS, the Plan Commission, after paying reasonable regard to applicable statutory criteria, voted by a majority to approve the proposed amendments and has submitted to the Morgantown Town Council (the “Council”) a favorable recommendation regarding the proposed amendments to the Town’s Zoning Ordinance; and

WHEREAS, the Council, at its May 5, 2014 regular public meeting, considered the Plan Commission’s favorable recommendation and the proposed amendments to the Town’s Zoning Ordinance.

NOW, THEREFORE, BE IT ORDAINED by the Town Council of Morgantown, Indiana, that:

1. The Morgantown Zoning Ordinance is hereby amended as follows:

Section 1.3 – Jurisdiction.

AMENDED ORDINANCE Adds last sentence “This includes the incorporated area of Morgantown and the Extra Territorial Jurisdiction in Morgan County.”

New Section IN THE AMENDED ORDINANCE - Section 1.5, Location Improvement Permit or Building Permit

1. 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
2. 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 1.8, Interpretation, Item #1

- AMENDED ORDINANCE: 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.
- CURRENT ORDINANCE: This ordinance shall not repeal, abrogate, annul, or in any way impair or interfere with any existing provision of law or ordinance or any rules or regulations previously adopted or issued pursuant to law relating to the use of buildings or premises; ; providing that where this ordinance imposes a greater restriction than imposed or required by any such existing provisions or regulations, the provisions of this ordinance shall control.

Section 1.8, Interpretation, Item #2

- AMENDED ORDINANCE: 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.
- CURRENT ORDINANCE: Where a use is not listed in this ordinance, The Plan Commission shall make a reasonable interpretation as to whether the use is permitted and as to the applicability of other sections of this ordinance to the use. Such interpretation shall be based upon the similarity of the use in question to other uses listed in this ordinance. Such interpretation shall be made in a manner consistent with the intent and purposes of this ordinance.

Section 1.9 Enforcement, Item #1

- AMENDED ORDINANCE: This ordinance shall be enforced by the Plan Commission, and/or its duly appointed agent, pursuant to adopted enforcement procedures.
- CURRENT ORDINANCE: This ordinance shall be enforced by the Plan Commission, which shall establish procedures necessary to effectively carry out this responsibility.

Section 1.9 Enforcement, Item #2 Incorporation of "Indiana State Building Code"

- **AMENDED ORDINANCE:** 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 3.5.
- **CURRENT ORDINANCE:** 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. 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. Uses and structures lawfully existing on the effective date of this ordinance shall be permitted to continue under the provisions of Section 26.

Section 1.10 Complaints, Violations and Penalties, Item #1

- **AMENDED ORDINANCE:** 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.
- **CURRENT ORDINANCE:** Whenever a violation of this ordinance occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint stating full the causes and basis thereof shall be filed with the Plan Commission which shall properly record such complaint and investigate in a timely manner. If acts elicited by such investigation are sufficient to establish a reasonable belief that a violation has occurred on the part of the party investigated, the Plan Commission shall serve said party with written notice of said violation with an order to cease said violation and to correct the same within a reasonable period of time not to exceed 60 days; if the same is not corrected or has not ceased within the time limit, the Commission shall file with its attorney a complaint against such person requesting action thereon as provided by this ordinance and in accordance with law. The Commission may, by rule, delegate the duties under this section to an individual, department or agency.

Section 1.10 Complaints, Violations and Penalties, Item #2, Incorporation of "Indiana State Building Code"

- **AMENDED ORDINANCE:** Any building erected, raised, or converted, or land or premises used in violation of any provision of this ordinance or State Building Code 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 of proceeding.
- **CURRENT ORDINANCE:** 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 of proceeding.

Section 1.10 Complaints, Violations and Penalties, Item #3

- AMENDED ORDINANCE: 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.
- CURRENT ORDINANCE: Any person, firm or corporation who violates any provision of this ordinance or regulation thereof or fails to comply with any of its requirements, including violations of conditions and safeguards established in connection with this ordinance shall be guilty of a misdemeanor, and upon conviction, shall be fined in a sum not less than \$25 and not more than \$300 for each day's violation.

Section 1.10 Complaints, Violations and Penalties, Item #4

- AMENDED ORDINANCE: 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.
- CURRENT ORDINANCE: 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 each be found guilty of a separate offense and suffer the penalties herein provided.

Section 1.10 Complaints, Violations and Penalties, Item #5

- AMENDED ORDINANCE: 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
- CURRENT ORDINANCE: 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.

Section 1.10 Complaints, Violations and Penalties, Item #6

- AMENDED ORDINANCE: 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.
- CURRENT ORDINANCE: The Plan Commission, Board of Zoning Appeals, or any designee thereof may institute a suit for mandatory injunction directing a person, firm, corporation, or government unit to remove a structure erected in violation of the provisions of this ordinance, or to make the same comply with its terms. If said Commission, Board, or designee is successful in its suit, the respondent shall bear the costs of the action and reasonable attorney's fees.

Section 1.11 Board of Zoning Appeals, Section C., Organization

- AMENDED ORDINANCE: 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 1st 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.

- CURRENT ORDINANCE: After the initial terms have expired, all appointments shall be for four years, expiring on the 1st Monday of January of the fourth year after appointment, except that the Plan Commission members may serve only for the duration of their terms as members of the Plan Commission.

Section 1.11 Board of Zoning Appeals, Section E, Conflict of Interest

- AMENDED ORDINANCE: 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:
- CURRENT ORDINANCE: A member of the Board of Zoning Appeals shall not participate in a hearing or decision of the Board concerning a zoning matter in which he has a direct or indirect financial interest. In such an instance, the Board shall enter in its records:

Section 1.11 Board of Zoning Appeals, Section J., Conditional Uses

- AMENDED ORDINANCE: Setback distances will provide adequate open space and separation from adjoining land uses.
- CURRENT ORDINANCE: Setback distances provide adequate open space and separation from adjoining land uses.

Section 1.11 Board of Zoning Appeals, Section K., Variances, Item #1

- AMENDED ORDINANCE: 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 enforcement them.
- CURRENT ORDINANCE: The Board may permit the petitioner to make written commitments concerning the use of subject property. Such Commitments shall be in recordable form, signed by the owner of the real estate and notarized, and the commitments shall authorize an administrative official of 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 or categories of persons who shall be entitled to enforcement thereof.

Section 1.11 Board of Zoning Appeals, Section K. Variances, Item #2

- AMENDED ORDINANCE: 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.
- CURRENT ORDINANCE: c) the need for the variance arises from some condition peculiar to the property involved and that the variance does not correct a hardship caused by the applicant or the owner of the property; d) The Strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property; e) The approval does not interfere with

and is not inconsistent with the comprehensive plan; f) The variance granted is the minimum necessary and will be in harmony with the general spirit, purpose and intent of this ordinance.

Section 1.11 Board of Zoning Appeals, Section K, Variances, Item #3

- AMENDED ORDINANCE: 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. However, the zoning ordinance may establish a stricter standard
- CURRENT ORDINANCE: 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 an adverse manner; and
 - c. The need for the variance arises from some condition peculiar to the property involved and that the variance does not correct a hardship caused by the applicant or the owner of the property;
 - d. The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property;
 - e. The approval does not interfere with and is not inconsistent with the comprehensive plan;
 - f. The variance granted is the minimum necessary and will e in harmony with the general spirit, purpose and intent of this ordinance.

Section 1.11 Board of Zoning Appeals, Section L., stricken

- “Appeal of Writ of Certiorari” removed in AMENDED ORDINANCE.

Section 1.12 Amendments

- AMENDED ORDINANCE:
 - A. 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.
 - B. 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.

- CURRENT ORDINANCE:
 - A. The text of this ordinance may from time to time be amended in accordance IC 36-7-4-600 and any amendments thereto.
 - 1. 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. Before making a recommendation of a proposed amendment to the text of the zoning ordinance, the Plan Commission shall make findings concerning the consistence of the amendment with the Morgantown Comprehensive Plan.
 - B. 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 and any amendments thereto.
 - 1. 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.
 - 2. Before making a recommendation on a proposed amendment to the zoning map, the Plan Commission shall make findings concerning the following:
 - a. The consistence of the amendment with the Comprehensive Plan.
 - b. The character of the land uses in the general area and the impact of the proposed amendment on the character of the area.
 - c. The trend of development in the general area.
 - d. The adequacy of the streets, utilities, and other services for the uses permitted in the proposed district.

Sections 2.1-2.12, Zoning Districts, Changes in Terminology, Minimum Standards for Parking

- AMENDED ORDINANCE: Added to each zoning district, as minimum standards, are the Parking Standards and Regulations, attached to and incorporated as a part of the Zoning Ordinance. Moved section 23 of Current Ordinance, unchanged, to Parking Standards and Regulations Attachment.

Terminology:

- AMENDED ORDINANCE = “Agricultural”
- CURRENT ORDINANCE = “Rural Planned Development”

“Agricultural”

AMENDED ORDINANCE: Animal Husbandry is removed as one that requires that there be a development plan approved by the Plan Commission.

“Agricultural, Low-Density Residential, Medium-Density Residential, High-Density Residential, Multifamily Residential, Mixed Use Development”

- AMENDED ORDINANCE: Uses accessory to these uses are permitted on the same lot with the principal uses.
- CURRENT ORDINANCE: Uses accessory (as defined in Section 10) to these uses are permitted on the same lot with the principal uses, including accessory apartments.

“Agricultural, Low-Density Residential District, High-Density Residential District, Multifamily Residential District, Neighborhood Business, Minimum Standards”

Section 2.5 High-Density Residential District

- AMENDED ORDINANCE removes “It is intended for those areas where public sewage disposal is available.”

Section 2.8 Neighborhood Business

- AMENDED ORDINANCE: “retail commercial”
- CURRENT ORDINANCE: “small-scale commercial”

Signs:

- **Section A Signs Not Requiring Permits**
- AMENDED ORDINANCE: 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:.
- CURRENT ORDINANCE: The following are permitted without an improvement location permit, and such signs shall not be counted when calculating the quantity of signs permitted or the total allowable sign area, however, that such signs shall conform to all other applicable regulations:
- AMENDED ORDINANCE:
 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.

- REMOVED FROM CURRENT ORDINANCE:
 - Integral decorative wall graphics, architectural features or sign which becomes a part of the architecture of a building, provided that there are no visible moving parts or changing or flashing displays.
 - Signs identifying a use located on the same property as the sign.
 - Signs permitted by the Board of Zoning Appeals in conjunction with a conditional use or variance.
 - Signs not exceeding 2 square feet in area identifying a permitted home occupation.

- CHANGES FROM CURRENT ORDINANCE:
 - Holiday signs and decorations (verbiage added in Amended Ordinance)
 - Subdivision signs limited to one at each entrance.

Signs Prohibited in All Districts

- REMOVED FROM CURRENT ORDINANCE:

Off-site directional signs, unless a conditional use is granted by the Board of Zoning Appeals in accordance with Section 27. Such sign may be permitted only if the Board makes a finding that such sign is needed to provide reasonable access to the property so identified.

General Regulations, Section A. Building Heights

- AMENDED ORDINANCE: Removes Item #2 and Item #3

Item #2 “Chimneys, domes, spires, agricultural accessory buildings (barns, silos, etc) radio and television towers, and necessary mechanical appurtenances may exceed these height limitations.”

Item #3 “The heights of any buildings shown on an approved development plan may exceed these height limitations, if such plan indicates the heights and such heights are approved by the Plan Commission.”

General Regulations Section B Building Setback Requirements

- AMENDED ORDINANCE: Adds Item #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.”

General Regulations Section E. Yard Areas

- AMENDED ORDINANCE: No accessory building or structure shall be permitted in any front yard area, except for lawn ornaments, outdoor lights and other such items which customarily are located in the front yard area. Antennae shall not be located in the front yard in any district. Fences in front yards shall be decorative and can only be installed after a review and approval of the design by the Plan Commission. Up to a six foot high fence is permitted in a rear or side yard. Barbed and/ or razor wire is prohibited.
- CURRENT ORDINANCE: No accessory building or structure shall be permitted in any front yard area, except for lawn ornaments, outdoor lights and other such items which customarily are located in the front yard area. Antennae shall not be located in the front yard in any district.

General Regulations

- AMENDED ORDINANCE removed section on "Unsightly Items".

General Regulations, Section F. Outdoor Storage and Display

- AMENDED ORDINANCE: inserted "not" to correct error in Current Ordinance.

General Regulations, Section J. Home Occupations, Item #1

- AMENDED ORDINANCE: Permitted home occupations shall be incidental and subordinate to the use of the premises as a residence.
- CURRENT ORDINANCE: A home occupation shall be permitted when it is conducted on residentially used premises and is customary and traditional and is incidental and subordinate to the use of the premises as a residence.

General Regulations, Section I. Home Occupations, Item #2

- AMENDED ORDINANCE removes Item #5 "No structural additions, enlargements, or exterior alterations shall be permitted which change the appearance from residential to business."

General Regulations, Section J., Mobile Homes

- AMENDED ORDINANCE: 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.
- CURRENT ORDINANCE: 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 and require approval of the appropriate board prior to placement, use or storage of such unit upon any parcel of real estate.

NEW SECTION IN AMENDED ORDINANCE: Section 3.4 Adult Use Standards

1. Adult uses shall be permitted only in the Industrial Park District (I-2)

2. Separation Requirements: Adult uses shall be located a minimum of 1,000 feet from any church, school, park, day care facility, residentially zoned area, public, or cultural facility. The distance shall be measured from the closest property lines on which each use is located.

Section 3.5 Non-conforming Uses and Structures

- AMENDED ORDINANCE: 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.
- CURRENT ORDINANCE: Any use or that legally existed on the effective date of this ordinance which does not comply with the provisions of this ordinance is hereby deemed a legal non-conforming use. The burden of proof that a use or structure qualifies as a non-conforming use shall rest with the owner or user of such property. In the absence of such proof, the Plan Commission may consider such use to be unlawful.

Section 3.5 Non-conforming Uses and Structures, Item removed:

- CURRENT ORDINANCE: "Other provisions of this section notwithstanding, any single-family dwelling which is a non-conforming use may be enlarged, altered, repaired, or reconstructed, provided that there is no other principal use on the same lot and that such dwelling complies with the provisions of Section 26B"

Section 3.5 Non-conforming Uses and Structures section on Non-conforming Lot is removed.

Section 3.5 "Conditional Non-conforming Uses" section is removed.

Section 3.6 Floodplain added in AMENDED ORDINANCE:

- Any construction in a Floodplain is prohibited without meeting the requirements of the Indiana Floodplain regulations administered by the Indiana Department of Natural Resources.

In a floodplain, as defined by the Indiana Department of Natural Resources, the following uses are permitted, provided they do not include the erection of any structure, the opening of any excavation, or the disposition of any material or substance and comply with the provisions of the State Flood Plain Regulations.

1. Agricultural uses such as the production of crops, pastures, orchards, plant nurseries, vineyards and general farming.
2. Forestry, wildlife areas and nature preserves.
3. Parks and recreational uses, such as golf courses, driving ranges and play areas.

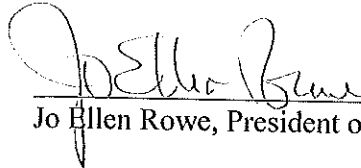
Chapter 4- Definitions:


Definitions for the following, as they appear in Section 10 of the Current Ordinance, have been stricken and excluded from the Amended Ordinance: Bed and Breakfast Unit, Boarding House, Canopy, Carport, Carry Out Restaurant, Country Club, Drive In Service Window, Essential Services, Minor, Floodproofed Building, Flood Protection Grade, Garage, Commercial, Mobile Home Tie Downs, Schedule, Primary Farm Processing, Public Accommodation Uses,

Regulatory Flood, Roadside Stand, Stable, Temporary Real Estate Office, Townhouse, Trailer, House, Truck Farm Market.

2. All ordinances and sections of ordinances in conflict herewith are hereby repealed to the extent that they conflict with any of the provisions contained herein.
3. The Morgantown Plan Commission is hereby authorized to make the above-described changes to the zoning ordinance text and to print the text of the amendment so as to be inserted into the book version of the Morgantown Zoning Ordinance and Town Code.
4. The Ordinance shall be in full force and effect from and after its passage and approval as provided by law.

Adopted by affirmative vote of the Town Council of the Town of Morgantown at its regular meeting on the 5th day of May, 2014.


Jo Ellen Rowe, President of the Town Council

Attest: 
Sharon McIntosh, Clerk Treasurer

TOWN OF MORGANTOWN, INDIANA
PLAN COMMISSION
RESOLUTION NO. 2014-1

A RESOLUTION TO AMEND THE
MORGANTOWN, INDIANA ZONING ORDINANCE

WHEREAS, the Morgantown Town Council and the Morgantown Advisory Plan Commission ("Plan Commission") may initiate and approve amendments to the Morgantown Zoning Ordinance (the "Town's Zoning Ordinance");

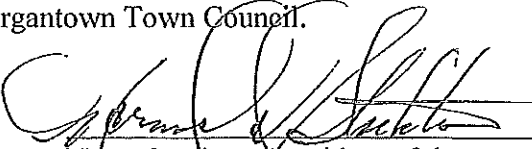
WHEREAS, the Plan Commission initiated recent amendments to the Town's Zoning Ordinance as set forth in proposed town ordinance 2014- 5 and has given notice and held a public hearing on the proposed amendments to the Town's Zoning Ordinance as required by IC 36-7-4-604;

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;

NOW, THEREFORE, BE IT RESOLVED, by the Advisory Plan Commission of the Town of Morgantown, Indiana, that:

Section 1. In accordance with I.C. 36-7-4-605, the Morgantown Advisory Plan Commission hereby submits to the Town Council a favorable recommendation of proposed Ordinance 2014-5 and recommends that Ordinance 2014-5 be adopted by the Morgantown Town Council.

Section 2. The Secretary of the Plan Commission is hereby authorized and directed to certify and forward this resolution to the Morgantown Town Council.


Norm Stockton, President of the
Morgantown Plan Commission

AN ORDINANCE SETTING FORTH VIOLATIONS AND PENALTIES
REGARDING NUISANCES IN THE TOWN OF MORGANTOWN

ORDINANCE NO. 2004 17

BE IT ORDAINED, by the Town Council of the Town of Morgantown, Indiana:

WHEREAS, the Town of Morgantown has various Ordinances relating to nuisance within the Town;

WHEREAS, it is the desire of the Town Council to consolidate those Ordinances into one Ordinance moving various violations constituting nuisance within the Town.

GENERAL PROVISIONS

10.01 PROVISIONS SUPPLEMENTAL.

The provisions of this chapter are hereby declared supplemental to all other Ordinances of the Town.

10.02 VIOLATIONS ON PUBLIC PROPERTY

The provisions of IC 36-1-6-2 are incorporated by reference and made a portion of this Chapter.

10.03. DEFINITIONS

For the purpose of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ABANDONED VEHICLE. Shall have the same meaning as provided in IC 9-13-2-1

CONSTRUCTION TRASH. All paper, boards and other wood products, fiber board, drywall, insulation, brick, piping, tubing, nails and other fasteners, shingles, block, bags, sacks, boxed, plastic wrapping, siding, heating fixtures, air ventilation fixtures, air-conditioning fixtures, plumbing fixtures and other household fixtures used in, removed from or occurring as a result of remodeling, construction, repair, destruction or demolition of any building or other structure, whether or not such trash originated from a lot or parcel of real estate within the Town of Morgantown.

LOT OR PARCEL OF REAL ESTATE. Includes, in addition to those grounds with their respective boundaries, all of the grounds lying to the center of the street or alley where the street or alley is not improved, nor dedicated to the town of Morgantown, Indiana.

NUISANCE. The doing of an unlawful act or the omitting to perform a duty, or the suffering or permitting of any condition or thing to be or exist which act, omission, condition or thing either:

- (1) Injures or endangers the health or safety of others;
- (2) Offends decency or the senses
- (3) Unlawfully interferes with, obstructs or tends to obstruct or renders dangerous for passage any public or private street, highway, sidewalk, stream, ditch or drainage;
- (4) In any way renders other persons unable to use of the property; or
- (5) Essentially interferes with the comfortable enjoyment of life and property or tends to depreciate the value of the property of others.

OCCUPANT. Includes but is not limited to all contractors, subcontractors, builders, repairmen, remodelers, demolition men and/or any other person performing work of a similar nature.

WORK. Includes but is not limited to all construction, remodeling, repair, demolition, building or other similar work.

10.04 NUISANCES ENUMERATED

(A) The maintaining, using, placing, depositing, leaving or permitting to be or remain on any public or private property of the following items, conditions or actions are hereby declared to be and constitute a nuisance, provided this enumeration shall not be deemed or construed to be conclusive, limiting or restrictive:

- (1) Vegetation which has attained a height of 12 inches or more and has not been cut, mown or otherwise removed from private property which is abandoned, neglected or disregarded; vegetation planted for some useful or ornamental purpose is excepted.
- (2) Vegetation, trees or woody growth on private property which, due to its proximity to any governmental property, right-of-way or easements interferes with the public safety or lawful use of the governmental property, right-of-way or easement.
- (3) A condition which causes property to become a health or safety hazard, unless specifically authorized under existing laws and regulations.
- (4) Accumulation of rubbish, trash, refuse, junk and other abandoned materials, metals, lumber or other things.
- (5) Any condition which provides harborage for rats, mice, snakes or other

vermin.

(6) Any building or other structure which is in such a dilapidated condition that it is unfit for human habitation, kept in such an unsanitary condition that it is a menace to the health of people residing in the vicinity thereof or presents a more than ordinary dangerous fire hazard in the vicinity where it is located.

(7) All disagreeable or obnoxious odors and stenches as well as the conditions, substances or other causes which give rise to the emission or generation of such odors or stenches.

(8) The carcasses of animals or fowl not disposed of within a reasonable time after death.

(9) The pollution of any public well or cistern, stream, lake, canal or body of water by sewage, dead animals, creamery, industrial wastes or other substances.

(10) Any building, structure or other place or location where any activity which is in violation of local, state or federal law is conducted, performed or maintained.

(11) Any accumulation of stagnant water permitted or maintained on any lot or piece of ground.

(12) Dense smoke, noxious fumes, gas, soot or cinders, in unreasonable quantities.

(13) The unauthorized obstruction of any public street, road or sidewalk.

(14) Any abandoned vehicles.

(15) It shall be unlawful for any property owner or occupant or other person to allow a nuisance to exist.

10.05 CONSTRUCTION TRASH

(A) It shall be unlawful for any owner, occupant or lessee of any lot within the corporate limits of the Town to allow, suffer or permit any construction trash to be deposited on, be or remain on any such lot.

(B) Any owner, occupant or lessee performing or having arranged for the performance of work on any lot or parcel of real estate shall deposit all trash in either a wooden fence area, snow fence area, or a fenced area comprised of #11, 1 1/2 inch mesh wire fence, a minimum of six feet (6') high and of sufficient size and with a sufficient cover or lid to temporarily hold trash from the work. Such fences area shall prevent trash from leaving the lot or parcel of real estate. Such trash shall be removed from the fenced area and from the lot or parcel of real estate each time the fenced area is filled. Owners, occupants and lessees shall each be responsible for compliance

with this Ordinance in the performance of any work. A failure to comply with this Section 10.05(B) shall be deemed a violation of Section 10.05(A) of this Ordinance.

ADMINISTRATION AND ENFORCEMENT

10.10 TOWN COUNCIL TO DESIGNATE ENFORCEMENT OFFICIALS.

The Town Council shall, where necessary, designate individuals and institute procedures to carry this chapter into force and effect.

10.11 ABATEMENT; FEES AND FINES.

(A) The Town Marshal or his designee may at any time require the owner and/or occupant of any property upon which a nuisance as herein defined exists to do all things necessary to remove the nuisance from such property by giving the owner and/or occupant ten (10) days written notice to the existence of the nuisance. The notice as herein required shall state the nature of the alleged nuisance and the action deemed necessary to correct the condition and shall fix a date not sooner than ten (10) days from the date of the receipt of the notice when said property owner and/or occupant may appear before the Town Council to be heard on the question of the nuisance. All notices as herein required shall be sent by first class U. S. mail, postage prepaid, to the occupant or owner at the address of the owner as reflected in the tax rolls of the Town, township or the county. Upon the failure of the owner and/or occupant to cause the abatement of a nuisance as required by this section and after notice and opportunity for hearing before the Town Council, the Town Council, upon a finding that a nuisance exists and that it has not been abated, may proceed at once to cause to be abated the nuisance, shall charge the costs thereof against the owner and/or occupant of said property. The liability created herein shall be joint and several as to the owners and any occupants or tenants.

(B) In the event the Town Council shall cause to be abated a nuisance on any property, as compensation to the Town for its services in causing the abatement, the owner and/or occupant shall be charged the following fees:

- (1) \$10.00 for each inspection necessary to determine compliance with the provisions of this Ordinance.
- (2) \$10.00 for determining private property ownership when necessary.
- (3) \$5.00 for each time a certified letter is written to the occupant or owners.
- (4) \$20.00 per man-hour, or fraction thereof, for labor necessary to abate the nuisance.
- (5) \$50.00 per machine-hour or fraction thereof for the use of each piece of equipment used in abating the nuisance.

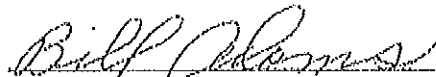
(C) The Town Council shall, upon completion of all acts necessary to abate the nuisance, send a statement to the owner and/or occupant of the property notifying said owner and/or occupant of the fees and charges owing to the Town for its services. Upon the failure of the owner and/or occupant to pay said fees and charges in full within 30 days, the Town Council may cause such charges and fees to be placed upon the tax duplicate and collected the same as taxes. The Town Council may, in the alternative, refer said charges and fees to the Town Attorney, who shall forthwith collect the fees and charges by civil process, including reasonable attorney fees.

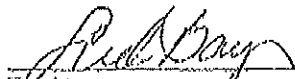
(D) Any person who fails to remove or abate such nuisance or otherwise comply with this Ordinance, after receiving notice within the time prescribed in the notice given pursuant to Section 10.11(A) of this Ordinance, shall be fined a sum not exceeding Three Hundred Dollars (\$300.00); provided, however, that the Town Council in addition, may cause such nuisance to be abated in any manner authorized under this Ordinance or by law, including an action pursuant to IC 36-8-2-24 and the institution of an action to abate a nuisance in a court of competent jurisdiction.


10.12 EFFECTIVE DATE


This Ordinance shall be in full force and effective after its passage, approval and publication according to law.

TOWN COUNCIL OF THE TOWN OF
MORGANTOWN


Bill Adams


Fred Bay


Charles Ballard

ATTEST:

Lora Ford, Clerk/Treasurer



413

MORGAN COUNTY RECORDER
PAMELA KIVETT
KEB Date 03/10/2010 Time 10:24:37
RECORDING: 96.00
I 201002060 Page 1 of 43

5/14/94

THIS INSTRUMENT APPROVED
BY THE
TOWN BOARD OF
MORGANTOWN
SEPT 14, 1989

ORDIANCE 3-1989

Attest:

Paula Smith
Present Clerk Treasurer
Paula Smith



Morgantown

RPD -

Buffer Zone

Morgantown Planning & Zoning

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2

ZONING ORDINANCE TOWN OF MORGANTOWN, INDIANA

Section 1. Authority

This ordinance is adopted pursuant to the Indiana Code, 600 SERIES-ZONING ORDINANCE (IC 36-7-4-600) and all amendments thereto.

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 of the Indiana Code;
5. Implementing the Comprehensive Plan of the Town of Morgantown, Indiana.

In order 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.

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 shore lines, and in the event of change in the shore line, such boundaries shall be construed as moving with the actual shore line.
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. This ordinance shall not repeal, abrogate, annul, or in any way impair or interfere with any existing provision of law or ordinance or any rules or regulations previously adopted or issued or which shall be adopted or issued pursuant to law relating to the use of buildings or premises; providing that where this ordinance imposes a greater restriction than imposed or required by such existing provisions or regulations, the provisions of this ordinance shall control.
3. Where a use is not listed in this ordinance, the Plan Commission shall make a reasonable interpretation as to whether the use is permitted and as to the applicability of other sections of this ordinance to the use. Such interpretation shall be based upon the similarity of the use in question to other uses listed in this ordinance. Such interpretation shall be made in a manner consistent with the intent and purposes of this ordinance.

Section 8. Enforcement

1. This ordinance shall be enforced by the Plan Commission, which shall establish procedures necessary to effectively carry out this responsibility.
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. 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. Uses and structures lawfully existing on the effective date of this ordinance shall be permitted to continue under the provisions of Section 26.

Section 9. Complaints, Violations and Penalties

1. Whenever a violation of this ordinance occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint stating fully the causes and basis thereof shall be filed with the Plan Commission which shall properly record such complaint and investigate in a timely manner. If acts elicited by such investigation are sufficient to establish a reasonable belief that a violation has occurred on the part of the party investigated, the Plan Commission shall serve said party with written notice of said violation with an order to cease said violation and to correct the same within a reasonable period of time not to exceed 60 days; if the same is not corrected or has not ceased within the time limit, the Commission shall file with its attorney a complaint against such person requesting action thereon as provided by this ordinance and in accordance with law. The 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 person, firm or corporation who violates any provision of this ordinance or regulation thereof or fails to comply with any of its requirements, including violations or conditions and safeguards established in connection with this ordinance, shall be guilty of a misdemeanor, and upon conviction, shall be fined in a sum not less than \$25 and not more than \$300 for each day's violation.
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 each be found guilty of a separate offense 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 or Superior Court of Morgan County to restrain any person, firm corporation, or governmental unit from violating the provisions of this ordinance.
6. The Plan Commission, Board of Zoning Appeals, or any designee thereof may institute a suit for mandatory injunction directing a person, firm, corporation, or governmental unit to remove a structure erected in violation of the provisions of this ordinance, or to make the same comply with its terms. If said Commission, Board, or designee is successful in its suit, the respondent shall bear the costs of the action, including 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.

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 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 UNIT means a room or group of rooms forming a single habitable unit, within a bed and breakfast use, used or intended to be used for living and sleeping, but not for cooking or eating purposes.

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 sold 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 by other similar definite limits.

BOARD means the Morgantown Board of Zoning Appeals.

BOARDING HOUSE means a building other than a hotel or motel where for compensation and by pre* arrangement for definite periods, lodging, meals, or both, are provided. For the purposes of this ordinance, lodging and rooming houses are deemed boarding houses.

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.

CANOPY means a projection from the building made from any material which is cantilevered, suspended, or supported on columns intended only for shelter or ornamentation.

CARPORT means a covered automobile parking space not completely enclosed by walls or doors.

CARRY-OUT-RESTAURANT means any business selling food and/or beverages where the primary service is over-the-counter, generating a high turnover of customers and a high volume of traffic.

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.

COUNTRY CLUB means a club characterized by social and outdoor recreational activities such as golf, tennis, and swimming. It may include restaurant, bar, pro shop, and other such facilities customarily associated with a country club.

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.

DRIVE-IN SERVICE WINDOW means a customer service facility designed for the convenience of the motoring public, which enables the customer to transact business with a salesperson or service representative without exiting the motor vehicle.

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, use primarily as a place of abode for two families, each with a separate kitchen, bath, and other facilities. Such dwelling units may be separated by a common vertical or horizontal wall.

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.

ESSENTIAL SERVICES, MINOR means overhead or underground gas, electrical, telephone, telegraph, steam, fuel or water transmission or distribution systems; collection, communication, supply or disposal systems, including towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm and police call boxes, traffic signals, hydrants, and similar accessories in connection therewith, but not including buildings.

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.

FLOODPROOFED BUILDING means a commercial or industrial building designed to exclude floodwaters from the interior of that building. All such floodproofing shall be adequate to withstand the flood depths, pressures, velocities, impact and uplift forces, and other factors associated with the regulatory flood.

FLOOD PROTECTION GRADE means the elevation of the lowest point around the perimeter of a building at which flood waters may enter the interior of the building, or the elevation of the lowest floor of a building or structure. If the building contains a basement, the basement floor is considered the lowest floor.

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.

GARAGE, COMMERCIAL means any garage not meeting the definition of Private Garage.

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 that can be inscribed within the lot.

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, for aggregations of mobile homes on single tracts. It may include accessory recreational, office, and other accessory uses.

MOBILE HOME TIE DOWNS, SCHEDULE A means sufficient anchorage to resist flotation, collapse, or lateral movement of any mobile home. At a minimum, such anchorage shall consist of the following: 1. Over-the-top ties at each of the four corners of the mobile home, with two additional ties per side at intermediate locations, with mobile homes less than 50 feet wide requiring only one additional tie per side; 2. Frame ties at each corner of the home with five additional ties per side at intermediate points, with mobile homes less than 50 feet long requiring for additional ties per side; 3. All components of the anchoring system being capable of carrying a force of 4,800 pounds; and 4. Any additions to the mobile home similarly anchored.

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.

PRIMARY FARM PROCESSING means those operation on agricultural products which render them transportable, marketable and generally more useful. These include such activities as drying, milling, freezing, cleaning and sorting.

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 services, financial institutions, real estate, management, tax consultant, engineer, accountant, photographer, lawyer, and medical services.

PUBLIC ACCOMMODATION USES means hotels, motels, restaurants, taverns and similar uses.

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.

REGULATORY FLOOD means that flood having a peak discharge which can be expected to be equaled or exceeded on the average of once in one-hundred-year period, as calculated by a method and procedure which is acceptable to and approved by the Indiana Department of Natural Resources. This flood is equivalent to a flood having a probability of occurrence of one percent in any given year.

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, sluing, 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 provide convalescent or chronic care for the aged or infirm, not including intensive care commonly provided in hospitals.

ROADSIDE STAND means a structure or portion thereof for the shelter, display and sale of products produced on the premises, with no space for customers within the structure.

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 direction 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.

TEMPORARY REAL ESTATE OFFICE means a real estate office located on the site of a real estate development currently being constructed, sold, or leased, for the purpose of selling or leasing such real estate.

TOWNHOUSE shall mean one of a group or row of no fewer than three dwelling units having common side walls, but no other dwelling unit directly above or below.

TRAILER, HOUSE means any vehicle constructed so as to permit its being either self-propelled or transported upon a public street or highway, designed for transportation of goods or for human occupancy, and which contains 320 square feet or less of floor area.

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.

TRUCK FARM MARKET means a retail store located on the same premises as a truck farm selling primarily products produced or processed on the premises.

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 Service

Minor essential services, as defined in Section 10, are permitted in all zoning districts.

Section 12. Rural Planned Development (RPD)

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 Plan Commission.

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, including accessory apartments.

The following uses may be permitted by the Board of Zoning Appeals as conditional uses, under the terms set forth in Section 27.

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

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 23.
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 22.

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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, including accessory apartments.

C. The following uses may be permitted by the Board of Zoning Appeals as conditional uses, under the terms set forth in Section 27.

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 23.
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 22.

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, including accessory apartments.

C. The following uses may be permitted by the Board of Zoning Appeals as conditional uses, under the terms set forth in Section 27.

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 23.
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 22.

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. 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 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 uses, including accessory apartments.

C. The following uses may be permitted by the Board of Zoning Appeals as conditional uses, under the terms set forth in Section 27.

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 23.
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 22.

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 27.

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 23.
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 22.

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, including accessory apartments.

C. The following uses may be permitted by the Board of Zoning Appeals as conditional uses, under the terms set forth in Section 27.

1. Automobile Repair Shop
2. Automobile Service Station
3. 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 23.
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 22.

- 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 27.
 - 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

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. Other minimum standards for this district shall be those shown on the approved development plan, which shall be prepared in accordance with Section 22.

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.

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Section 18. Neighborhood Service District (C-1)

This district is established to provide for small-scale 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 27.

1. Church
2. Automobile Repair Shop
3. Automobile Service Station
4. 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 23.
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 22.

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-1 District
2. Public accommodation uses
3. Commercial recreation uses, such as auditorium, theater, bowling alley, miniature golf, skating rink, and similar indoor or outdoor amusement uses
4. Clubs, funeral parlors, mortuaries, and similar uses

The following uses are permitted as principal 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
- A. Uses accessory (as defined in Section 10) to these uses are permitted on the same lot with the principal uses.
- B. 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 23.
 5. In addition, the development or use shall comply with the approved development plan, which shall be prepared in accordance with Section 22.
- C. The following uses may be permitted by the Board of Zoning Appeals as conditional uses, under the terms set forth in Section 27.
1. Automobile Service Station
 2. Automobile Repair Shop
 3. Commercial Garage
 4. Retail Sales Establishment

Section 21. 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.

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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. Other minimum standards for this district shall be those shown on the approved development plan, which shall be prepared in accordance with Section 22.

Section 22. Development Plans

A. Development plans require primary and secondary approval by the Plan Commission. Any development plan submitted for primary 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
4. Description of the location of the 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 and intensity 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. Names of public ways giving access to the development, and location, width, and names of platted public ways, railroads, parks, utility easements, and other public open spaces
9. Layout, names, and widths of proposed public ways; widths of alleys, lanes, walkways paths, and easements
10. Description of the use of adjacent property and drawing showing the relationship of surrounding properties to the development plan area
11. Location, size, and arrangement of areas to be devoted to planting lawns, trees, and other site screening activities, including a description of the types, numbers, and sizes of landscape materials to be used
12. Number, types, sizes, locations, heights and designs of any proposed signs
13. Storm drainage plan, including topographic features, appropriate contour intervals, directions of storm water runoff
14. Sewage disposal plan
15. Water supply system
16. Locations and sources of all other utilities, with appropriate easements (i.e., electricity, gas, telephone)
17. Layout of proposed lots with approximate dimensions
18. Land use intensity factors (i.e., dwelling units/acre, floor area ratio, lot coverage)

- B. After receipt of an application for primary approval of a development plan, the Plan Commission shall schedule a public hearing on the proposal. The commission shall notify the applicant in writing of the date of the hearing, give notice by publication in accordance with IC 5-3-1, and provide for due notice to interested parties at least 10 days before the date set for the hearing. The Plan Commission shall, by rule, determine who are interested parties, how notice is to be given to them, and who is required to give that notice.
- C. The Plan Commission may approve or deny an application for primary 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. The Plan Commission may grant secondary approval to a development plan if it finds that all conditions of primary approval have been met. The commission may, by rule, delegate secondary approval to a committee or person, whose denial may be appealed to the full Plan Commission. No notice or hearing is required for secondary approval.

- G. No improvement location permit or building permit shall be issued and no site development or construction may commence in relation to a development plan until such plan has been recorded in the office of the Morgan County Recorder.
- H. No change shall be made on any approved development plan without permission of the Plan Commission. The Plan Commission may permit minor changes without notice or hearing. Any change which the Commission deems substantial shall require the same procedure as the initial approval.
- I. Any development plan which has not been substantially put into effect five years after the date of secondary approval shall be null and void, unless an extension is authorized by the Plan Commission.

Section 23. 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 ⁰	14 ft.
60 ⁰	18 ft.
90 ⁰	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 indicate 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 27 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 100,000 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:

Residential	Parking Spaces
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
Government, Communications, and Utilities	Parking Spaces
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
Medical and Professional	Parking Spaces
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

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Commercial	Parking Spaces
Retail Stores (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
Automobile Sales and Implement Sales	1 space/200 sq. ft. of floor area in display room plus 1 space/1500 sq. ft. of outdoor display area
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 Manufacturing plants or other industry	Parking Spaces 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

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Recreation & Amusement	Parking Spaces
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
Miscellaneous	Parking Spaces
Church	1 space/3 seats in main sanctuary
Clubs, Lodges, Community Centers	1 space/300 sq. ft. of gross floor area

Section 24. 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.

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A. Signs Not Requiring Permits

The following signs are permitted without an improvement location permit, and such signs shall not be counted when calculating the quantity of signs permitted or the total allowable sign area, provided, however, that such signs shall conform to all other applicable regulations.

1. Name and address of resident or user of premises. Such sign shall not exceed two square feet in area, and it shall be limited to one such sign per resident, family, or use.
2. No trespassing sign, or other such signs regulating the use of property on which it is located, provided that such signs shall not exceed two square feet in area in any residential district or five square feet in any nonresidential district.
3. Real estate for sale or similar signs, limited to two signs per property, under six square feet in area in residential districts or 20 square feet in a nonresidential district.
4. Instructional or directional signs identifying on-premises traffic, parking or other functional activity, such as lavatory facilities, telephone, sections of a building, entrances, etc., bearing also commercial advertising.
5. Signs erected by a unit of government pursuant to and in discharge of any governmental function, or required by any law, ordinance, or governmental regulation.
6. Memorial signs or tablets and signs denoting the date or erection of buildings. Such signs shall not exceed four square feet in area.
7. Accessory signs incidental to a business or profession conducted on the premises indicating hours of operation, credit cards, business affiliations and the like, wall-mounted at or immediately adjacent to the entrance of the building, not to exceed a total of four square feet in area.
8. Temporary signs in the window of a building which do not occupy more than 50 percent of the area of the window and which shall not be in place more than 30 days.
9. Integral decorative wall graphics, architectural features or sign which becomes a part of the architecture of a building, provided that there are no visible moving parts or changing or flashing displays.
10. Construction or contractor's signs.
11. Temporary signs and decorations associated with special events of limited duration, such as those sponsored by religious, public, or charitable organizations. Such signs and decorations are permitted for a period not to exceed 30 days.
12. Holiday signs and decorations.
13. Farm signs identifying crops produced on the premises.
14. Signs identifying a use located upon the same property as the sign.
15. Subdivision or similar entrance sign, not to exceed 12 square feet in area.
16. Signs permitted by the Board of Zoning Appeals in conjunction with a conditional use or variance.
17. Signs not exceeding 2 square feet in area identifying a permitted home occupation.

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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 flashing 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.
5. Off-site directional signs, unless a conditional use is granted by the Board of Zoning Appeals in accordance with Section 27. Such sign may be permitted only if the Board makes a finding that such sign is needed to provide reasonable access to the property so identified.

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 25. General Regulations:

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. Chimneys, domes, spires, agricultural accessory buildings (barns, silos, etc.), radio and television towers, and necessary mechanical appurtenances may exceed these height limitations.
3. The heights of any buildings shown on an approved development plan may exceed these height limitations, if such plan indicates the heights and such heights are approved by the Plan Commission.
4. Radio towers for licensed amateur radio operators may be erected to a height of 50 feet in the R-5 and R-IO 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.

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 or uses are under unified ownership or control.

E. Yard Areas

No accessory building or structure shall be permitted in any front yard area, except for lawn ornaments, outdoor lights, fences, and other such items which customarily are located in the front yard area. Antennas shall not be located in the front yard in any district.

F. Unsightly Items

No unregistered or inoperable vehicles shall be stored outside on any property unless such property is a legally operating junkyard. No unsightly materials, including trash of any kind, shall be permitted.

G. Outdoor Storage or Display

Outdoor storage or display of materials shall 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.

H. Lighting

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

I. 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.

J. 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. A home occupation shall be permitted when it is conducted on residentially used premises and is customary and traditional, and is 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 the dwelling unit.
5. No structural additions, enlargements, or exterior alterations shall be permitted which change the appearance from residential to business.

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K. General Regulation

Mobile Home being any unit originally intended as a dwelling unit, whether used for dwelling unit or other purpose, shall be subject to the terms of this ordinance and require approval of the appropriate board prior to placement, use or storage of such unit upon any parcel of real estate.

Section 26. Non-conforming Uses and Lots

A. Non-conforming Use

Any use or structure which was legally existing on the effective date of this ordinance which does not comply with the provisions of this ordinance is hereby deemed a legal non-conforming use. The burden of proof that a use or structure qualifies as a non-conforming use shall rest with the owner or user of such property. In the absence of such proof, the Plan Commission may consider such use 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. Other provisions of this section notwithstanding, any single-family dwelling which is a non-conforming use may be enlarged, altered, repaired, or reconstructed, provided that there is no other principal use on the same lot and that such dwelling complies with the provisions of Section 26B.
5. 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.
6. If any non-conforming use is changed to a conforming use, it shall not thereafter be changed to any non-conforming use.

B. Non-conforming Lot

Any parcel of land which was legally created and recorded prior to the effective date of this ordinance, or any lot which is located in a subdivision which received primary or secondary approval from the appropriate Plan Commission prior to the effective date of this ordinance which does not comply with the provisions of this ordinance shall be deemed a legal non-conforming lot. Unrecorded lots under this section shall continue to be subject to any applicable time limitations or other regulations contained in the Subdivision Control Ordinance.

All non-conforming lots shall comply with the following regulations:

1. A single-family dwelling may be constructed, repaired, altered, enlarged, or expanded on any legal non-conforming lot provided that such dwelling conforms to the minimum setback requirements of the district and provided that there is no other principal use other than farming on the lot.
2. The following agricultural uses may be initiated on any legal non-conforming lot:
 - a) Field crops
 - b) Horticulture
 - c) Forestry
3. The following principal uses may be initiated in the RPD District only if a special exception for such use is granted by the Board of Zoning Appeals:
 - a) Animal husbandry
 - b) Confined feeding
 - c) Nursery of greenhouse
 - d) Grazing of animals
4. If two or more adjacent non-conforming lots are in the same ownership on the effective date of this ordinance, such lots shall be combined to comply as nearly as possible with the minimum requirements of this ordinance.
5. Any use which was legally existing on the effective date of this ordinance which is permitted as a conditional use under the terms of this ordinance shall be deemed to be a legal conforming use.
6. Nothing in this ordinance shall be deemed to prevent the maintenance or repair of any non-conforming structure except as specified in Section 26A.
7. Any non-conforming use which is removed may not be replaced by substituted non-conforming use without prior approval under the terms of this ordinance.

C. Conditional Non-Conforming Uses

The Board of Zoning Appeals may approve as a conditional use in accordance with Section 27 of this ordinance the expansion of a legal non-conforming use, the changing of non-conforming use to another non-conforming use, or the erection of a structure on a non-conforming lot.

- D. Nothing in this ordinance shall be deemed to require change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of this ordinance, provided, however, that said construction shall be diligently pursued to completion.

Section 27. 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 shall be for four years, expiring on the 1st Monday of January of the fourth year after appointment, except that the Plan Commission members may serve only for the duration of their terms as members of the Plan Commission.
 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 board.
4. An alternate member may serve as a voting member of the Board of Zoning Appeals when the regular member for whom he 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 in which he has a direct or indirect financial interest. In such an instance, the Board shall enter in its records as follows:

1. The fact that a regular member has such a disqualification; and
2. The name of the alternate member, if any, who participates in the bearing or decision in place of the regular member.

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.
3. 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.

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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 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. The Board may permit the petitioner to make written commitments concerning the use or development of the subject property. Such commitments shall be in recordable form, signed by the owner of the real estate and notarized, and the commitments shall authorize an administrative official or the Board to record such commitments in the office of the County Recorder upon the grant of the variance. The Board may require such commitment to designate any specially affected persons or categories of persons who shall be entitled to enforcement thereof.
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 and that the variance does not correct a hardship caused by the applicant or the owner of the property;
 - d) The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property;
 - e) The approval does not interfere with and is not inconsistent with the comprehensive plan;
 - f) 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 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 and that the variance does not correct a hardship caused by the applicant or the owner of the property;
 - (d) The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property;
 - (e) The approval does not interfere with and is not inconsistent with the comprehensive plan;
 - (f) The variance granted is the minimum necessary and will be in harmony with the general spirit, purpose and intent of this ordinance.

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L. Appeal of Writ of Certiorari

Any person aggrieved by any decision of the Board of Zoning Appeals may seek court review by certiorari. A petition for a writ of certiorari shall *specify* the grounds upon which the petition alleges the illegality of the Board's action and shall be filed in the Circuit or Superior Court of the County within thirty (30) days after the date of such decision.

Section 28. Amendments

- A. The text of this ordinance may from time to time be amended in accordance with the provisions of IC 36-7-4-600 and any amendments thereto.
1. An amendment to the text of the zoning 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. Before making a recommendation on a proposed amendment to the text of the zoning ordinance, the Plan Commission shall make findings concerning the consistency of the amendment with the Morgantown Comprehensive Plan.
- B. The zoning map adopted as a part of this ordinance by reference may from time to time be amended in accordance with the provisions of IC 36-7-4-600 and any amendments thereto.
1. 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.
 2. Before making a recommendation on a proposed amendment to the zoning map, the Plan Commission shall make findings concerning the following:
 - a) The consistency of the amendment with the Comprehensive Plan.
 - b) The character of the land uses in the general area and the impact of the proposed amendment on the character of the area.
 - c) The trend of development in the general area.
 - d) The adequacy of the streets, utilities, and other services for the uses permitted in the proposed district.

REVIEWED BY MORGAN
COUNTY AUDITOR'S OFFICE

3 day of 10th 2010

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