MORGANTOWN CITY CODE

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MORGANTOWN CITY CODE

PART THIRTEEN - PLANNING AND ZONING CODE

CHAPTER ONE - Planning
Art. 1301. Comprehensive Plan.

ARTICLE 1301
Comprehensive Plan

1301.01 Title.
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1301.04 Incorporation of other ordinances.
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CROSS REFERENCES
Comprehensive plan - see W. Va. Code 8-24-16 et seq.; CHTR. Sec. 6.03

1301.01 TITLE.
This article shall be known and may be cited as, the “Comprehensive Plan”. (Ord. 13-25. Passed 6-18-13.)

1301.02 PURPOSE OF ARTICLE.
The purpose of this article is to establish a single unified code consisting of all plans, reports and regulations and supplemental details as contained and specifically referred to in the reports of the Planning Commission as described in Section 1301.03, that deals with the subject of planning and zoning, as a comprehensive guide for the future growth and development of the City. (Ord. 13-25. Passed 6-18-13.)

1301.03 PLAN COMPOSED OF REPORTS ADOPTED BY REFERENCE.

The Comprehensive Plan consists of:

(a) A report entitled "The City of Morgantown Comprehensive Plan, 2013", dated April 25, 2013.

(b) The above report is hereby adopted as the "Comprehensive Plan Ordinance of Morgantown, West Virginia, 2013", by reference and made a part hereof as if fully set forth in this article in accordance with West Virginia Code 8-11-3 and 8A-3-8.

(Ord. 13-25. Passed 6-18-13.)

1301.04 INCORPORATION OF OTHER ORDINANCES.

All ordinances which have heretofore or may be hereafter enacted concerning the subjects of the Comprehensive Plan as described in West Virginia Code 8A-3-4 and 8A-3-5 shall also be deemed to be parts of the "Comprehensive Plan of Morgantown, West Virginia, 2013".

(Ord. 13-25. Passed 6-18-13.)

1301.05 CONFORMITY TO PLAN.

The layout, the location, relocation, extension or widening of thoroughfares; the general design of neighborhoods and their street patterns; the use of land; and the location of sites for schools, parks, recreation and other public uses, shopping centers and community facilities and other recommendations shall conform to the principles, policies and provisions of the Comprehensive Plan.

(Ord. 13-25. Passed 6-18-13.)

1301.06 CONSIDERATION OF PLAN PRIOR TO CONSTRUCTION OF PUBLIC INSTALLATIONS.

Council and all municipal boards, commissions and all other agencies of the City shall be guided by and give consideration to the general policy and pattern of development set out in the Comprehensive Plan prior to the authorization, construction, alteration and abandonment of any public installation, required or necessitated in the interest of the physical development of the City. (Ord. 13-25. Passed 6-18-13.)

1301.07 AMENDMENTS.

The Planning Commission shall from time to time consider and review proposals with respect to changes and amendments in the Comprehensive Plan and upon conclusion of such consideration, including a public hearing thereon, shall certify to Council their report on such matters. Amendments shall be in accordance with West Virginia Code 8A-3-11.

(Ord. 13-25. Passed 6-18-13.)

1301.08 WHERE COPIES KEPT ON FILE.

The Office of the City Clerk shall, upon adoption, file the Comprehensive Plan in the Office of the Clerk of Monongalia County in accordance with West Virginia State Code 8A-3-9. Two copies of the Comprehensive Plan as set forth in Section 1301.03 shall be kept on file in the offices of the City Planning Commission and City Clerk and be available for public inspection during the regular office hours.
(Ord. 13-25. Passed 6-18-13.)

1301.09 COOPERATION OF OTHER BODIES IN EFFECTUATION OF PLAN.

The Planning Commission is hereby directed to solicit the cooperation of the legislative and administrative bodies of the County, the State and agencies of the Federal Government in the effectuation of the Comprehensive Plan as it applies in the official jurisdictional area of the Commission and in the unofficial planning area outside of this City, as shown in the Plan.
(Ord. 13-25. Passed 6-18-13.)

CHAPTER THREE - Subdivision Regulations

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ARTICLE 1311
Interpretation and Scope

1311.01 Interpretation and purpose.
1311.02 Scope.
1311.03 Areas of jurisdiction.
1311.04 Jurisdiction.
1311.05 Public hearing.
1311.06 Construction of improvements.
1311.07 Rules, regulations and forms.

CROSS REFERENCES

Conflict of law - see W. Va. Code 8-24-70
Extraterritorial jurisdiction - see W. Va. Code 8-24-71
Rules of construction and interpretation - see ADM. Art. 101

1311.01 INTERPRETATION AND PURPOSE.

The procedures and standards for the development and subdivision of real estate and for the surveying and platting thereof, prescribed by this chapter are found by Council to be necessary to promote the public safety, health and general welfare, to provide for suitable residential areas with adequate streets and utilities and appropriate building sites, to save unnecessary expenditures or public funds by reserving space for public lands and buildings and by proper construction of streets and utilities and to provide proper land records for the convenience of the public and for better identification and permanent location of real estate boundaries. (1967 Code Sec. 30-2.)

1311.02 SCOPE.

This chapter shall not apply to any lot or lots forming a part of a subdivision created and recorded prior to the effective date of these Subdivision Regulations. Nor it is intended by this chapter to repeal, abrogate, annul or in any way impair or interfere with existing provisions of other laws or regulations, except those specifically repealed by this chapter, or with private restrictions placed upon property by deed, covenant or other private agreement, or with restrictive covenants running with the land to which the County is a party. Where this chapter imposes a greater restriction upon land than is imposed or required by such existing provision of law, resolution, contract or deed, the provisions of this chapter shall control.
(1967 Code Sec. 30-3.)

1311.03 AREAS OF JURISDICTION.

The following provisions, as provided in Chapter Three shall govern the subdividing of land within the area of the City under the jurisdiction of the City. The provisions of Article 1323 shall apply to improvements to be constructed in any plat within the jurisdiction of the City. (1967 Code Sec. 30-4.)

1311.04 JURISDICTION.

(a) After adoption of a Comprehensive Plan by Council and adoption and certification of an ordinance, containing these Subdivision Regulations for subdivision control and approval of plats and replats, a plat of a subdivision shall not be recorded by the County Clerk unless it has been approved by the Planning Commission.

(b) No person shall subdivide or lay out onto lots any land within the area of the City unless it is by a plat complying with the regulations herein contained, and no plat shall be recorded and no lot or land shall be sold from any such plat until such plat has been approved as herein required.

(c) The design and layout of all subdivisions shall conform with the requirements of Article 1321. The subdivider shall make improvements and shall submit Preliminary and Final Plans, all in accordance with Articles 1317 and 1319.
(1967 Code Sec. 30-5.)

1311.05 PUBLIC HEARING.

Upon receipt of an application for the approval of a plat of a subdivision and upon tentative approval of such application, the Planning Commission shall set a date for a hearing, notify the applicant in writing and notify by general publication or otherwise any person or governmental unit having a probable interest in the proposed plat.
(1967 Code Sec. 30-6.)

1311.06 CONSTRUCTION OF IMPROVEMENTS.

These rules and regulations establish standards and specifications for the construction of streets, curbs, gutters, sidewalks, sanitary sewers, sewage disposal plants, storm sewers and other facilities to those lands within the corporate limits of the City.
(1967 Code Sec. 30-7.)

1311.07 RULES, REGULATIONS AND FORMS.

The Planning Commission shall have the authority to provide reasonable rules and regulations relative to the fulfillment of the duties set forth herein and to prescribe the necessary forms to carry out the provisions of this chapter.
(1967 Code Sec. 30-8.)

ARTICLE 1313
Definitions

1313.01 Definitions.

CROSS REFERENCES
State law definitions - see W. Va. Code 8-24-3
Comprehensive Plan - see P. & Z. Art. 1301
Panhandle or flag lots defined - see P. & Z. 1321.06
Hillside area defined - see P. & Z. 1325.01

1313.01 DEFINITIONS.

For the purposes of this chapter, the following words and phrases shall have the meaning respectively ascribed to them by this section:

(1) "Block" means a piece or parcel of land entirely surrounded by public highways, public streets, railroad rights of way, parks, streams, lakes or bodies of water or a combination of aforesaid bounds.

(2) "Building line". See "setback line".

(3) "Building site" means that portion of lot or parcel of land upon which the building and appurtenances are to be placed, or are already existing including adequate areas for sewage disposal, clearance, proper drainage and appropriate easements.

(4) "City" means the City of Morgantown, West Virginia.

(5) "Commission" means the City Planning Commission.

(6) "Comprehensive Plan" means the complete plan, or any of its parts, for the development of the City, prepared by the Planning Commission and adopted by Council in accordance with the authority conferred by West Virginia Code Article 8-24.

(7) "Council" means the Council of the City.

(8) "County" means the County of Monongalia, West Virginia.

(9) "Crosswalk" means a right of way which cuts across a block to facilitate access to adjacent streets and properties.

(10) "Developer" means any person, partnership or corporation or duly authorized agent who constructs or contracts to construct improvement on subdivided land.

(11) "Easement" means a grant by the property owner for specified use of such land to a corporation, partnership, person or persons or to be public.

(12) "Engineer" means the registered engineer designated by Council.

(13) "Final plat" means the final map, drawing or chart on which the subdivider's plan is presented to the Planning Commission for approval and which, if approved, will be submitted for recording in the office of the County Clerk.

(14) "Flood plain" means that portion of a river or creek valley adjacent to the drainage channel which is periodically covered with water when the river or creek overflows its bank during flood stage.

(15) "Health officer" means the head of the County Health Department.

(16) "Improvement" means a street improvement, with or without curb or gutter, sidewalks, crosswalks, water mains, sanitary and storm sewers, street trees and other appropriate items.

(17) "Location map" means a drawing at a reduced scale which shows legibly, by dimension or other means, enough area beyond the bounds of the proposed subdivision to locate and orient the subdivision within the City and the relationship of the site to the community facilities which serve or influence the property.

(18) "Lot" means a parcel or portion of land separated from other parcels or portions by description, as on a subdivision plat or record of survey map, or by metes and bounds as may be found in deeds, mortgages, leases or similar instruments for the purpose of sale, lease or separate use.

(a) "Corner lot" means a lot abutting upon two or more streets at their intersection.

(b) "Interior lot" means a lot other than a corner lot or a through lot.

(c) "Double" or "reverse frontage lot" means an interior lot bounded by a street on front and back.

(19) "Master plan". See "Comprehensive Plan".

(20) "Neighborhood unit" means an area of sufficient size to permit the design and development of an integrated urban unit containing in addition to a variety of residential types and groupings, its own elementary school, local business district, churches, clubs, recreation area and bounded by arterial highways, major streets or natural physical barriers.

(21) "Major Thoroughfare Plan" means an officially adopted plan, being an element of the Comprehensive Plan, and designating a system of principal or major streets and highways for traffic intercommunication.

(22) "Owner" means any individual, firm, association, syndicate, copartnership, corporation, trust or any other legal entity having sufficient proprietary interest in the land sought to be subdivided to commence and maintain proceedings to subdivide the same under these Subdivision Regulations.

(23) "Park and Recreation Plan" means a long-range plan of parks, playgrounds or other recreation areas adopted by the Planning Commission.

(24) "Plat" means the map, drawing or chart on which the developer's plan of subdivision is presented to the Planning Commission for approval and, after such approval, to the County Clerk for recording.

(25) "Preliminary plan" means the preliminary plan, drawing or chart indicating the proposed layout of the subdivision.

(26) "Reserve strip" means a strip of land controlling access to or egress from other property (including land dedicated to public use) or to or from any street or alley, or having the effect of restricting or damaging the adjoining property for subdivision purposes, or which will not be taxable or assessable for special improvements.

(27) "Right of way" means the strip of land taken or dedicated for use as a public way, measured across from property line to property line. In addition to the roadway, it normally incorporates the curbs, planting strips, sidewalks, lighting and drainage facilities, and may include special features (required by the topography or treatment) as grade separation, landscaped areas, viaducts and bridges.

(28) "Roadway" means the portion of the right of way included between the outside edges of the shoulder.

(29) "Setback line" means a line indicating the minimum horizontal distance between the street easement or right-of-way line and building or any projection thereof other than steps or permanently open porches unless otherwise specifically defined.

(30) "Sidewalk" means that portion of the road right of way, outside the roadway, which is paved for the use of pedestrian traffic. It does not include the planting strip, if any.

(31) "Street", "highway" or "road" means a way for vehicular traffic, whether designated as a street, arterial highway, thoroughfare, parkway, throughway, freeway, road, boulevard, avenue, lane, place or however otherwise designated.

(a) "Controlled access highway" means a divided arterial highway for through traffic with full or partial control of access.

(b) "Primary road" or "arterial highway" means a thoroughfare primarily for through traffic, providing for major movements of traffic within and between urban centers and connecting principal traffic generators within municipalities and important rural routes.

(c) "Secondary road or highway" means a highway which serves interdistrict traffic between urban and rural centers and provides traffic connections between primary roads or major arterial highways.

(d) "Major street" means a local thoroughfare which carries crosstown traffic from several neighborhoods, thereby servicing several residential collector streets.

(e) "Collector street" means a thoroughfare whether within a residential, industrial, commercial or other type of development, which carries traffic from minor streets to arterial highways or major streets, including the principal entrance streets of residential developments and primary circulation routes within such developments.

(f) "Minor local street or road" means a local or neighborhood thoroughfare primarily providing for access to abutting properties.

(g) "Marginal access street" means a minor street which is parallel and adjacent to an arterial street and provides access to abutting properties and protection from major streets, primary roads and arterial highways.

(h) "Cul-de-sac" means a minor street of relatively short length with only one outlet and terminating in a vehicular turnaround.

(i) "Loop street" means a U-shaped street or court.

(j) "Alley" means a minor way which is used primarily for vehicular service access to the back or the side of properties otherwise abutting on a street.

(32) "Subdivider" means any individual, firm, association, syndicate, copartnership, corporation, trust or any other legal entity commencing proceedings under these Subdivision Regulations to effect a subdivision or land hereunder for himself or for another.

(33) "Subdivision" means all divisions of a tract or parcel of land divided into two or more lots, building sites or other divisions for the purpose, whether immediate or future, of sale, legacy or building development, and shall include all divisions of land involving the opening or construction of a new street or change in existing streets; provided, however, that the following shall not be included within this definition:

(1) The division of land into parcels greater than five acres where no street right of way dedication is involved.

(2) The public acquisition of strips of land for the widening or opening of streets.

A "resubdivision" of land, that is, a replatting or any adjustment in property lot lines, which combines lots or creates new lots by other means, shall constitute a subdivision under the meaning of this definition.

(1967 Code Sec. 30-9.)

ARTICLE 1315
Administration

1315.01 Recording of plat.
1315.02 Revision of plat after approval.
1315.03 Fees.
1315.04 Sale of land in subdivisions prior to plan or plat approval.
1315.05 Issuance of permits prior to plat approval.
1315.06 Large scale development.
1315.07 Variances and modifications.
1315.08 Amendments.
1315.99 Penalties.

CROSS REFERENCES

Application fees - see W. Va. Code 8-24-32
Review of decisions of Commission - see W. Va. Code 8-24-38
Enforcement - see W. Va. Code 8-24-66 et seq.

1315.01 RECORDING OF PLAT.

No plat of any subdivision shall be entitled to record in the office of the County Clerk or have any validity until it shall have been approved in the manner prescribed herein. In the event any such unapproved plat is recorded, it shall be considered invalid, and the Planning Commission shall institute proceedings to have the plat stricken from the records of the County. (1967 Code Sec. 30-52.)

1315.02 REVISION OF PLAT AFTER APPROVAL.

No changes, erasures, modification or revisions shall be made in any plat of a subdivision after approval has been given by the Planning Commission, and endorsed in writing on the plat, unless the plat is first resubmitted to the Commission. (1967 Code Sec. 30-53.)

1315.03 FEES.

(a) At the time of submitting a preliminary plan the subdivider shall pay a filing fee, and the amount of such fee shall be determined from the following schedule:

Subdivision Fees

Preliminary plat review	Seventy-five dollars ($75.00) plus two dollars ($2.00) per lot.
Final plat	One hundred dollars ($100.00) plus one dollar ($ 1.00) per lot.
Minor subdivisions	Thirty dollars ($30.00) (up to three lots).

(Ord. 90-13. Passed 5-1-90.)

(b) The filing fee shall be paid in legal tender or by certified check or money order made payable to the City and deposited in the General Fund by the Finance Director.

(c) In the event that a plat is disapproved before any physical inspection has been made of the site, the Planning Commission may, at its discretion, order that the developer be refunded the filing fee.

(d) In addition to the filing fee, the subdivider shall be charged a fee by the Engineer for the cost of determinations and inspections of all improvements which fall under his jurisdiction.

(1) The amount of deposit and method of payment shall be as required by the Engineer, who shall issue a schedule of charges for the purpose of covering the costs of determinations and inspections.

(2) The determination and inspection shall be for all time spent by the Engineer or his duly authorized representative in checking the subdivider's improvements.

(1967 Code Sec. 30-54.)

1315.04 SALE OF LAND IN SUBDIVISIONS PRIOR TO PLAN OR PLAT APPROVAL.

No owner or agent of the owner of any land located within a subdivision shall transfer, sell, agree to sell or negotiate to sell any land by reference to, exhibition of or by the use of a plan or plat of a subdivision before such plan or plat has been approved and recorded in the manner prescribed herein. Any sale or transfer contrary to the provisions of this section is void. The description of such lot or parcel by metes and bounds in the instrument of transfer or other documents used in the process of selling or transferring shall not exempt the transaction from the provisions of these Subdivision Regulations.

(1967 Code Sec. 30-55.)

1315.05 ISSUANCE OF PERMITS PRIOR TO PLAT APPROVAL.

(a) Building or repair permits shall not be issued for any structure on a lot in a subdivision for which a plat has not been approved and recorded in the manner prescribed herein.

(b) No owner or agent of the owner of any land shall be entitled to a permit for the installation of wells and septic tanks upon any lots in a subdivision for which a plat has not been approved and recorded in the manner prescribed herein.

(1967 Code Sec. 30-56.)

1315.06 LARGE SCALE DEVELOPMENT.

The standards and requirements of these Subdivision Regulations may be modified by the Planning Commission in the case of a plan or progress for a new town, a complete community or a neighborhood unit, which in the judgment of the Commission provides adequate public space and improvements for the circulation, recreation, light, air and service needs of the tract when fully developed and populated, and which also provides such covenants or other legal provisions as will assure conformity to and achievement of the plan.

(1967 Code Sec. 30-57.)

1315.07 VARIANCES AND MODIFICATIONS.

Where the subdivider can show that a provision of these Subdivision Regulations would cause unnecessary hardship if strictly adhered to and where, in the opinion of the Planning Commission, because of topographical or other conditions peculiar to the site, a departure may be made without destroying the intent of such provision, the Commission may authorize a variance. In granting variances and modifications the Commission may require such conditions as will, in its judgment, secure substantially the objective of the standards or requirements so varied or modified. Any variance or modification thus authorized is required to be entered in writing in the minutes of the Commission and the reasoning on which the departure was justified shall be set forth.
(1967 Code Sec. 30-58.)

1315.08 AMENDMENTS.

All amendments to these Subdivision Regulations shall be in conformance with West Virginia Code 8-24-18 through 8-24-22, as amended; except, that if Council desires an amendment it may direct the Planning Commission to prepare an amendment in accordance with West Virginia Code 8-24-23.
(1967 Code Sec. 30-59.)

1315.99 PENALTY.

Any person who violates any provision of this chapter shall be fined not less than ten dollars ($10.00) nor more than three hundred dollars ($300.00).
(1967 Code Sec. 30-60.)

ARTICLE 1317
Preliminary Plat

1317.01 Preapplication procedure; sketch plan.
1317.02 Filing of preliminary plat.
1317.03 Sewage disposal.
1317.04 Location map.
1317.05 Horizontal scale.
1317.06 Contents of preliminary plat.
1317.07 Supplementary information.
1317.08 Approval of preliminary plat.

CROSS REFERENCES

Approval required prior to recordation - see W. Va. Code 8-24-28 et seq.
Plat and plan defined- see P. & Z. 1313.01
Recording of plat - see P. & Z. 1315.01
Revision of plat after approval - see P. & Z. 1315.02

1317.01 PREAPPLICATION PROCEDURE; SKETCH PLAN.

Previous to the filing for tentative approval of the preliminary plat the subdivider shall submit to the Planning Commission a sketch plan.

The purpose of this stage is to discuss early and informally the purpose and effect of these Subdivision Regulations and to familiarize the developer with the Comprehensive Plan, official highway plans for the City and County, zoning and other Municipal and County planning projects, drainage, sewage, water systems and similar standards, requirements and plans.

The sketch plan shall be clearly and legibly drawn by mechanical means or freehand. The map shall be drawn at a scale of one inch equals 100 feet except that a scale of one inch equals 200 feet may be used for tracts in excess of 100 acres.
(1967 Code Sec. 30-10.)

1317.02 FILING OF PRELIMINARY PLAT.

Before any subdivider, or his agent, contracts for the sale of, or offers to sell, any subdivision of land or any part thereof which is under the jurisdiction of the Municipality, the subdivider or his agent shall file a preliminary plat of such subdivision with the Planning Commission.

An application, in writing, for the tentative approval of the plat, together with six copies of the plat, shall be filed with the Commission at least two weeks before the regular meeting of the Commission at which the plat is to be acted upon. The plat shall be prepared in accordance with the regulations set forth herein, and shall be submitted to the Commission prior to the completion of final surveys of roads and lots and before the start of any grading or construction work upon the proposed roads or streets and before any map of such subdivision is made in form suitable for recording. The Commission shall determine whether a tentative map is in proper form and shall not receive and consider such a map as filed until it is submitted in accordance with the requirements hereof. The staff of the

Commission shall distribute a copy of the plat to the City Engineer. Where the plat covers only a part of the subdivider's entire holding, a sketch of the prospective future system of the unsubmitted part shall be considered in the light of adjustments and connections with the road system of the part not submitted.
(1967 Code Sec. 30-11.)

1317.03 SEWAGE DISPOSAL.

The subdivider in a letter accompanying the request for preliminary approval of a subdivision shall state the kind and type of sewage disposal treatment he proposes to use. If other than a sewage treatment plant, it shall be accompanied by a letter from the County Health officer stating what type of sewage disposal will be approved for the soil conditions encountered in the area of the proposed subdivision.

If a housing development or a shopping center, other commercial or industrial development is proposed to be built, a central sewage treatment plant and a central water system must be constructed by the developer when deemed necessary by the Planning Commission and County Health Officer.
(1967 Code Sec. 30-12.)

1317.04 LOCATION MAP.

A vicinity map at a scale of not more than 800 feet to the inch shall be shown on, or accompany, the preliminary plat. This map shall show all existing subdivisions, roads and tract lines with the names of the owners of land immediately adjoining the proposed subdivision and between it and the nearest existing thoroughfares. It shall also show how roads in the proposed subdivision may connect with existing and proposed roads in neighboring subdivisions or undeveloped property to produce the most advantageous development.
(1967 Code Sec. 30-13.)

1317.05 HORIZONTAL SCALE.

The horizontal scale of a preliminary plat shall be fifty or 100 feet to the inch on a standard sheet size of thirty-one by forty-one inches or sixteen by twenty-one inches.
(1967 Code Sec. 30-14.)

1317.06 CONTENTS OF PRELIMINARY PLAT.

The preliminary plat, consisting of one or more sheets, shall show:

(a) The proposed name of the subdivision.
(b) North point, scale and date.
(c) The names and addresses of the subdivider and of the site planning engineer or surveyor.
(d) The tract designation and other description according to the real estate records of the tax map office.
(e) The boundary line (accurate in scale) of the tract to be subdivided.
(f) Contours at intervals of five feet or less, referred to sea level datum, for subdivisions over ten acres, and for others when required by the Engineer.
(g) The location, widths and names of all existing or platted roads or other public ways within or adjacent to the tract, existing permanent buildings, railroad rights of way and other important features, such as lot lines, political subdivisions or corporation lines.
(h) The names of adjacent subdivisions or the names of record owners or adjoining parcels of unsubdivided land.
(i) Existing and proposed sewers, water mains, fire hydrants, culverts or other underground structures within the tract and immediately adjacent thereto with pipe sizes, grades and locations indicated.

(j) All parcels of land intended to be dedicated for public use or reserved in the deeds for the use of all property owners in the proposed subdivision, together with the purpose of conditions or limitations of such reservation, if any.
(k) The layout, names and widths of proposed roads and easements.
(l) The building line proposed for each street or road.
(m) The profile of each road with tentative grade. Sea level datum shall be used.
(n) The cross section of proposed roads showing the width of roadways, ditches, locations and width of sidewalks and the location and size of utility mains.
(o) A plan and profile of proposed storm water drainage, with grades and pipe sizes of sewers indicated, and drainage courses, culverts and bridges.
(p) The layout, numbers and approximate dimensions of proposed lots.
(1967 Code Sec. 30-15.)

1317.07 SUPPLEMENTARY INFORMATION.

(a) Statement of the proposed use of lots, stating type of residential buildings with number of proposed dwelling units; type of business or industry; so as to reveal the effect of the development on traffic, fire hazards or congestion of population.

(b) Proposed covenants and restrictions.

(c) Evidence of an adequate source of water supply.

(d) Statement outlining method to be used and provisions to be made for sewage disposal, drainage and flood control.

(e) If any zoning changes are contemplated by the subdivider, the proposed zoning should be outlined and described.

(f) After receiving notice of the approval of the preliminary plat and prior to the filing of the final plat the subdivider shall present to the Planning Commission typical sections and complete profiles of streets and other related improvements to be constructed in the proposed subdivisions prepared by a registered engineer. The Commission shall, within five working days after the filing of the above typical sections and complete profiles, transmit copies of same to the Engineer for study and final recommendations. The Commission, after receiving a report from the aforementioned officials, shall notify the subdivider of any recommended changes or suggestions so that the subdivider may prepare the final improvement plans and final plat.
(1967 Code Sec. 30-16.)

1317.08 APPROVAL OF PRELIMINARY PLAT.

The following qualifications govern approval of the preliminary plat:

(a) Following review of the preliminary plan and other material submitted for conformity to these Subdivision Regulations and negotiations with the subdivider on changes deemed advisable and the kind and extent of improvements to be made by him, the Planning Commission shall, within forty days, give its acceptance or return the plat to the subdivider with suggestions for changes.

(b) After the Commission has given acceptance, it shall set a date for a hearing, notify the applicant in writing, and notify by general publication or otherwise, any person or governmental unit having a probable interest in the proposed plat. The cost of publication of the notice of hearing shall be met by the applicant.

(c) Following the hearing on the plat, the Commission shall notify the applicant in writing that it has conditionally approved the plat, or will advise the applicant of any further changes in the plat which are desired or should have consideration before approval will be given. If the plat is disapproved, the Commission shall give its reasons therefor.

(d) The action of the Commission shall be noted on the copies of the plat, referenced and attached to any conditions determined. one copy shall be returned to the subdivider and one copy retained by the Commission.

(e) Conditional approval of a preliminary plat shall not constitute approval of the final plat. Rather it shall be deemed on expression of approval of the layout submitted on the preliminary plat as a guide to the preparation of the final plat, which will be submitted for approval of the Commission and for recording upon fulfillment of the requirements of these Regulations and the conditions of the conditional approval.

(f) Approval of the engineering details of the proposed roads, sewer and water systems and other proposed public facilities by the Engineer and County Health officer will be required prior to the approval of the final plat by the Commission.

(g) No streets shall be opened, graded, improved or constructed; no water or sewer line shall be constructed; nor shall permits be issued for any proposed structure upon any land in a subdivision until conditional approval of the subdivision has been granted by the Commission in accordance with the provisions of these Regulations.

(h) Conditional approval shall be effective for a maximum period of twelve months unless, upon application of the developer the Commission grants an extension. If the final plat has not been recorded within this time limit, the preliminary plat must again be submitted to the Commission for approval.

(1967 Code Sec. 30-17.)

ARTICLE 1319
Final Plat

1319.01	Procedure for approval of final plat.	1319.03	Other exhibits required.
1319.02	Final plat requirements.	1319.04	Recording of final plat.
		1319.05	Offer of dedication.

CROSS REFERENCES

Record in County Clerk's office - see P. & Z. 1315.01
Revision of plat after approval - see P. & Z. 1315.02
Sale of land prior to plat approval - see P. & Z. 1315.04
Issuance of permits prior to plat approval - see P. & Z. 1315.05

1319.01 PROCEDURE FOR APPROVAL OF FINAL PLAT.

(a) After approval of the preliminary plans by the Planning Commission and the fulfillment of the requirements of these Subdivision Regulations and any other requirements specified by the Commission the final plat can then be submitted to the Commission for approval. The final subdivision plan shall be clearly and legibly drawn in ink on tracing cloth of good quality or on mylar, .003 inch thick. The scale shall be fifty or 100 feet to the inch, on one or more standard-size sheets of thirty-one by forty-one inches or sixteen by twenty-one inches. Marginal lines shall be drawn around the entire sheet, leaving a margin of one inch from the edge of the sheet. If more than one sheet is needed, each sheet shall be numbered, the relation of one sheet to another clearly shown, and the number of sheets used shall be set forth in the title of the plat.

(b) A vicinity sketch of key map at a scale of 800 feet to the inch shall be shown on or accompany the preliminary plat. This map shall show the position of the subdivision with relation to the surrounding streets, properties and subdivisions.

(c) Application for approval of the final plat shall be submitted in writing to the Commission at least fifteen days prior to the meeting at which it is to be considered .

(d) The original and four copies of the final plat and other exhibits required for approval shall be prepared as specified in this section and Section 1319.02 and shall be submitted to the Commission within twelve months after conditional approval of the preliminary plat; otherwise, such approval shall become null and void. An extension of time may be granted by the Commission.

(e) When the final plat is submitted to the Commission, it shall be accompanied by a notice from the City Manager stating that there has been filed and approved by him, one of the following:

(1) A certificate that all improvements and installations for the subdivision required for its approval have been made or installed in accordance with specifications; or

(2) A bond which shall:

A.. Run to Council.

B. Be in an amount determined by the Commission to be sufficient to complete the improvements and installations in compliance with these Regulations.

C. Be with surety satisfactory to the Commission.

D. Specify the time for the completion of the improvements installations.

If a bond is filed, its amount may be reduced in stages subject to the certification of completed improvements.

(f) Upon the completion of the improvements and installations required of a subdivider for the approval of a final plat, and prior to the acceptance thereof for public maintenance by Council or, if applicable, to any other governmental unit, the subdivider shall provide a three year maintenance bond which shall:

(1) Run to Council and, if applicable, to any other governmental unit having a legal responsibility for the maintenance of the improvements and installations.

(2) Be in an amount equal to twenty percent (20%) of the cost of such improvements and installations as estimated by the Commission.

(3) Provide surety satisfactory to the Commission.

(4) Warrant the workmanship and all materials used in the construction, installation and completion of such improvements and installations to be of good quality and have been constructed and completed in a workmanlike manner in accordance with the standards, specifications and requirements of these Regulations and the satisfactory plans and specifications therefor.

(5) Provide that for a period of three years after such installations and improvements have been completed or are accepted for public maintenance by any appropriate governmental unit or agency thereof, the subdivider will at his own expense make all repairs to such improvements and installations, or the foundations thereof, which may become necessary by reason of improper workmanship or materials with such maintenance, however, not to include any damage to such improvements and installations resulting from forces or circumstances beyond the control of such subdivider or occasioned by the inadequacy of the standards, specifications or requirements of these Regulations.

(g) Within a reasonable time after application for approval of the final plat, the Commission shall approve or disapprove it. If the Commission approves, it shall affix the Commission's seal upon the plat, together with the certifying signature of its president and secretary. If it disapproves, it shall set forth the reasons for such disapproval in its own records and provide the applicant with a copy.
(1967 Code Sec. 30-18.)

1319.02 FINAL PLAT REQUIREMENTS.

The final plat shall be drawn in ink on linen or permanently reproducible material. The scale shall be fifty or 100 feet to the inch, on one or more standard size sheets of thirty-one by forty-one inches or sixteen by twenty-one inches. The following information shall be shown:

(a) Name of the subdivision; location by appropriate legal description, date, north point, graphic and numerical scale and total acreage.

(b) All plat boundaries with length of courses in feet and hundredths, bearing to not more than half minutes.

(c) Bearings and distances to the nearest established street lines or other recognized permanent monuments, which shall be accurately described on the plat.

(d) Lines of adjoining streets and alleys with their widths and names plus building setback lines.

(e) The radii, arcs, chords and chord bearings, points of tangency and central angles for all curvilinear streets and radii for rounded corners.

(f) All easements and rights of way provided for public services or utilities, and any limitations of such rights of way or easement.

(g) All lot numbers and lines, with accurate dimensions in feet and hundredths, and with bearings. The basis of bearings shall be stated on plat. The acreage of each lot shall be indicated.

(h) Accurate location and description of all monuments.

(i) Names and addresses of the subdivider and the qualified surveyor who prepared the plan.

(j) Accurate outlines of any areas to be dedicated or temporarily reserved for public use with the purpose indicated thereon.

(k) Vicinity map of area within one-half mile radius.

(l) Restrictions of all types which will run with the land and become covenants in deeds for lots.

(m) The following certifications, copies of which are included in the appendix to these Regulations, must be labeled and completed on the final plat:

(1) Engineer's certificate.

(2) Commission certificate.

(3) Deeds of dedication.

(1967 Code Sec. 30-19.)

1319.03 OTHER EXHIBITS REQUIRED.

The other exhibits which may be on one or more sheets shall show the following:

(a) If a zoning change is involved, certification from the City Clerk shall be required indicating that the change has been approved and is in effect.

(b) The final locations as constructed of all storm sewer and sanitary sewer lines, including service lines to each property line. All locations shall be referenced to the property line.

(c) Dimensions and location of all paving, curbs and public sidewalks.

(d) Final grades and profiles of all streets and sewers, when required.

(e) Draft of protective covenants whereby the subdivider proposes to regulate land use in the subdivision and otherwise protect the proposed subdivision.

(f) Certificate of a registered professional civil engineer that all improvements have been constructed in accordance with the standard specifications of the City.

(1967 Code Sec. 30-20.)

1319.04 RECORDING OF FINAL PLAT.

After approval of final plat by the Planning Commission such plat shall be recorded in the office of the County Clerk within thirty days after such approval. An extension of time may be granted by the Commission in unusual circumstances.
(1967 Code Sec. 30-21.)

1319.05 OFFER OF DEDICATION.

Recording of the final plat shall have the effect of an irrevocable offer to dedicate all streets and other public ways shown thereon to public use, unless a notation is placed on the final plat by the subdivider stating that there is no offer of dedication and to dedicate or reserve as specified on the plat land for parks, schools or other public purpose; recording of the plat, however, shall not impose any duty on the Municipality concerning improvement or maintenance of any such dedicated streets or lands, until the proper authorities of the City have made actual appropriation of same through legal action.
(1967 Code Sec. 30-22.)

ARTICLE 1321
Design Standards

1321.01	General provisions.	1321.05	Blocks.
1321.02	Streets.	1321.06	Lots.
1321.03	Alleys.	1321.07	Public lands.
1321.04	Building lines and easements.	1321.08	Trees.

CROSS REFERENCES

Certain trees prohibited - see S.U. & P.S. Art. 917
Variances - see P. & Z. 1315.07
Street design and classification standards - see S.U. & P.S. Art. 909

1321.01 GENERAL PROVISIONS.

The arrangement, character, extent, width and location of major, secondary and minor streets and highways shall conform with the Major Thoroughfare Plan for the City which is on file in the office of the City Manager and with the provisions of these Subdivision Regulations. Streets not contained in the Major Thoroughfare Plan should conform to the recommendation of the Planning Commission based on existing and planned streets, topography, public safety and convenience and proposed uses of land.

Planned unit type development is encouraged by the Commission. Where large subdivisions designed on the basis of neighborhood units are being reviewed, consideration will be given to the placement of commercial areas and public areas, in relation both to the neighborhood unit being developed and to other units that might be developed. Where small subdivisions are being reviewed, the Commission shall coordinate such subdivisions, to the extent practicable, into units so that the same relationship with respect to commercial areas and public areas may be realized. These design standards shall be required in all areas except where special provisions are made for planned unit developments and for hillside area in excess of sixteen percent (16%) of slope. Exceptions to the provisions in this article which are made for hillside development are specified in Article 1325 and for planned unit developments in Article 1327.
(1967 Code Sec. 30-23.)

1321.02 STREETS.

(a) Design and Arrangement.

(1) The arrangement of streets in new subdivisions shall make provision for the continuation of the principal existing streets in adjoining areas (or their proper projection where adjoining land is not subdivided) insofar as they may be deemed necessary for public requirements. Every subdivision shall have access to a public right of way.

(2) The street and alley arrangement shall be such as not to cause hardship to owners of adjoining property when they plat their own land and seek to provide for convenient access to it. Residential streets shall be so designed as to discourage through traffic, but offset streets with an offset of less than 150 feet should be avoided.

(3) The angle of intersection between minor streets and major streets should not vary by more than ten degrees from a right angle. All other streets should intersect each other as near to a right angle as possible.

(4) The minimum curb radius shall be twenty feet to face of curb. Without curb the minimum pavement radius shall be thirty feet to edge of pavements. Curb and gutter shall be required for all areas of fifteen percent (15%) or greater slope.

(5) Residential streets shall be designed to discourage through traffic which may otherwise use secondary or major highways, and whose origin and destination are not within the subdivision. Residential streets extending for considerable distance, parallel to any secondary or major street, should be avoided.

(6) Street jogs with center line offsets of less than 150 feet shall be avoided.

(b) Alignment.

(1) Vertical. For main thoroughfares, profile grades shall be connected by vertical curves of a minimum length equivalent to twenty times the algebraic difference between the rates of grade, expressed in feet per 100; for secondary and minor streets and alleys, fifteen times.

(2) Minimum horizontal. The radii of centerline curvature:

	Degrees	Feet
Primary thoroughfare	15	475
Secondary thoroughfare	19	300
Minor streets	20	200
Streets shorter than 500 feet	58	100

A minimum fifty foot tangent shall be introduced between reverse curves on secondary and minor streets and 100 feet on primary thoroughfares .

(3) Visibility requirements.

A. Minimum vertical visibility (measured four and one-half feet eye level to tail light eighteen inches above ground level).

500 feet on primary thoroughfares
300 feet on secondary thoroughfares
200 feet on minor streets
100 feet on streets shorter than 500 feet.

B. Minimum horizontal visibility shall be:

500 feet on main thoroughfares measured on centerline
300 feet on secondary thoroughfare measured on centerline
200 feet on all other streets measured on centerline.

C. A clear sight triangle shall be provided at all street intersections. Within such triangle no vision obstruction objects shall be permitted which exceed a height of thirty inches above the elevation of the abutting streets. Such sight triangles shall be established from a distance of:

1. 100 feet from point of intersection of the street center lines for major streets and
2. 75 feet from point of intersection of the street center lines for primary streets and
3. 50 feet from point of intersection of the street center lines for all other streets.

(c) Street Type and Width.

(1) Width of major thoroughfares. The width of all major thoroughfares shall conform to the width designated on the Major Thoroughfare Plan of the City.

(2) Minimum right of way. The minimum right-of-way widths of all collector streets shall be sixty feet.

(3) Width of local streets. The minimum width of local streets serving single-family dwellings, townhouses and semi-detached houses shall be fifty feet and the pavement width shall be twenty-eight feet, except where there are unusual topographical or other physical conditions, the Planning Commission may permit a lesser width for a local street. The minimum width of local streets serving apartment dwellings shall be sixty feet and the pavement width shall be thirty-six feet.

(4) Location. When a proposed subdivision is adjacent to or contains a State highway, the Commission will seek information from the Commissioner of Highways as to the status of the highway in reference to width and direction, and also to access of such highway.

(5) Half streets. Dedication of new half streets shall not be permitted. Where a dedicated or platted half street or alley exists adjacent to the tract being subdivided, the other half shall be platted, if deemed necessary by the Planning Commission.

(6) Cul-de-sacs. Each cul-de-sac shall be provided with a turnaround having a minimum right-of-way radius of fifty feet. The outside of the road surface within the turnaround right of way shall have a minimum radius of thirty-eight feet. The maximum length for a cul-de-sac shall be 600 feet except where topographical conditions require a longer length which shall be subject to the approval of the Commission.

(7) Dead-end streets. Dead-end streets, designated to be so permanently, shall not be permitted. Any dead-end street of a temporary nature, if longer than 200 feet or fronted by existing lots, shall have a surfaced turning area equal in diameter to the right-of-way width of such street at its termination.

(8) Marginal access streets.

A. Where a subdivision adjoins a major street, and the greater dimension of the block fronts along such major street or highway, a marginal access street shall be designed to provide access to subdivided parcels. Points of access to the major street or highway shall be kept to a minimum interval of 300 feet.

B. A planting strip of minimum width of twenty feet shall be provided between the pavement of the major street or highway and the pavement of the marginal access street.

C. The minimum width of the marginal access street shall be thirty feet.

(9) Street grades. Street grade shall not exceed the following with due allowances for reasonable vertical curves:

	Desirable (Percent)	Maximum (Percent)
Primary thoroughfare	6	8
Secondary thoroughfare	8	10
Minor streets and alleys	10	13
Streets shorter than 500 feet and cul-de-sacs	12	15

(10) Street and subdivision names. The proposed name of the subdivision and proposed street names shall not duplicate or too closely approximate, phonetically, the name of any other subdivision or street in the area covered by these Subdivision Regulations. Proposed streets which are obviously in alignment with existing streets or are extensions of existing streets shall bear the name of the existing street. All street names shall be subject to approval by the Municipality or Commission. (1967 Code Sec. 30-24.)

1321.03 ALLEYS.

Alleys should be avoided in single or two-family districts. They may, however, be required in multiple dwelling developments where they should have a minimum width of twenty feet. Alleys are required in the rear of all commercial and industrial lots, if no other provisions are made for adequate service access or for parking. The rights of way of such alleys shall not be less than forty-five feet and dead-end alleys shall not be permitted. (1967 Code Sec. 30-25.)

1321.04 BUILDING LINES AND EASEMENTS.

(a) Building Lines. Building lines shall be established according to the provisions of the Zoning Ordinance of the City.

(b) Easements. Easements of at least five feet in width shall be provided on each side of all rear lot lines and along side lot lines, where necessary, for poles, wires, conduits and gas mains. Easements may also be required along or across lots where engineering design or special conditions may necessitate the installation of water and sewer lines outside public rights of way. A two-foot easement shall be required on one side of an alley to accommodate pole lines. (1967 Code Sec. 30-26.)

1321.05 BLOCKS.

(a) No block shall be longer than 1,320 feet nor less than 500 feet, except in unusual circumstances. Where a subdivision adjoins a major highway, the greater dimension of the block shall front along such major highway to minimize the number of points of ingress or egress.

(b) Where blocks are over 750 feet in length a crosswalk easement not less than ten feet in width on or near the halfway point may be required, if necessary to provide proper access to schools, playgrounds, shopping centers and other facilities. (1967 Code Sec. 30-27.)

1321.06 LOTS.

(a) The lot arrangement and design shall be such that all sublots will provide satisfactory and desirable building sites, properly related to topography and the character of surrounding development.

(b) All side lines of lots shall be at right angles to street lines and radial to curved street lines except where a variation to this rule will provide a better street and lot layout. Lots with double frontage except when paralleling major highways will be avoided.

(c) No lot shall have less area or width at the building line than is required by the zoning regulations applying to the area in which it is located.

(d) "Panhandle lots" or "flag lots" may be permitted where topographic conditions or property configurations indicate such lots to be necessary and desirable provided that the main portion of the lot conforms to the requirements of the Zoning Ordinance.

(e) In case of unusual soil conditions or other physical factors which may impair the health and safety of the neighborhood in which a subdivision may be located, upon recommendation of the County Health Officer or Engineer, the Planning Commission may require larger lot widths and lot areas as deemed necessary .

(f) No corner lot shall have a width at the building line of less than seventy-five feet. Either of the two sides of a corner lot fronting on a street may be designated the front of a lot, provided the rear yard shall always be opposite the frontage so designated. Dwellings may be placed diagonally on a corner lot in which case the frontage shall be on both streets.

(g) The corners of lots at street intersections, shall have a curve with a minimum radius of twenty feet joining the two sidelines of such rights of way.
(1967 Code Sec. 30-28.)

1321.07 PUBLIC LANDS.

(a) Consideration shall be given to the allocation of areas suitably located and of adequate size for playgrounds, school sites, parks and other outdoor recreational facilities as indicated on the Comprehensive Plan and to be made available by one of the following methods:

(1) Dedication to public uses.
(2) Reservation of land for the use of property owners by deeds or covenants.
(3) Reservation for acquisition by a public agency within a period of three years. Such reservation shall be made in such a manner as to provide for a release of the land to the subdivider in the event no public agency proceeds with the purchase.

(b) Due regard shall be shown for preserving outstanding cultural, historic or natural features such as scenic spots, watercourses or exceptionally fine groves of trees. Dedication to and acceptance by a public agency is the preferred means of assuring their preservation.

(c) Whenever any stream or important surface drainage course is located within the area being subdivided the subdivider shall provide a permanent easement dedicated to the proper authority for the purpose of widening, deepening, relocating, improving or protecting the stream for drainage or public use.

(d) As a safety measure for the protection of the health and welfare of the people of this City, the Planning Commission shall reserve the right to disapprove any subdivision which is subject to flooding, during normal annual peak stream flows, contains extremely poor drainage facilities or has other physical impairment. However, if the subdivider agrees to make such improvements as will make the area completely safe for residential occupancy, provided that in lieu of the improvements the subdivider shall furnish a surety bond or a certified check covering the cost of the required improvements, the subdivision may be approved, subject, however, to the approval of the County Health Officer and the Engineer.
(1967 Code Sec. 30-29.)

1321.08 TREES.

Street trees when planted shall be located outside of the street right of way or any sewer or water easements that may be adjacent to the street right of way and planted in such manner as not to impair visibility at any corner or corners. All subdividers or developers should retain existing trees which are in satisfactory condition and plant trees in each lot. The Planning Commission will cooperate in giving advice on species of trees which are acceptable for planting (See Table 1367.11.01 "Approved Street Tree and Shrub List").
(Ord. 09-27. Passed 7-7-09.)

ARTICLE 1323
Improvements

1323.01 Requirements generally.
1323.02 Monuments.
1323.03 Utility and street improvements.

CROSS REFERENCES
Street improvements - see S.U. & P.S. Art. 911
Conditional approval of subdivision - see W. Va. Code 8-24-34
Certificates, bonds required - see P. & Z. 1319.01

1323.01 REQUIREMENTS GENERALLY.

These minimum required improvements shall be required in all areas except where special provisions are made for hillside areas in excess of sixteen percent (16%) of slope. Any exceptions to the provisions in this section which are made for hillside development are specified in Article 1325.

Prior to the granting of final approval the subdivider shall have installed or shall have furnished a performance bond for the amount of the estimated construction cost of the ultimate installation of improvements listed and described herein. The performance bond or cash deposit submitted to the office of the City Manager will assure the City that the subdivider, his heirs, successors and assigns, their agent or servants will comply with all applicable terms, conditions, provisions and requirements of these Subdivision Regulations; and will faithfully perform and complete the work of constructing and installing such facilities or improvements in accordance with such laws and regulations. Before such bond is accepted it shall be approved by the proper administrative officials.

The subdivider or developer shall submit a set of construction plans for the improvement of the road, street or alley, prepared by a registered professional engineer. The construction plans shall include title of plan, typical sections, plan and profile view, miscellaneous engineering details and estimate of quantities. Cross sections will be submitted upon request by the Engineer. All typical sections and major engineering details to be used on any particular road, street or alley shall be approved in advance by the Engineer or his representative before .completion of the plans. When the subdivider or developer submits for approval a construction plan for street improvements for a part of a proposed subdivision area, preliminary street grades and proposed drainage facilities for the entire subdivision area shall also be presented.

When deemed desirable the Engineer or his representative may require the construction or vacation of part or all of any intersecting roads, streets or alleys in order to assure that no hardship or added expense be endured by abutting property owners or the County at some future date.

All of the required improvements shall be made in full compliance with the specifications for each of the various units of work as required by the Engineer or the County Health Officer, according to the nature of the improvements. Upon final approval of the construction plans, two sets of the prints will be required for the use of the Engineer. (1967 Code Sec. 30-31.)

1323.02 MONUMENTS.

Permanent markers shall be placed at all corners where permanent corners do not exist, if practical, otherwise as directed by the Engineer. These shall be permanent markers made of concrete at least two feet long and six inches square or six inches in diameter, with appropriate markings on top. The location and description of each of these markers shall be shown on the subdivision plat.
(1967 Code Sec. 30-32.)

1323.03 UTILITY AND STREET IMPROVEMENTS.

(a) Water Supply.

(1) Public water supply. The subdivider shall provide the subdivision with a complete water main supply system, which shall be connected to a municipal or community water supply approved by the City Water Commission, except that when such municipal or community water supply is not available, the subdivider shall provide an individual water supply on each lot in the subdivision in accordance with minimum requirements of the County Health Department.

(2) Plans for water supply systems. The plans for the installation of a water main supply system shall be provided by the subdivider and approved by the City Water Commission and the County Health Department. The water main supply system shall not be installed until the plans for the system have been approved, in writing, by the City Water Commission. Upon the completion of the water supply installation, the plans for such system as built shall be filed with the Planning Commission.

(3) Private water supply.

A. Test wells. Where public water supply is not available at least one test well shall be made in the area being platted for each 100 lots or each twenty-five acres of area, whichever is the smaller. In cases where copies of the logs of existing wells located within the area being platted are available, this may be submitted in lieu of making test wells. Test wells shall be at least twenty-five feet in depth and shall produce safe potable drinking water at a rate of not less than five gallons per minute per family.

A copy of the well log, which shall include the name and address of the well driller, shall be submitted with the plat to the Commission.

B. Location and construction of individual private wells. Individual private wells shall be located at least twenty-five feet from property lines; seventy-five feet from all septic tanks; approximately 100 feet from all tile disposal fields and other sewage disposal facilities; ten feet from all cast iron sewer lines; thirty feet from any vitrified sewer tile lines; and shall not be located within any flood plain.

As a precaution against seepage, a water-tight seal shall be provided around the pump mounting. All abandoned wells shall be sealed in a manner that will render them water-tight.

In all cases where it has been determined that individual water supplies from private wells are not feasible, a public water distribution system will be required.

(b) Sanitary Sewage Disposal.

(1) Types of installation. The subdivider shall provide the highest type of sanitary sewage disposal facility consistent with the existing soil, physical and other geological conditions. The following types of sanitary sewage disposal facilities are listed in order of desirability:

A. Public sanitary sewer and treatment plant system;

B. Community sanitary sewer system with a temporary sewage treatment plant;

C. Capped sewers with temporary, approved on-site facilities; and

D. Septic tank with tile field.

(2) Sanitary sewers. If a subdivision can be reasonably served by the extension of an existing public sanitary sewer, as determined by the Commission, the subdivider or developer shall provide a system of sanitary sewer mains and shall provide lateral connections for each lot. Whenever main lines are installed, sewer and water shall be extended to property lines. Connections to public sanitary sewer lines shall be subject to the approval of and according to the specifications of the Engineer.

(3) On-site sewage disposal facilities. All lots which cannot be connected with a public or community sanitary sewage disposal system at the time of construction of a principal building shall be provided with an on-site sanitary sewage disposal system consisting of septic tanks connected with a tile disposal field, and which shall, as a minimum requirement, meet the design standards of the State Department of Health. If on-site sanitary sewage disposal facilities are to be utilized, the Commission may require that the subdivider submit a report relative to economic feasibility of off-site sewage disposal if the Commission considers that the proposed on-site facilities are not the highest type consistent with existing soil, physical and geological conditions. Such report shall compare the cost of providing such facilities and the cost of providing such higher type of facility as the Commission shall specify. Where on-site sanitary sewage disposal facilities are to be utilized, each lot so served shall be of a size and shape to accommodate the necessary length of tile field at a safe distance from, and at a lower elevation than, the proposed buildings.

Whenever a subdivider proposes that individual on-site sanitary sewage disposal systems shall be utilized within the subdivisions, the subdivider shall either install such facilities or shall require (by deed restriction or otherwise), as a condition of the sale of each lot or parcel within the subdivision that such facilities shall be installed by the purchaser of such lot or parcel at the time that a principal building is constructed, and in accordance with these Subdivision Regulations.

Where studies by the Commission or the County indicates construction or extension of sanitary trunk sewers to serve property being subdivided appears probable within a reasonably short time (up to five years), the Commission may require the installation and capping of sanitary sewer mains and house connections, in addition to the installation of temporary, individual, on-site sanitary sewage disposal systems. Capped sewers however, will not be required if completed

plans and profile of trunk sewers are not available. It shall be the responsibility of the County or other such appropriate agency to supervise design and installation of such capped sewers, and the acceptance of such responsibility shall be prerequisite to the Commission's requirement of such installation.

The Health Officer shall certify the adequacy of the community or on-site sanitary sewage disposal system proposed. Such certification shall accompany all final plat applications.

(4) Soil percolation test requirements. Soil percolation tests shall be performed for all subdivisions wherein buildings at the site of construction will not be connected to a public or community sanitary sewage disposal system.

Soil percolation tests shall be made, in accordance with the procedure requirement by the State Department of Health by a registered professional engineer, at the rate of one test site for each acre of the property being subdivided.

If the analysis of the soil percolation test results reveals the soil is unsuitable for the intended use at the first site proposed, the Commission may require that the lot sizes be increased in accordance with the test results or that additional tests be made on each proposed lot at the location of the contemplated disposal facilities, and the data submitted for approval.

(c) Drainage. All necessary facilities, including underground pipe lets, catch basins or open drainage ditches shall be installed to provide for the adequate disposal of subsurface and surface water maintenance of natural drainage courses. All storm drainage facilities within the subdivision shall connect to an adequate drainage outlet. A drainage plan shall be submitted simultaneously with the plat of any subdivision, showing the proposed scheme of surface drainage.

(1) Standards and specifications for drainage facilities. The construction of storm water drainage improvements shall be subject to the approval of the engineer.

(2) Storm sewers and storm water. A drainage system adequate to serve the needs of the proposed new streets and the entire subdivision will be required in the new subdivisions. Where an adequate public storm sewer main is available at the plat boundary, the subdivider shall construct a storm sewer system and connect with such storm sewer main. If such storm sewer systems are not accessible, adequate storm water drainage shall be provided by natural drainage channels with easements of adequate width as approved by the engineer.

(3) Culverts and bridges. When natural drainage channels intersect any street right of way it shall be the responsibility of the subdivider to have satisfactory bridges and culverts designed and constructed. Culverts shall be constructed in accordance with the standards established by the engineer.

(4) Protection of cuts and fills. Wherever cuts and fills are to be made in a subdivision, the subdivider shall provide for the interception and diversion of surface waters away from the tops of the cuts and fills and into approved drainage ways.

(5) Terraces. Terraces shall not be permitted in subdivisions when geological evidence shows the possibility of pressure heads developing in shale layers beneath the terrace surfaces; provided that the Commission may approve, or require as a condition of approval, the construction of retaining walls where necessary to retain cut or fill slopes within rights of way or easements.

(d) Street Improvements. All streets and thoroughfares shall be graded to their full width, including side slopes, and improved in accordance with the standards outlined in the following table:

Construction Standards and Requirements for Streets

	Width (in feet)	
Type of Street	Right-of-way*	Pavement*
Major	80	48
Secondary street or highway	70	38
Collector	60	36
Residential	50	28
Cul-de-sac	40	20
Rural residential	20	20

* For right-of-way and pavement widths for areas where the average topographic slope is fifteen percent (15%) or greater refer to hillside regulations in Article 1325.

All construction and installations shall be in accordance with applicable City standards.

The subdivider or developer shall present a plan and profile showing proposed street and road grades and drainage structures.

(e) Utilities and Other Improvements. Electrical service, gas mains and other utilities should be provided within each subdivision. Whenever such facilities are reasonably accessible and available they may be required to be installed within the area prior to the approval of the final plat.

(f) Street Name Signs. Street name signs, conforming to the standard in use throughout the City, shall be erected at all intersections.

(g) Provisions for Maintenance and Operation. Where the subdivision contains sewers, sewage treatment plants, water supply systems, park areas, street trees or other physical facilities necessary or desirable for the welfare of the area and which are of common use or benefit and which are of such character that the City or other public agency does not desire to maintain them, provisions shall be made by trust agreements, which are a part of the deed restrictions and which are acceptable to the Commission for the proper and continuous maintenance and supervision of such facilities by the lot owners in the subdivisions. (1967 Code Sec. 30-33.)

ARTICLE 1325
Hillside Areas

1325.01	"Hillside area" defined.
1325.02	Determination of average slope.
1325.03	Minimum lot regulations per family .
1325.04	Minimum slope regulation requirements.
1325.05	Grading plan.
1325.06	Grading controls.
1325.07	Cuts and fills.
1325.08	Compaction of fills.
1325.09	Street requirements.
1325.10	Building lines and easements.
1325.11	Undeveloped land.
1325.12	Utility and street improvements.
1325.13	Retaining walls.
1325.14	Existing trees and ground cover.

CROSS REFERENCES

Exception from general standards - see P. & Z. 1321.01
Improvement exceptions - see P. & Z. 1323.01

1325.01 "HILLSIDE AREA" DEFINED.

A "hillside area" as referred to herein is defined as one with an average slope of more than sixteen percent (16%) . These Subdivision Regulations apply to all hillside areas with an added limitation that areas with a slope of thirty-one percent (31%) or greater are considered extremely difficult to develop and therefor should be limited to lots of one acre or more.
(1967 Code Sec. 30-34.)

1325.02 DETERMINATION OF AVERAGE SLOPE.

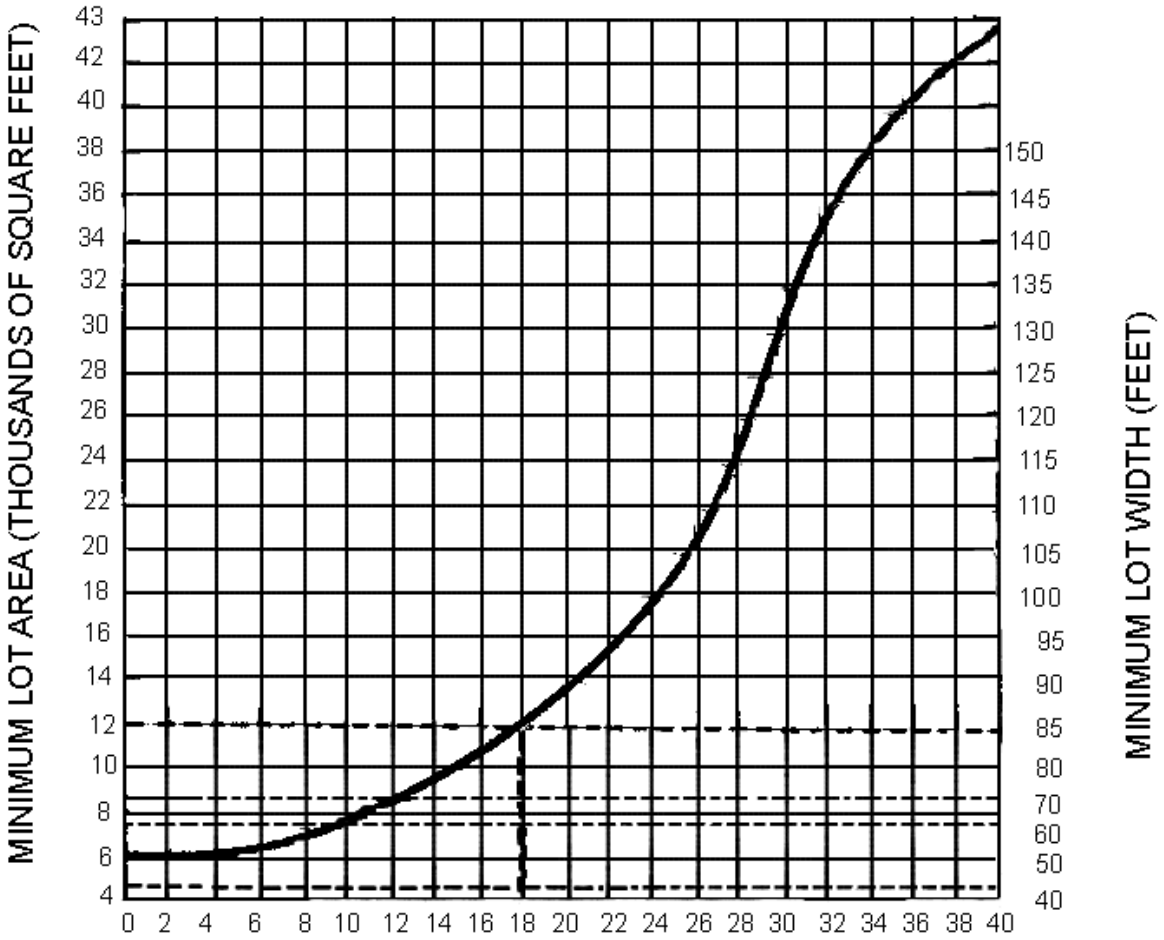
The average slope for any hillside development shall be determined by the Planning Commission during the time of preliminary subdivision design. Determination will be on an area-by-area basis with each lot sized according to the average topographic change falling within each area.
(1967 Code Sec. 30-35.)

1325.03 MINIMUM LOT REGULATIONS PER FAMILY.

The minimum lot regulations per family shall be used to determine minimum lot area in 1,000 square feet once the average percent of slope is determined by the Planning Commission.

MINIMUM LOT SIZE REQUIREMENTS
BASED ON SLOPE
AVERAGE PERCENT OF NATURAL GROUND SLOPE

EXAMPLE: FOR A LOT WHOSE NATURAL



GROUND SLOPE IS 18%, THE INDICATED MINIMUM LOT AREA IS 12,000 SQUARE FEET AND THE INDICATED AVERAGE WIDTH IS 85 FEET (1967 Code Sec. 30-36.)

1325.04 MINIMUM SLOPE REGULATION REQUIREMENTS.
The following are the minimum slope regulation requirements:

	Group 1	Group 2	Group 3
Percent of Slope	31 and over	25 - 30	16 - 24
Setback (feet)	20	25	25
Side Yard	10% of lot width	10% of lot width	10% of lot width
Straight Curb & Gutter	Yes	Yes	Yes
Type of Walkway (one side only)	3 feet graded area	3 feet graded area	Sidewalk on uphill side
Streets R/W (feet)	40	40	50
Streets Pavement (feet)	20	22	24

(1967 Code Sec. 30-37.)

1325.05 GRADING PLAN.
Grading plan shall show contour lines at five feet intervals where average slopes exceed sixteen percent (16%) and at two feet intervals where the average slope is less than sixteen percent (16%). Elevations are to be based on sea level datum (USGS), if available. Datum for contours shall be indicated on the map.
(1967 Code Sec. 30-38.)

1325.06 GRADING CONTROLS.
The lot layout and dimensions shall be shown for each lot and of each building site. Where pads are utilized or proposed for building sites, engineering data shall show the existing topography and the approximate finish grades, location and size of each building site and finish grades of streets prior to consideration of the final record of survey map.
(1967 Code Sec. 30-39.)

1325.07 CUTS AND FILLS.
No land shall be graded, cut or filled so as to create a slope exceeding a vertical rise of one foot for each two feet of horizontal distance between abutting lots, and may do so within a lot only where a retaining wall of sufficient height and thickness is provided to retain the graded bank.
Major cuts, excavation, grading and filling materially changing the site and its relationship with surrounding areas or materially affecting such areas, shall not be permitted if such excavation, grading and filling will result in a slope exceeding a vertical rise of one foot for each two feet of horizontal distance between abutting lots or between adjoining tracts of land, except where adequate provision is made to prevent slides and erosion by cribbing and retaining walls. (1967 Code Sec. 30-40.)

1325.08 COMPACTION OF FILLS.
All fill shall be compacted to a density of ninety percent (90%) or greater, Inspection of fill shall be done by the Engineer. (1967 Code Sec. 30-41.)

1325.09 STREET REQUIREMENTS.
(a) Design and Arrangement. Rights of way should be designed in a manner so as to encourage aesthetics in road design and to avoid the destruction of trees and natural land formations.

(b) Street Type and Width. The minimum right-of-way width for minor streets may be forty feet in Groups 1 and 2; and fifty feet in Group 3, respectively, as referred to in Section 1325.04 .

The Planning Commission reserves the right to require a greater width for local streets where necessary because of excessive grading or to provide for adequate drainage. The minimum width of local streets serving multiple dwellings shall be fifty feet, and the pavement width shall be twenty-eight feet.

(c) Alignment.

(1) Vertical profile grades. Vertical profile grades shall be connected by vertical curves up to twenty percent (20%), but only for short, straight stretches.

(2) Minimum horizontal. The radii of centerline curvatures shall be no less than seventy-five feet.

(3) Visibility requirement. Waiver of visibility requirements specified in Section 1321.02 shall be given subject to the approval of the Commission.

(4) Street grades. Waiver of vertical curve requirements specified in Section 1321.02 shall be given subject to the approval of the Commission. (1967 Code Sec. 30-42.)

1325.10 BUILDING LINES AND EASEMENTS.

Where the subdivision areas are to be used for residential purposes the building line shall be established according to the following table:

	Minimum Building Setbacks (feet from right of way)
Group 1	20
Group 2	25
Group 3	25

Easements shall be provided as specified in Section 1321.04; except that variances may be permitted to allow for the limitations of steeply sloping terrain. (1967 Code Sec. 30-43.)

1325.11 UNDEVELOPED LAND.

Land subject to flooding, land with excessive slope and land deemed by the Planning Commission to be undesirable for development shall not be platted for residential occupancy, nor for such other uses as may involve danger to health, life or property or to aggravate the erosion or flood hazard. Such land shall be set aside for compatible uses.(1967 Code Sec.30-44.)

1325.12 UTILITY AND STREET IMPROVEMENTS.

(a) Sewage Disposal. Where public sewers are not available and where private sewage disposal systems will be utilized, the results of a percolation test shall be submitted in accordance with the recommendation of the County Health officer.

(b) Street Improvements.

(1) Width of pavement. The minimum pavement width for minor streets may be twenty feet in Class 1; twenty-two feet in Class 2; twenty-four feet in Class 3 type subdivision areas.

(2) Curbs and gutters. Curbs shall be required on all streets designed to serve residential areas. Curbs shall be the straight side variety and shall have a radius of twenty feet to face of curb and at street intersection. (1967 Code Sec. 30-45.)

1325.13 RETAINING WALLS.

Retaining walls may be required wherever topographic conditions warrant or where necessary to retain fill or cut slopes within the right of way. Such improvements shall require the approval of the Engineer. (1967 Code Sec. 30-46.)

1325.14 EXISTING TREES AND GROUND COVER.

In a hillside subdivision, the existing tree growth and natural ground cover shall not be disturbed except for the grading of those portions of the lots for building sites and the installation of improvements, including earth cuts and fills; provided that the removal of additional natural tree growth and ground cover under other circumstances may be permitted by the Planning Commission when necessary to the successful development of the subdivision. In order to prevent erosion caused by the removal of such natural tree growth and ground cover the subdivider shall agree to the replacement of any additional trees and ground cover prior to final approval of the subdivision, such replacement to be as directed by the Commission relative to method of installation and type.
(1967 Code Sec. 30-47.)

ARTICLE 1327
Planned Unit Development

EDITOR'S NOTE: Former Article 1327 was repealed by Ordinance 03-21, passed May 20, 2003.

CHAPTER FIVE - General Zoning Provisions

Art. 1327. Enactment and Scope of Zoning Ordinance.
Art. 1329. Definitions.

ARTICLE 1327
Enactment and Scope of Zoning Ordinance

EDITOR'S NOTE: The Morgantown Zoning Ordinance as codified as Article 1327 et seq. of Part Thirteen - Planning and Zoning Code was reenacted by Ordinance 06-01, passed January 3, 2006. Subsequent amendments are indicated by legislative histories placed at the end of the affected sections.

1327.01 Title.
1327.02 Purpose.
1327.03 Prohibited uses and acts.
1327.04 Authority and jurisdiction.
1327.05 Inclusion and relationship to other ordinances.
1327.06 Territorial applicability.
1327.07 Interpretation, conflict and severability.
1327.08 Computation of time.
1327.09 Saving provision.
1327.10 Conditions.
1327.11 Notices.
1327.12 Form of notations, applications and findings.
1327.13 Transition rules.
1327.14 Applicability.

CROSS REFERENCES

Authority for Zoning Ordinance - see W. Va. Code 8A-7-1
Contents of zoning ordinance - see W. Va. Code 8A-7-2
Effect of zoning ordinance - see W. Va. Code 8A-7-10

1327.01 TITLE.

These regulations and all accompanying maps, which are on file in the Planning Director's office, and all ordinances and regulations supplemental or amendatory thereto, shall be known and may be cited as the "City of Morgantown Zoning Ordinance" and are generally referred to herein as "the Zoning Ordinance," "this ordinance," "the ordinance" or "these regulations."

1327.02 PURPOSE.

These regulations are hereby adopted in order to:

(A) Promote the orderly, responsible, and beneficial development and use of land within the City;

(B) Promote the public health, safety, morals, comfort, convenience and general welfare of the City;

(C) Protect the character and stability of residential, institutional, business, industrial and natural areas;

(D) Minimize or avoid congestion in the public streets and to ensure safe, convenient and efficient traffic circulation;

(E) Secure adequate light, air, convenience of access, and safety from fire, flood and other danger, which may include providing adequate open spaces for light, air and outdoor uses;

(F) Preserve and enhance the scenic beauty, aesthetics and environmental integrity of the City;

(G) Encourage compatibility between different land uses and to protect the scale and character of existing development from the encroachment of incompatible uses;

(H) Regulate and restrict the location and intensity of use of buildings, structures and land for trade, residence and other uses;

(I) Define the powers and duties of administrative officers and bodies as provided herein, and to establish procedures for the implementation and enforcement of these regulations; and,

(J) Further such other purposes as are stated hereinafter within specific provisions of these regulations.

1327.03 PROHIBITED USES AND ACTS.

Except as provided in these regulations, no building, structure or premises may be used for any purpose other than those permitted in the zoning district in which the building, structure or premises is located. No land or lot area may be reduced, diminished, used or developed except in accordance with all applicable provisions of these regulations. No building or structure may be altered, erected, constructed, installed, moved, replaced or maintained except in accordance with all applicable provisions of these regulations.

1327.04 AUTHORITY AND JURISDICTION.

These regulations, enacted pursuant to the Code of the State of West Virginia, Chapter 8A, Articles 1 through 12 et seq., as amended, and pursuant to the Morgantown City Code and all other applicable authorities and provisions of West Virginia statutory and common law, shall apply to all land use within the City Limits, except where specifically exempted by State law.

1327.05 INCLUSION AND RELATIONSHIP TO OTHER ORDINANCES.

(A) The Zoning Ordinance shall be interpreted to include any and all other provisions of the Morgantown City Code, which are necessary for an understanding of this ordinance and the attainment of its purposes. The City Council of the City of Morgantown, West Virginia, intends that all Morgantown City Code provisions relating to land use, and all orders, rules, and regulations established pursuant to said provisions, be read as part of a uniform system of Morgantown land use regulation.

(B) All departments, officials and employees of Morgantown, West Virginia, that are vested with the duty or authority to issue permits, certificates or approvals, shall conform to the provisions of this ordinance and shall issue no permit, certificate or approval for any use, structure or activity if the same would be in conflict with the provisions of this ordinance, unless otherwise provided for by law. Any permit, certificate or approval issued in conflict with the provisions of this ordinance shall be null and void and, in no event, shall act as a waiver of the standards and requirements of these regulations.

1327.06 TERRITORIAL APPLICABILITY.

This ordinance shall apply to all areas within the incorporated boundaries of the City of Morgantown, West Virginia.

1327.07 INTERPRETATION, CONFLICT AND SEVERABILITY.

(A) In their interpretation and application, these regulations shall be held to be the minimum requirements for the promotion of the public health, safety and general welfare.

(B) These regulations are not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute or other provision of law. Where the conditions imposed by, or pursuant to, these regulations are different from those imposed by any other provision of these regulations or any other ordinance, rule or regulation, statute or other provision of law, the provisions which are more restrictive and which impose the higher/greater standards shall control.

(C) The provisions of this ordinance are separable. If any part or provision of these regulations or the application thereof to any person or circumstances is adjudged invalid by a court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision, or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of these regulations or the application thereof to other persons or circumstances. The City hereby declares that it would have enacted the remainder of these regulations even without any such part, provision or application.

1327.08 COMPUTATION OF TIME.

Unless otherwise specifically provided, the time within which an act is to be done shall be computed by excluding the first and including the last day of the specified period of time. If the last day is a Saturday, Sunday or legal holiday, that day shall be excluded. When the period of time prescribed is less than seven (7) days, intermediate Saturdays, Sundays and legal holidays shall be excluded.

1327.09 SAVING PROVISION.

These regulations shall not be construed as abating any action now pending under, or by virtue of, prior existing planning and zoning regulations, or as discontinuing, abating, modifying, or altering any penalty accruing or about to accrue, or as affecting the liability of any person, firm, or corporation, or as waiving any right of the City under any section or provision existing at the time of adoption of these regulations, or as vacating or annulling any rights obtained by any person, firm, or corporation, by lawful action of the City except as shall be expressly provided for in these regulations.

1327.10 CONDITIONS.

The attachment of reasonable conditions to the use and development of land within the City as part of the approval of conditional uses, home occupations, temporary uses, variances, outline plans, development plans, plat vacations and amendments, or as otherwise authorized, is an exercise of valid police power delegated to the City by the State. The applicant has the duty of compliance with reasonable conditions laid down by the Planning Commission for design, dedication, improvement, and restrictive use of the land in order to conform to the physical and economical development of the City and to the safety and general welfare of present and future landowners and citizens of the City. The failure to comply with any such conditions may be cause for denial or revocation of the permits and approvals prescribed by these regulations and shall constitute a violation of the Zoning Ordinance.

1327.11 NOTICES.

For purposes of this ordinance, if written notice is required to be given to any person, such requirement shall be considered satisfied as of the date of deposit of the written notice in the United States mail, postage pre-paid, addressed to the person or agent thereof, at his last known address or principal place of delivery, as is currently on file with the Monongalia County Tax Assessor's office.

1327.12 FORM OF NOTATIONS, APPLICATIONS AND FINDINGS.

The Department shall establish the form of all notations, applications and findings required or permitted by these regulations. All such forms must be consistent with these regulations.

1327.13 TRANSITION RULES.

In determining the applicability of this Zoning Ordinance with respect to the previously applicable zoning regulations, the following rules shall apply:

(A) When a use lawfully existing on the effective date of this Zoning Ordinance was classified as a permitted use prior to the effective date of this Zoning Ordinance, and such use is classified as a conditional use by this Zoning Ordinance, such use shall be deemed a lawful nonconforming use. Such use may be granted a conditional use permit in the manner prescribed by Article 1379 of these regulations or, alternatively, may continue subject to the nonconforming use provisions of Article 1373 of these regulations.

(B) When a use lawfully existing as a permitted use on the effective date of this Zoning Ordinance, or any amendment thereto, or any building, structure or lot lawfully existing that does not meet all development standards set forth in this Zoning Ordinance, or any amendment thereto, or is no longer classified as permitted, such use building, structure, or lot shall be deemed lawfully nonconforming and shall be subject to the nonconforming use provisions of Article 1373 of these regulations.

(C) When, before the effective date of this Zoning Ordinance, a complete application has been filed for a Building Permit for a building or structure which conforms to all applicable regulations in effect prior to the effective date of this Zoning Ordinance, the building or structure may be completed in accordance with the plans on the basis of which the application was submitted, subject to the provisions of Article 1373 of these regulations. Upon completion, said building or structure may be occupied for the use which was specified on the Building Permit application, provided said use at the time of application was classified as permitted, or if classified as a conditional use or as a special exception use, had been approved by the Planning Commission and/or Board of Zoning Appeals. Provided, also, if the use originally intended no longer complies with all requirements of this Zoning Ordinance such use shall be a lawful nonconforming use subject to the nonconforming use provisions of Article 1373 of these regulations or, alternatively, as a conditional use subject to the conditional use provisions of Article 1379 of these regulations. However, in the event that said application or permit expires or is suspended or revoked in accordance with Article 1391 of these regulations, any new permit application that is submitted after the effective date of this ordinance shall be subject to the regulations in this ordinance.

(D) All variances granted prior to the effective date of this Zoning Ordinance shall remain in full force and effect subject to the conditions of variance approval. However, such variance shall apply only to the specific development standard granted.

(E) All conditional use permits granted prior to the effective date of this Zoning Ordinance shall remain in full force and effect subject to the conditions of conditional use approval. Expansion or change in use shall require compliance with this Zoning Ordinance.

(F) For Planned Unit Developments, an outline plan approved under the previous zoning ordinance and shown on the previous zoning maps shall constitute an approved outline plan subject to the standards and conditions of outline plan approval. Subsequent development plans for the site shall comply with the previous zoning ordinance provisions concerning development plans or, alternatively, the developer may choose to comply with the development plan provisions of this ordinance, provided that the proposed development plan does not conflict with the standards and conditions applicable to the approved outline plan. A development plan approved under the previous ordinance shall constitute an approved development plan subject to the standards and conditions of development plan approval. Where an outline plan has been approved but has expired, prior to the effective date of this Zoning Ordinance, the outline plan shall be void and may not provide a basis for development plan approval.

(G) A preliminary and/or final plat approved and recorded prior to the effective date of this Zoning Ordinance, shall remain in full force and effect, subject to the standards and conditions of plat approval. Final plats may be recorded as approved in accordance with the Subdivision Control Ordinance. Preliminary plats shall be entitled to final plat approval subject to the conditions of preliminary plat approval and subject to the subdivision control ordinance and the zoning ordinance provisions that were in effect at the time of preliminary approval. Lots in such subdivisions shall be established in their platted size and configuration as lots of record. All subsequent resubdivision, vacation and/or amendment of such plats shall be made under the provisions of the current comprehensive land use plan, the current subdivision control ordinance and this Zoning Ordinance. A full and complete application for preliminary plat approval conforming to all applicable regulations in effect at the time of application shall be entitled to review under the regulations in effect at the time of application with respect to lot size and configuration. Upon approval, lots in such plats shall be established in their platted size and configuration as lots of record.

1327.14 APPLICABILITY.

This Zoning Ordinance, unless otherwise noted, shall apply to all public, private and institutional development unless otherwise exempted by State or Federal law.

ARTICLE 1329
Definitions

1329.01 Rules of construction, intent and usage.
1329.02 Definition of terms.

CROSS REFERENCES
Land use planning definitions - see W. Va. Code 8A-1-2
General City Code definitions - see ADM. 101.02

1329.01 RULES OF CONSTRUCTION, INTENT AND USAGE.

The following rules of construction shall apply to the text of this ordinance:

(A) The particular shall control the general.

(B) In the event there is any conflict or inconsistency between the heading of an article, section, subsection, or paragraph of this ordinance and the context thereof, the heading shall not be deemed to affect the scope, meaning, or intent of such context.

(C) In case of any difference of meaning or implication between the text of this ordinance and any caption, illustration, summary table, or illustrative table, the text shall control.

(D) In case of conflict between regulations the more restrictive shall apply.

(E) Words used in the present tense shall include the future.

(F) Words used in the singular number shall include the plural, and the plural the singular, unless the context indicates the contrary.

(G) The masculine shall include the feminine and the neutral.

(H) The word "shall" is always mandatory and not discretionary.

(I) Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions, or events connected by the conjunction "and", "or", "either/or", the conjunction shall be interpreted as follows:

(1) “And" indicates that all the connected items, conditions, provisions, or events shall apply.

(2) “Or” indicates that the connected items, conditions, provisions, or events shall apply singly or in any combination.

(3) "Either/or" indicates that the connected items, conditions, provisions, or events shall apply singly but not in combination.

(J) The phrase "used for" includes "arranged for", "designed for", "intended for", "maintained for", or "occupied for".
(K) The word "includes" or "including" or the phrase "such as" shall not limit a term to the specified examples, but is intended to extend its meaning to all other instances or circumstances of like or kind of character.
(L) A "building" or "structure" shall include any part thereof.

1329.02 DEFINITION OF TERMS.

For the purpose of this ordinance, the following words and phrases shall have the meaning respectively prescribed to them by this section. If not defined herein, or within other sections of this ordinance, terms used in this ordinance shall have the meanings provided in any standard dictionary or American Planning Association publication as determined by the Planning Director. (Amended by Ord. 06-24, Passed 07-18-2006.)

ABANDONMENT – The relinquishment of property or a cessation of the use of the property by the owner or lessee without any intention of transferring rights to the property to another owner or resuming the nonconforming use of the property for a period of one year.

ABUTTING – Having a common border with, or being separated from such a common border only by a right-of-way, alley, or easement.

ACCESS – A means of vehicular or pedestrian approach, entry to, or exit from property.

ACCESS MANAGEMENT – The process of providing and managing access to land development while preserving the regional flow of traffic in terms of safety, capacity and speed.

ACCESSORY STRUCTURE – A subordinate structure detached from but located on the same lot as a principal building. The use of an accessory structure must be incidental and accessory to the use of the principal building. Accessory structures include detached garages, carports, sheds, greenhouses, playhouses and the like.

ACREAGE, GROSS – The total area within a parcel of land.

ACREAGE, NET – The area within lot boundaries of all lands comprising the building site. A net acre shall not include any existing rights-of-way and flood or drainage control easements.

ADDITION – Any increase in the gross floor area of a building or structure or use, including those in which the building footprint is not enlarged.

ADMINISTRATIVE OFFICE – An office establishment primarily engaged in overall management and general supervisory functions, such as executive, personnel, finance, legal and sales activities, performed in a single location or building for other branches or divisions of the same company.

ADULT BOOK STORE – An establishment having more than 10 square feet of floor area devoted to stock in trade, books, magazines, and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "Specified Sexual Activities" or "Specified Anatomical Areas", as defined in this ordinance. Also referred to as a SEXUALLY-ORIENTED BUSINESS.

ADULT ENTERTAINMENT – An establishment used for presenting persons depicting, showing, or relating to "Specified Sexual Activities" or "Specified Anatomical Areas", as defined in this ordinance.

ADULT MOTION PICTURE THEATER – An establishment used for presenting motion picture material distinguished or characterized by an emphasis on matter depicting, describing, or relating to "Specified Sexual Activities" or "Specified Anatomical Areas", as defined in this ordinance, for observation by patrons thereto. Also referred to as a SEXUALLY ORIENTED BUSINESS.

ADULT VIDEO STORE – An establishment having more than 10 square feet of floor area devoted to offering videos which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to "Specified Sexual Activities" or "Specified Anatomical Areas", as defined in this ordinance, or an establishment with a segment or section devoted to the sale or display of such material. Also referred to as a SEXUALLY ORIENTED BUSINESS.

ADVERSE IMPACT – A negative consequence for the physical, social, or economic environment resulting from an action or project.

AFFECTED PERSONS – Those owners of record of real property located in whole or in part within 200 feet, including public streets and other rights-of-way.

AFFORDABLE HOUSING – Housing renting for a monthly rent, or housing that may be purchased with monthly payments (including principal, interest, taxes, insurance, homeowners association fees, etc.) that are not more than 30 percent of the total monthly household income of low-income households (defined to be a household earning less than 80 percent of the median annual income, adjusted for household size, as determined by the United States Department of Housing and Urban Development).

AGGRIEVED PERSON – A person who (a) is denied by the Planning Commission or the Board of Zoning Appeals, in whole or in part, the relief sought in any application or appeal, or (b) has demonstrated that he or she will suffer a peculiar injury, prejudice or inconvenience beyond that which other residents of the City may suffer.

AGRICULTURAL ACTIVITY – Farming, including plowing, tillage, cropping, installation of best management practices, seeding, animal and poultry husbandry, cultivating, or harvesting for the production of food and fiber products (except commercial logging and timber harvesting).

AICP – The American Institute of Certified Planners.

AIRPORT – Any area of land or water designated, set aside, used, or intended for use, for the landing and take-off of aircraft, and any appurtenant areas designated, set aside, used, or intended for use, for airport buildings.

ALLEY – A right-of-way dedicated to public use, other than a street, road, crosswalk, or easement, designed to provide a secondary means of access for the special accommodation of the property it reaches. An alley shall not be considered adequate as the sole access for a parcel of land.

ALTERATION – Any change, addition or modification in construction or occupancy of an existing structure.

AMENITY – Aesthetic or other characteristics of a development that increase its desirability to a community or its marketability to the public. Amenities may differ from development to development but may include such things as a unified building design, recreational facilities (e.g. swimming pool, walking trails, bicycle trails, lakes, tennis courts, picnic areas, playgrounds), views, landscaping, etc.

AMPHITHEATER – An open air structure devoted primarily to the showing of theatrical or musical productions, with the provision of seating areas for patrons. These uses frequently include refreshment stands, as accessory uses.

AMUSEMENT, COMMERCIAL INDOOR – See RECREATION FACILITY, COMMERCIAL, INDOOR.

AMUSEMENT, COMMERCIAL OUTDOOR – See RECREATION FACILITY, COMMERCIAL, OUTDOOR.

ANIMAL GROOMING SERVICE – Any place or establishment whose primary service offered is to be a place where animals are bathed, clipped or combed for the purpose of enhancing their aesthetic value and/or health, and for which a fee is charged.

ANIMAL SHELTER – A facility used to house or contain stray, homeless, abandoned, or unwanted animals and that is owned, operated, or maintained by a public body, an established humane society, animal welfare society, society for the prevention of cruelty to animals, or other nonprofit organization devoted to the welfare, protection and humane treatment of animals.

ANTENNA – Any system of wires, poles, rods, reflecting discs, or similar devices used for the transmission or reception of electromagnetic waves, and external to or attached to the exterior of any building.

ANTENNA, DISH – See TELECOMMUNICATIONS, SATELLITE DISH ANTENNA

APARTMENT – One or more rooms in a building designed and intended for occupancy as a separate dwelling unit.

APPAREL SHOP – An establishment involved in selling clothing and/or clothing accessories.

APPLIANCE REPAIR – Establishments involved in repairing instruments or devices designed for a particular use, such as stoves, fans or refrigerators, that are operated by gas or electric current.

APPLIANCE SALES – Establishments involved in selling instruments or devices designed for a particular use, such as stoves, fans or refrigerators, that are operated by gas or electric current.

ARCHITECTURAL APPURTENANCES – Cornices, eaves, gutter, belt courses, sills, lintels, bay windows, and chimneys. These features may extend into any required yard by not more than 3 feet, provided they are at least 2 feet from any property line.

AREA, BUILDABLE – The area of a lot remaining after the minimum yard and open space requirements of the zoning ordinance have been met.

ART GALLERY – An establishment engaged in the sale, loan, or display of art books, paintings, sculpture, or other works of art.

ART, PUBLIC – Any visual work of art, accessible to public view, on public or private property within the City neighborhood environs including residential, business, industrial building, or apartment complexes, parks, etc. The work of art may include but need not be limited to sculptures, murals, monuments, frescoes, fountains, paintings, stained glass or ceramics; but may not include any commercial speech or advertising copy that would classify the work as a sign.

ARTIST STUDIO – Workspace for artists or artisans, including individuals practicing one or more of the fine arts or skilled in crafts.

ASSEMBLY HALL – A meeting place at which the public or membership groups are assembled regularly or occasionally, including, but not limited to, schools, churches, theatres, auditoriums, funeral homes, stadiums, and similar places of assembly.

ASSISTED LIVING FACILITY – Any facility, residence or place of accommodation available for four or more residents for the purpose of having personal assistance or supervision, or both, provided to any residents therein who are dependent upon the services of others by reason of physical or mental impairment and who may also require nursing care at a level that is not greater than limited and intermittent nursing care. Such facility shall comply with the provisions of West Virginia Code §16-5D.

ATHLETIC FIELD – Outdoor sites designed for formal athletic competition in field sports that usually require equipment.

ATTENTION-ATTRACTING DEVICE – Any device or object visible from any public right-of-way, which is primarily designed to attract the attention of the public to a business, institution, sign or activity through means such as but not limited to illumination, color, size or location. Attention-attracting devices or objects oftentimes incorporate illumination, which may be stationary, moving, turning, blinking (including animation) or flashing. Attention-attracting devices may or may not convey a message and can include, but are not limited to, search lights, beacons, strobe lights, strings of lights, barber poles, internally illuminated translucent canopies or panels, electronically controlled message boards (time/temperature signs, gas price signs, public service announcements, etc.), banners, streamers, pennants, propellers and inflatable objects (including strings of balloons) or other device designed to attract attention. Approved traffic-control devices are not considered to be attention-attracting devices.

ATTIC – The part of a building that is immediately below and wholly or partly within the roof framing.

AUTOMATED TELLER MACHINE (ATM) – An automated device that performs banking or financial functions at a location remote from the controlling financial institution. Such devices are considered to be accessory uses in commercial or office zones.
(Ord. 06-01. Passed 1-3-06.)

AUTOMOBILE – Every vehicle, except motorcycles, designed for carrying 10 passengers or less and used for the transportation of persons and will fit within a standard 9' X 18' parking space. (Ord. 08-06. Passed 3-4-08.)

AUTOMOBILE REPAIR FACILITY, INCIDENTAL – Any building, structure or land used for the repair or maintenance of automobiles, motorcycles, trucks, trailers, or similar vehicles, and which is incidental to the primary use. Examples may include, but are not limited to, service bays associated with a gasoline station, and battery and tire repair services and/or oil change services associated with automobile parts stores.

AUTOMOTIVE PAINT SHOP – An establishment primarily engaged in automotive painting and refinishing.

AUTOMOTIVE RENTALS – Establishments involved in renting passenger cars, noncommercial trucks, motor homes or recreational vehicles, including incidental parking and servicing of vehicles available for rent.

AUTOMOTIVE REPAIR SHOP – Any building, structure, improvements, or land used for the repair and/or maintenance of automobiles, motorcycles, trucks, trailers, or similar vehicles including but not limited to body, fender, muffler or upholstery work, oil change and lubrication, painting, tire service and sales, or installation of CB radios, car alarms, stereo equipment or cellular telephones.

AUTOMOTIVE SALES – Establishments involved in the retail sale of new and/or used automobiles, noncommercial trucks, motor homes or recreational vehicles, including incidental storage, maintenance and servicing.

AUTOMOTIVE SUPPLY – An establishment primarily engaged in the retail sale of automotive parts, tires and accessories.

AUTOMOTIVE TIRE REPAIR/SALES – An establishment primarily engaged in the sale, installation and/or repair of automotive tires.

AWNING – Any non-rigid material, such as fabric or flexible plastic, that extends from the exterior wall of a building and is supported by or attached to a frame.

BAKERY, RETAIL – An establishment primarily engaged in the retail sale of baked goods for consumption off-site.

BAKERY, WHOLESALE – An establishment primarily engaged in manufacturing bakery products for sale for home service delivery, or through one (1) or more non-baking retail outlets.

BARBER SHOP / BEAUTY SALON – An establishment where the practice of barbering and/or cosmetology is offered on a regular basis for compensation.
(Ord. 06-01. Passed 1-3-06.)

BASEMENT – A space having one-half or more of its floor-to-ceiling height below the average level of the adjoining ground.
(Ord. 06-40. Passed 11-21-06.)

BEACON – Any light with one or more beams directed into the atmosphere or directed at one or more points not on the same site as the light source; also, any light with one or more beams that rotate or move.

BED AND BREAKFAST INN – A private residence that offers, for a fee, transient sleeping accommodations to visitors in up to five (5) rooms of an owner-occupied single-family dwelling; and provides, at no extra charge, breakfast to the guests. For purposes of this definition, transient shall mean that a room is rented for not more than 30 days to any one visitor in any given calendar year. (Ord. 06-01. Passed 1-3-06.)

BICYCLE – Any device propelled by human power upon which any person may ride, irrespective of the number of wheels in contact with the ground, except scooters, segways, and similar devices.

BICYCLE STORAGE – An indoor, secure, and sheltered storage space for bicycles, which is provided as an amenity for residents, tenants, etc. of a development.
(Ord. 08-06. Passed 3-4-08.)

BIKEWAY – A pathway designed in whole or in part to be used for bicycling, walking and other recreation.

BLOCK – Property having frontage on both sides of a street, and lying between the two nearest intersecting or intercepting streets, or nearest intersecting or intercepting street and railroad right-of-way, waterway or other barrier (including an alley between zoned areas).

BOARD OF ZONING APPEALS – The officially constituted body appointed to carry out duties and responsibilities in accordance with the Code of the State of West Virginia Code, Chapter 8A, Article 8, et seq., as amended.

BOARDING HOUSE – See LODGING OR ROOMING HOUSE.

BREEZEWAY – A covered passage, open at least on one side, between two buildings.

BREW PUB – A restaurant that manufactures up to 5,000 barrels of fermented malt beverages per year on premises for either consumption on premises in hand-capped or sealed containers, or sold directly to the consumer.

BUFFER STRIP – Land area used to visually separate one use from another or to shield or block noise, light or other nuisances. A strip may be required to include fencing, berms, shrubs and/or trees.

BUILDING – A structure having a roof supported by columns or walls, for the shelter, support, enclosure or protection of persons, animals, chattels or property. When separated by party walls, without opening through such walls, each portion of such a building shall be considered a separate structure.

BUILDING AREA – The maximum horizontal projected area of the principal and accessory building, excluding open steps or terraces, unenclosed porches and not exceeding one story in height, or architectural appurtenances projecting not more than three (3) feet.

BUILDING ENVELOPE – The area formed by the front, side and rear setback lines of a lot within which the principal building must be located.

BUILDING FOOTPRINT – The outline of the total area of a lot covered by a building's perimeter. Where a building has a recessed ground floor, the footprint shall be construed to be the outline of the largest perimeter of the building, excluding architectural appurtenances or features as defined herein. (Ord. 06-01. Passed 1-3-06.)

BUILDING HEIGHT IN FEET – The vertical distance measured from the lot ground level to the highest point of the roof for a flat roof, to the deck line of a mansard roof, and to the mean height between eaves and ridges of gable, hip, and gambrel roofs. On lots with topographic elevation changes, the lot ground level shall be construed to mean the halfway point between the highest and lowest elevations of the building footprint. Building height calculation shall not include chimneys, spires, elevator and mechanical penthouses, water tanks, radio antennas, and similar projections.

BUILDING HEIGHT IN STORIES – The number of stories in a building measured vertically at the front elevation from the ground level to the top of the building vertically above that same point. For the purposes of determining building height, a basement shall not be considered a story. (Ord. 06-40. Passed 11-21-06.)

BUILDING LINE – The line, parallel to the street line, that passes through the point of the principal building nearest the front lot line.

BUILDING MATERIALS SUPPLIER – Establishments involved in selling lumber, and a general line of building materials and supplies, to the general public, which may include roofing, siding, shingles, wallboard, paint, cement, and so forth including incidental storage.

BUILDING WALL – An exterior load-bearing or non-load-bearing vertical structure, that encompasses the area between the final grade elevation and eaves of the building, and used to enclose the space within the building. A porch, balcony or stoop is part of the building structure and may be considered as a building wall.

BUILDING, ACCESSORY – See ACCESSORY STRUCTURE.

BUILDING, DETACHED – A building having no structural connection with another building.

BUILDING, FRONT LINE OF – The line of the face of the building nearest the front lot line.

BUILDING, NONCONFORMING – The lawful use of a building or structure or portion thereof, existing at the time this Zoning Ordinance or amendments thereto take effect, and which does not conform to the height, area and yard regulations prescribed in the district in which it is located.

BUILDING, PRINCIPAL – A building in which is conducted the main or principal use of the lot on which said building is situated.

BUILD-TO LINE – An alignment established a certain distance from the front property line to a line along which the building shall be built.

BULK REQUIREMENTS – Standards that control the height, density and location of structures.

BUS SHELTER – A small, roofed structure, usually having three walls, located near a street and designed primarily for the protection and convenience of bus passengers.

BUS TERMINAL – See PASSENGER STATION, RAILROAD, MOTOR BUS.

BUSINESS OR COMMERCIAL – The engaging in the purchase, sale, barter or exchange of goods, wares, merchandise or services, the maintenance or operation of offices, or recreational and amusement enterprises for profit.

BY-RIGHT – A use permitted or allowed in the district involved.

CALIPER – A horticultural method of measuring the diameter of nursery stock. For trees less than four inches in diameter, the measurement should be taken at six inches above the ground level. For trees greater than four inches in diameter up to and including 12 inches, the caliper measurement must be taken 12 inches above the ground level. For trees greater than 12 inches in diameter, the trunk is measured at breast height, which is 4.5 feet above the ground.

CAMPUS – The grounds and buildings of a public or private college, university, school, hospital or other institution.

CANOPY – A permanently roofed shelter projecting over a sidewalk, driveway, entry, window, or similar area, which shelter may be wholly supported by a building or partially supported by columns, poles, or braces extending from the ground. Any roof overhang extending more than three feet from the face of a building shall be considered a canopy, and shall be subject to setback requirements.

CAR WASH/DETAILING – The use of a site for washing and cleaning of passenger vehicles, recreational vehicles or other light duty equipment.

CARETAKER'S RESIDENCE – A residence located on a premises with a main nonresidential use and occupied only by a caretaker or guard employed on the premises.

CARPORT – A roofed structure not more than 75 percent enclosed by walls and for the purpose of providing shelter for one or more motor vehicles.

CEMETERY – Land used, or intended to be used, for burying the human dead and dedicated for cemetery purposes, including mausoleums and mortuaries when operated in conjunction with and within the boundary of the cemetery.

CHANGE OF OCCUPANCY/USE – A discontinuance of an existing use and the substitution therefor of a use of a different kind or class. Change of occupancy is not intended to include a change of tenants or proprietors unless accompanied by a change in the type of use.

CHARETTE – A structured democratic process for establishing consensus on future development or redevelopment of a particular area, usually in the form of a workshop facilitated by planning or design professionals.

CHARITABLE, FRATERNAL, or SOCIAL ORGANIZATION – A facility for administrative, meeting, or social purposes for a private or nonprofit organization, primarily for use by administrative personnel, members and guests. Examples include, but are not limited to: Lions Club, Veterans of Foreign Wars, etc.

CHURCH or PLACE OF WORSHIP – A building wherein persons regularly assemble for religious worship and which is maintained and controlled by a religious body organized to sustain public worship, together with all accessory buildings and uses customarily associated with such primary purpose. Includes synagogue, temple, mosque, or other such place for worship and religious activities. Customary accessory uses include a caretakers residence, a meeting or activity hall, a gymnasium, a playground, the sale of items associated with the practice of religion, etc., but not a medical clinic, homeless shelter, rehabilitation center, etc.

CITY – The City of Morgantown, West Virginia.

CITY COUNCIL – The City Council of Morgantown, West Virginia.

CITY MANAGER – The City Manager of the City of Morgantown, West Virginia.

CLEAR VISION TRIANGLE – An area of unobstructed vision at street intersections between two and one-half and eight feet above the road surface and within a triangular area at the street corner, which area is bounded by the street property lines of the corner lot and a line connecting points twenty-five (25) feet distant from the intersection of the property lines of such lot.

CLEAR-CUTTING – Removal of an entire stand of trees and shrubs. (A.O.)

CLEAR ZONE - An area delineated on a site plan illustrating where structures similar to silos, grain bins, windmills, chimneys, stacks, spires, flag poles, skylights, derricks, conveyors, cooling towers, observation towers, water tanks, telecommunication facilities, etc., in excess of fifty feet may collapse based on the site and structural design.
(Ord. 12-26. Passed 7-3-12.)

CLINIC, MEDICAL – An establishment providing medical, chiropractic, psychiatric or surgical services exclusively on an outpatient basis, including emergency treatment and diagnostic services.

CLUB OR LODGE – A use providing meeting, recreational or social facilities for a private or nonprofit association, primarily for use by members and guests.

CODE OF THE STATE OF WEST VIRGINIA – The Code of the State of West Virginia, 1931, as amended.

COIN-OPERATED CLEANING AND LAUNDRY SERVICE – An establishment providing coin-operated or similar self-service laundry and dry cleaning equipment for use on the premises.

COMMON AREA – Any portion of a development that is not part of a lot or tract and is designed for the common usage of the development. These areas include green open spaces and may include such other uses as parking lots and pedestrian walkways. Maintenance of such areas is not the responsibility of City government and shall be set forth by the development association in the form of restrictive covenants, which shall guarantee the maintenance of these areas.

COMMUNICATIONS EQUIPMENT BUILDING – An unmanned building or cabinet containing communications equipment required for the operation of communications antennas and covering an area on the ground not greater than 250 feet.

COMMUNITY CENTER – A building or buildings used for activities that, through proximity to residents, benefit the community. Activities permitted include any combination of the following: meeting space for civic groups, clubs, or organizations; spaces for the provision of daycare services; group cultural and/or recreational activities, whether self-directed or organized; space for performing arts, artisans, crafters, etc., including occasional (not more than one day each week) sale of such merchandise produced onpremises; and educational and/or instructional programs. Excluding community centers permitted as conditional uses in the R-1 and R-1A Districts, multi-family housing may be a component of such a center but only when it is provided in conjunction with two or more additional activities permitted in a community center and provided that the multi-family housing component shall not occupy more than 30 percent of the total gross floor area of the facility. Community centers may be owned and/or operated by public or private entities. Only those activities specifically listed herein are permitted. (Ord. 07-17. Passed 6-5-07.)

COMMUNITY GARDENS – A private or public facility for cultivation of fruits, flowers, vegetables, or ornamental plants by more than one person or family.

COMPLEMENTARY MEDICINE – Any medical treatment that is not a part of traditional medicine or practice of a primary health system. Therapies most often include acupuncture, homeopathy, herbal medicine, massage therapy, aromatherapy, hypnosis, prayer, meditation, music therapy, biofeedback, yoga, tai chi, humor therapy, light therapy and autogenic training.

COMPOSTING OPERATION – A solid waste processing facility specifically designed and operated for the express purpose of composting. This definition does not include home composting for personal use, which is not regulated by this Ordinance and which is encouraged.

COMPREHENSIVE PLAN – The Morgantown Comprehensive Plan for the City of Morgantown, West Virginia adopted by Ordinance by the Morgantown City Council on January 5, 1999, and as subsequently amended.

CONFERENCE CENTER – A facility used for service organizations, business and professional conferences, and seminars limited to accommodations for conference attendees. The accommodations can include sleeping, eating, and recreation. A conference center is not designed solely to be utilized by the general public for overnight purposes. Such facilities may also be permitted as an accessory use to a hotel.

CONVENIENCE STORE, NEIGHBORHOOD – Any retail establishment with a floor area of less than 3,000 square feet offering for sale a limited line of groceries and household items intended for the convenience of the neighborhood. The term is to be distinguished from "gas station mini-mart." No fuel sales are permitted on site.

CONTIGUOUS – Lots, parcels, or City boundaries that are next to, abutting and having a boundary, or portion thereof, that is coterminous. Streets, highways, roads or other traffic or utility easements, streams, rivers, and other natural topography are not to be used to determine lots, parcels, or City boundaries as contiguous.

COVENANT – A restriction on the use of land set forth in a written document or plat. The restriction runs with the land and is binding upon subsequent owners of the property.

CO-LOCATION – Locating wireless communication equipment for more than one provider on a single structure.

DANCE or SOCIAL CLUB, YOUTH – An establishment that does not sell, serve or allow alcoholic beverages to be consumed on the premises, and where dancing and other social activities occur.

DAY CARE FACILITY, CLASS 1 – A facility for providing care for one to three (a) functionally-impaired adults, or (b) elderly persons, or (c) children within the residence of the primary caregiver. Up to one additional person not residing on the premises may be employed to assist in the facility's operation.

DAY CARE FACILITY, CLASS 2 – A facility licensed by the State and established to provide care for four to twelve (a) functionally-impaired adults, or (b) elderly persons, or (c) children in a protective setting for a portion of a 24-hour day.

DAY CARE FACILITY, CLASS 3 – A facility licensed by the State and established to provide care for thirteen or more (a) functionally-impaired adults, or (b) elderly persons, or (c) children in a protective setting for a portion of a 24-hour day.

DECK – A structure, without a roof, directly adjacent to a principal building, usually elevated above grade. Such structures may encroach into the required yard.

DENSITY – The number of dwelling units situated on or to be developed on a net acre (or smaller unit) of land, which shall be calculated by taking the total gross acreage and subtracting surface water, undevelopable lands (e.g. wetlands) and the area in rights-of-way for streets and roads.

DENSITY BONUS – The granting of the allowance of additional density in a development in exchange for the provision by the developer of other desirable amenities from a public perspective (e.g., public open spaces, plazas, art, landscaping, etc.).

DEPARTMENT STORE – A retail store carrying a general line of apparel, home furnishings, floor coverings, major household appliances, and housewares. These and other merchandise lines are normally arranged in separate sections or departments with accounting on departmentalized basis, integrated under a single management.

DEVELOPMENT – (1) Any man-made change to improved or unimproved land, including but not limited to the construction, reconstruction, conversion, structural alteration, relocation, enlargement or use of any structure or parking area; (2) Any mining, excavation, dredging, filling, grading, drilling or any land disturbance; or (3) Any use or extension of the use of the land. (Ord. 06-01. Passed 1-3-06.)

DEVELOPMENT OF SIGNIFICANT – Any proposed development whose characteristics warrant a more in-depth review by the Planning Commission in order to mitigate the negative impact these characteristics may have on surrounding land uses in particular and on the surrounding neighborhood in general.

Developments of Significant Impact (DSI) are those that have a Citywide or regional impact. Such impacts could involve the transportation network, environmental features such as parks or stream corridor, local schools, etc. Such developments could include large-scale residential, commercial, or mixed-use developments, employment centers, regional shopping centers, industrial and/or manufacturing, and extractive industry.

Any proposed residential or non-residential development which meets or exceeds any of the following criteria shall be determined to be a Development of Significant Impact and will require a complete development plan to be submitted and reviewed by planning staff and the Planning Commission:

Land Use Category/District	**Development of Significant Impact**
Residential	A development that is 12 or more dwelling units
Non-Residential	A development that is either 15,000 square feet or more of gross floor area or a site of 2 acres or more of net acreage
Mixed-Use	A development that exceeds any of the following: 15,000 square feet or more of gross floor area of non-residential use(s); or, 12 or more dwelling units; or, 2 acres or more of net acreage
Industrial	All industrial development, regardless of gross floor area or net acreage of the site.

Land Use Category/District (Cont.)	Development of Significant Impact (Cont.)
Development in the B-4 District:	
All Land use Categories	New construction of a principal structure, regardless of land use category or net acreage of the site.
Residential	A development that is 12 or more dwelling units.
Non-Residential	A development that is either 10,000 square feet or more of gross floor area or a site of one-half (1/2) acre or more of net acreage.
Mixed-Use	A development that exceeds any of the following: 10,000 square feet or more of gross floor area of non-residential use(s); or, 12 or more dwelling units; or, one-half (½) acre or more of net acreage.
Industrial	All industrial development, regardless of gross floor area or net acreage of the site.

(Ord. 15-32. Passed 6-2-15.)

DEVELOPMENT, CLUSTER – A development design technique that concentrates buildings in a specific area on a site to allow remaining land to be used for recreation, common open space, or the preservation of historically or environmentally sensitive features.

DEVELOPMENT, NEO-TRADITIONAL – An approach to land-use planning and urban design that promotes the building of neighborhoods with a mix of uses and housing types, disciplined architectural variety, a central public gathering place, interconnecting streets and alleys, and edges defined by greenbelts or boulevards. The basic goal is integration of the activities of potential residents with work, shopping, recreation, and transit all within reasonable walking distance.

DEVELOPMENT, PLANNED UNIT – A tract of land developed as a unit under single ownership or unified control, which includes one or more principal buildings or uses and is processed under the Planned Unit Development provisions of this ordinance.

DIAMETER AT BREAST HEIGHT (DBH) – Diameter at breast height, or the diameter in inches of a tree measured at four and one-half feet above the existing grade.

DIRECTOR – The Director of the Morgantown Department of Planning, unless otherwise noted.

DISTRIBUTION CENTER – A use where goods are received and/or stored for delivery to the ultimate customer at remote locations.

DOCK – A structure built over or floating upon the water and used as a mooring place for boats and other marine transport, fishing, swimming, and other recreational uses.

DOCK, COMMERCIAL – A fixed or floating structure, including moorings used for the purpose of berthing buoyant vessels on a commercial basis. A commercial dock does not include a marina. A commercial dock may exist independently or as an incidental part of a marina.

DOCK, PRIVATE – A fixed or floating structure, including moorings, used for the purpose of berthing buoyant vessels and which does not produce income, and does not serve as an inducement for renting, purchasing, or using accompanying facilities. A dock may include a pier.

DOG RUN – An enclosed outdoor area intended for the exercising and/ or containment of dogs and similar animals.

DONATION COLLECTION BIN – A receptacle designed with a door, slot, or other opening that is intended to accept and store donated items; provided, however, that the definition of donation collection bins shall not include trailers where personnel are present to accept donations.

DORMITORY – A building or a space in a building in which group sleeping accommodations are provided for more than 16 persons, who are not members of the same family, in one room or a series of closely associated rooms under joint occupancy and single management, with or without meals, but without individual cooking facilities.

DOWNTOWN DESIGN REVIEW COMMITTEE – An informal advisory review committee appointed by the Morgantown Planning Commission to review and make recommendations on all site plans submitted for development proposed in the B-4 district.

DRAINAGE – (1) Surface water run-off; or (2) the removal of surface water or groundwater from land by drains, grading or other means which include runoff controls to minimize erosion and sedimentation during and after construction or development. (A.O.)

DRILLING - Digging or boring a new well for the purpose of exploring for, developing, or producing gas or other hydrocarbons, or for the purpose of injecting gas, water, or any other fluid or substance into the earth; includes induced hydraulic fracturing.
(Ord. 12-26. Passed 7-3-12.)

DRIP LINE – An imaginary vertical line that extends from the outermost branches of a tree's canopy to the ground.

DRIVE-THROUGH FACILITY – Any portion of a building or structure from which business is transacted, or is capable of being transacted, directly with customers located in a motor vehicle during such business transactions.

DRIVEWAY – A private roadway providing access for vehicles to a parking space, garage, dwelling, or other structure.

DRIVEWAY, COMMON – A driveway shared by adjacent property owners and privately owned and maintained.

DRIVEWAY, CROSS ACCESS – A service drive providing vehicular access between two or more contiguous sites so the driver need not enter the public street system.

DRIVING RANGE, GOLF – An area typically equipped with distance markers, clubs, balls, and tees for practicing golf shots and putting, and which may include a snack-bar and pro-shop, but excludes miniature golf courses and "putt-putt" courses.

DRUG STORE – An establishment engaged in the retail sale of prescription drugs and patient medicines and which may carry a number of related product lines, such as cosmetics, toiletries, tobacco and novelty merchandise, and which may also operate a soda fountain or lunch counter.

DRY CLEANING AND LAUNDRY PICK-UP – An establishment providing dry cleaning and laundry pickup services, but where no dry cleaning and laundering are done on the premises.

DRY CLEANING AND LAUNDRY SERVICE – An establishment providing dry cleaning and laundering services where dry cleaning and laundering are done on the premises.

DWELLING UNIT – A single unit providing complete, independent living facilities for a single housekeeping unit. In no case shall a motor home, trailer, hotel or motel, lodging or boarding house, automobile, tent, or portable building be considered a dwelling unit. Dwelling units are contained within single-family dwellings (in which case the definition is synonymous), garage apartments, two-family dwellings, mixed-use dwellings, and multifamily dwellings. Units without self-contained sanitary facilities and kitchens (as defined herein) are not classified as dwelling units, but rather are considered to be rental rooms. See BOARDING HOUSE.

DWELLING, CONDOMINIUM – Real estate, portions of which are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of those portions. Real estate is not a condominium unless the undivided interests in the common elements are vested in the unit owners. Yard requirements shall apply to structures only and not individual ownership units.

DWELLING, MIXED USE – A building containing primarily residential uses with a subordinate amount of commercial and/or office uses on the ground floor in the front of the building facing the primary street frontage. Residential units can be on the ground floor, but cannot be accessed from any portion of the building that faces the primary street. Residential units can be located on the ground floor behind the commercial.

DWELLING, MULTI-FAMILY – A freestanding building containing three (3) or more dwelling units, whether they have direct access to the outside, or access to a common building entrance. Multifamily dwellings can consist of rental apartment buildings, rental or owner occupied townhouse buildings, and rental or owner occupied condominium buildings, provided that all such freestanding buildings contain three (3) or more dwelling units.

DWELLING, OVERSTORE – A building which contains a non-residential use on the ground floor and a dwelling unit on the second floor above the commercial or office use. The residential use on the second floor shall be subordinate in use to the non-residential use. If the residential use contains more gross floor area than the non-residential use it shall be considered as a mixed use dwelling.

DWELLING, SINGLE FAMILY – A freestanding building designed solely for occupancy by one family for residential purposes, as a single housekeeping unit.

DWELLING, TOWNHOUSE – Also known as a "Rowhouse." A one-family dwelling unit, with private entrance, which is part of a structure whose dwelling units are attached horizontally in a linear arrangement, and having a totally exposed front and rear wall to be used for access, light, and ventilation. For purposes of determining the required yard for townhouse developments, setbacks shall only apply from the perimeter of the main building to the perimeter of the parent parcel upon which the building is situated.

DWELLING, TWO-FAMILY – A freestanding building containing two (2) dwelling units, each of which has direct access to the outside.

EASEMENT – A grant by a property owner to the use of the land by the public, a corporation, or persons for specific purposes.

EASEMENT, CONSERVATION – A non-possessory interest in real property imposing limitations or affirmative obligations, the purposes of which include retaining or protecting natural, scenic, or open space values of real property; assuring its availability for agricultural, forest, recreational, or open space use; protecting natural resources; or maintaining air or water quality.

ELECTRICAL REPAIR SHOP – An establishment primarily engaged in repairing electrical and electronic equipment, such as electrical household appliances, television and audio equipment, and the like, but not including offices for electrical contractors.

ELEVATION – (1) A vertical distance above or below a fixed reference level; or (2) a flat scale drawing of the front, rear or side of a building.

EMERGENCY SHELTER – A residential facility, which provides room and board for a temporary period, protection, counseling, and pre-placement screening for abused, displaced or transient adults or children.

EQUIPMENT OR FURNITURE RENTAL ESTABLISHMENT – An establishment involved in renting small tools and equipment, janitorial equipment, and small furniture and appliances, such as baby beds, chairs and tables, televisions and audio equipment and so forth.

EROSION – The process by which the ground surface is worn away by the action of wind, water, gravity, ice or a combination thereof, or the detachment and movement of soil or rock fragments.

ESSENTIAL UTILITIES AND EQUIPMENT – Underground or overhead gas, communications not regulated by the Federal Communications Commission, electrical, water and sewage systems, including towers, pole structures, wires, lines, mains, drains, sewers, conduits, cables, fire alarm boxes and police call boxes, public telephone structures, traffic signals, hydrants, regulating and measuring devices and the structures in which they are housed, and other similar equipment accessories in connection therewith.

ESTABLISHMENT – An economic unit, generally at a single physical location, where business is conducted or services or industrial operations performed.

EXCAVATION – Removal or recovery by any means whatsoever of soil, rock, minerals, mineral substances, or organic substances other than vegetation, from water or land on or beneath the surface thereof, or beneath the land surface, whether exposed or submerged.

EXTERIOR ARCHITECTURAL FEATURES – The architectural character and general composition of the exterior of a structure, including, but not limited to, the kind, color and texture of the building material, and the type, design and character of all windows, doors, massing and rhythm, light fixtures, signs, other appurtenant elements and natural features when they are integral to the significance of the site, all of which are subject to public view from a public street, way or place.

EXTERIOR DISPLAY – The outdoor display of products, vehicles, equipment and machinery for sale or lease, and/or for customers to examine and compare products. (A.O.)

EXTRACTION, MINERAL - All or any part of the process involved in the mining of minerals by removing overburden and mining directly from the mineral deposits, open pit mining or minerals naturally exposed, mining by auger method, dredging and quarrying, underground mining and surface work incidental to an underground mine.

EXTRACTION, OIL AND GAS - All or any part of the process involved in the drilling, stimulating, production or waste treatment and disposal of natural crude oil, petroleum, natural gas or other fluid hydrocarbons.

EXTRACTIVE INDUSTRY – A heavy industry use that involves the extraction of minerals, including solids, such as coal and ores; liquids, such as crude petroleum; and gasses, such as natural gasses. The term also includes quarrying; well operation; milling, such as crushing, screening, washing, and flotation; and other preparation customarily done at the extraction site or as a part of the extractive activity. (Ord. 12-26. Passed 7-3-12.)

FAÇADE – That portion of any exterior elevation on the building extending from grade to top of the parapet, wall, or eaves and the entire width of the building elevation.

FAÇADE, NONPRINCIPAL – The exterior wall(s) of a structure that do not face a public right-of-way.

FAÇADE, PRINCIPAL – Exterior walls of a building which are adjacent to or front on a public street, park, or plaza. There may be more than one principal façade on a building.

FACTORY-BUILT HOMES – Modular and manufactured homes.

FAIRGROUNDS – An area of land use including, but not limited to: Agricultural related office buildings, animal shows and judging, carnivals, circuses, community meeting or recreational buildings and uses, concerts, food booths and stands, games, rides, rodeos, sales, and auctions, storage, theaters. (A.O.)

FAMILY – For determining residential dwelling unit occupancy within the City's many diverse neighborhoods and zoning districts, the following definitions shall apply:

(a) Within single-family residential zoning districts - A person living alone or any of the following groups living together as a single housekeeping unit and sharing common living, cooking and eating facilities:

(1) A person or any number of related persons, as that term is defined in this article;

(2) Two unrelated people or two unrelated people and any children related to either of them by blood, marriage, or legal adoption;

(3) One or two persons with foster children placed in the home by a government agency or court of authorized legal jurisdiction to do so;

(4) A "Group Residential Home" or "Group Residential Facility" as defined in this article;

(5) Three or more unrelated persons who the Planning Director determines to be a "Functional Family Unit", as defined in this article.

(6) Exceptions.

A. Occupancy for legal, pre-existing, non-conforming dwelling units in single-family residential zoning districts shall be no more than three unrelated persons and any children related to either of them by blood, marriage, or legal adoption.

B. Where disability requires that more than the maximum number of unrelated persons provided in this article to reside together; in such cases, there shall be no requirement for persons with disabilities to petition, apply, or experience a process to obtain approval to live in any zoning district of the City.

(b) Within all other zoning districts, dwelling unit occupancy will be determined by the West Virginia State Building Code as adopted and implemented by the City. (Ord. 10-24. Passed 7-6-10.)

FARMER'S MARKET – The offering for sale of fresh agricultural products directly to the consumer at an open-air market designated as a community activity.

FENCE – An artificially constructed barrier of wood, masonry, stone, wire, metal, or other manufactured material or combination of materials erected to enclose, screen, or separate areas.

FENESTRATION RATIO – The percent of a building facade that is comprised of window area.

FILL – Sand, gravel, earth or other materials of any composition whatsoever placed or deposited by humans, for purposes of creating a new elevation of the ground.

FINANCIAL SERVICES – An establishment primarily engaged in providing financial and banking services. Typical uses include banks, savings and loan institutions, stock and bond brokers, loan and lending activities and similar services.

FLAG – Any fabric or bunting containing distinctive colors, patterns or symbols, used as a symbol of a government, political subdivision, corporation, lodge, fraternity or sorority, political party, nonprofit organization, charity, club, association or other entity.

FLAG, BUSINESS – A flag displaying the name, insignia, emblem, or logo of a profit-making entity.

FLAG, PUBLIC – A flag displaying the name, insignia, emblem, or logo of any nation, state, municipality, or noncommercial organization.

FLEA MARKET – An occasional or periodic market held in an open area or structure where goods are offered for sale to the general public by individual sellers from open or semi-open facilities or temporary structures. Flea markets shall not be construed to be Farmers Markets.

FLOOD-PRONE AREA – Any land area susceptible to repeated inundation by water from any source.

FLOOR AREA – The sum of the gross horizontal areas of all floors, including basements, of a building measured from the exterior faces of the exterior walls or from the centerline of walls separating two buildings. The floor area of enclosed required off-street parking areas shall not be included. Floor area for outdoor display of merchandise or customer seating, whether uncovered or covered by a tent or canopy, shall mean the smallest rectangular area encompassing the display or customer seating area.

FLOOR AREA, GROSS LEASABLE – The total floor area designed for tenant occupancy and exclusive use, including basements, mezzanines, and upper floors, if any; expressed in square feet and measured from the centerline of joint partitions and from outside wall faces.

FLOOR AREA RATIO (FAR) – The gross floor area of the principal and accessory buildings on a lot divided by the area of the lot. The ratio is an expression of the intensity of development. For example, an FAR of 1.0 would allow one square foot of building area to be constructed for each square foot of lot area; an FAR of 4.0 would allow four square feet of building area for each square foot of lot area.

FLOOR AREA, NET – The gross area of a floor or several floors of a building or structure, excluding those areas not directly devoted to the principal or accessory use of the building or structure, such as storage areas or stairwells, measured from the exterior faces of exterior walls or interior walls. Examples of areas to subtract from the gross floor area include stairways, storage rooms, mechanical equipment rooms, and other areas generally not accessible to the public.

FRATERNAL ORGANIZATION – See "CHARITABLE, FRATERNAL OR SOCIAL ORGANIZATION."

FRATERNITY or SORORITY HOUSE – A building used as group living quarters for students of a college, university or seminary, who are members of a fraternity or sorority that has been officially recognized by the college, university, or seminary. May also be considered a lodging or rooming house or dormitory, depending on the number of persons residing in the building.

FRONTAGE – (1) The boundary of a lot fronting on a public street; (2) the front lot line.

FRONTAGE BUILDOUT – The length of a front building façade compared to the length of the front lot line, expressed as a percentage.

FULLY SHIELDED FIXTURE – An outdoor lighting fixture that is shielded or constructed so that all light emitted is projected below a horizontal plane running through the lowest part of the fixtures. (Ord. 06-01. Passed 1-3-06.)

FUNCTIONAL FAMILY UNIT - Three or more persons occupying a dwelling unit and living together as a single, non-profit housekeeping unit whose relationship is of a permanent and distinct domestic character, with a demonstrable and recognizable bond where each party is responsible for the basic material needs of the other, and all are living as a single housekeeping unit consistent with the purposes of zoning restrictions in the R-1, Single Family Residential District and the R-1A, Single-Family Residential District.

(a) In determining whether or not a group of unrelated individuals is a "functional family unit" under the definition set forth above, the following characteristics must be present:

(1) The occupants must share the entire dwelling unit. A dwelling unit in which the various occupants act as separate roomers cannot be deemed to be occupied by a "functional family unit".

(2) The household must have stability with respect to the purpose of functioning as a family unit. Evidence of such stability may include the following:

A. The presence of minor dependent children regularly residing in the household.

B. Proof of the sharing of expenses for food, rent or ownership costs, utilities and other household expenses.

C. Whether or not different members of the household have the same address for the purposes of:

1. Voter registration.
2. Drivers' licenses.
3. Motor vehicle registration.
4. The filing of taxes.
5. Summer or other residences.

D. Enrollment of dependent children in public or private schools within Monongalia County.

E. Employment of householders in the local area.

F. A showing that the householders have been living together as a "functional family unit" for twelve (12) consecutive months or more, whether in the current dwelling unit or other dwelling units.

G. Any other factor reasonably related to whether or not the unrelated persons are the functional equivalent of a family.

(b) A group of individuals living in the same dwelling unit shall be presumed not to be a "functional family unit", as defined above, if such dwelling unit contains three or more unrelated persons whose association is temporary or seasonal in character or nature or a group whose sharing of a dwelling unit is merely for convenience and economics.

(c) A group of individuals living in the same dwelling unit shall be presumed not to be a "functional family unit", as defined above, if such dwelling unit contains three or more college students over the age of sixteen years.

(1) A college student is a person who attends, at least half time, any college, university, or other institution authorized to confer degrees by the State of West Virginia.

(2) For the purpose of this presumption, dependent children of any other member of the household shall be excluded in calculating the number of college students in the household.

(d) The presumptions set forth in subsections (b) and (c) of this definition may be rebutted by sufficient evidence of the characteristics set forth in subsection (a) of this definition.

(e) The initial determination of whether a "functional family unit" status exists shall be made by the Planning Director, either by application or investigation. Any person seeking the rights and privileges afforded a member of a "functional family unit" shall have the burden of proof by clear and convincing evidence of a "functional family unit" as provided above. Nothing in this section shall be deemed to confer any legal rights upon any person on the basis of conduct otherwise unlawful under any existing law. The City will limit disclosure of any information provided by a "functional family unit" status applicants to the extent permitted by law. (Ord. 10-24. Passed 7-6-10.)

FUNERAL HOME – A building or part thereof used for human funeral services. Such building may contain space and facilities for (a) embalming and the performance of other services used in the preparation of the dead for burial; (b) the performance of autopsies and other surgical procedures; (c) the storage of caskets, funeral urns, and other related funeral supplies; (d) the storage of funeral vehicles; and (e) facilities for cremation.

FURNITURE SALES – Establishments where furniture is the main item offered for sale; however, these places of business may also sell home furnishings, major appliances and floor coverings.

GARAGE, PRIVATE – A detached accessory or portion of a main building housing the automobiles of the occupants of the premises, but not commercial vehicles.

GARAGE, PUBLIC – A building or part thereof for the parking or storage of motor vehicles and in which no other use is conducted, which is available for public use.

GARDEN CENTERS – Establishments primarily engaged in selling containerized trees, shrubs, other plants, seeds, bulbs, mulches, soil conditioners, fertilizers, pesticides, garden tools and other garden supplies to the general public and where no trees, shrubs or plants are grown on the premises.

GAS STATION MINIMART – A place where gasoline, motor oil, lubricants, or other minor accessories are retailed directly to the public on the premises in combination with the retailing of items typically found in a convenience store or supermarket.

GASOLINE SERVICE STATION – A building, place of business, land area, or other premises, or portion thereof, used or intended to be used for the retail dispensing of gasoline, oil and grease, and other vehicle fuels, and including, as an accessory use, the sale and installation of batteries, tires, lubricants, and other automobile accessories and retail items. Minor repair service may also be rendered.

GLARE – Light that causes annoyance, discomfort, or loss in visual performance and ability.

GOLF COURSE – A tract of land laid out with at least nine holes for playing a game of golf and improved with tees, greens, fairways, and hazards. A golf course may include a clubhouse, restrooms, a driving range and shelters as accessory uses.

GOVERNMENT FACILITY – A building or structure owned, operated or occupied by a governmental agency or entity to provide a governmental service to the public. Such facilities are generally exempt from municipal zoning; except when they are sold or leased to a private firm or person for purposes of conducting a non-governmental use therein.

GRADE – The average level of the finished surface of the ground adjacent to the exterior walls of the building.

GRADE, PERCENTAGE – The rise or fall of a slope in feet and tenths of a foot for each 100 feet of horizontal distance.

GRANDFATHERED – The status accorded certain properties, uses, and activities that are legally existing prior to the date of adoption of the Zoning Ordinance or amendments of the Zoning Ordinance. No use that is nonconforming shall be permanently grandfathered after the adoption of this Ordinance. If nonconforming uses and structures are modified they are subject to regulations provided herein.

GREEN AREA – Land shown on a development plan, master plan, or official map for preservation, recreation, landscaping, or park.

GREENHOUSE, NON-COMMERICAL – A building or structure constructed chiefly of glass, glasslike or translucent material, cloth or lath, which is devoted to the protection or cultivation of flowers or other weather sensitive plants.

GREENHOUSE, COMMERCIAL – A building used for the growing of plants, all or part of which are sold at retail or wholesale.

GROCERY STORE – A building used for the sale of primarily food products in a space larger than 2,000 square feet.

GROSS LEASABLE AREA – The total floor area designed for tenant occupancy and exclusive use, including basements, mezzanines, and upper floors, if any; expressed in square feet and measured from the centerline of joint partitions and from outside wall faces.

GROUND FLOOR – The first floor of a building other than a cellar or basement.

GROUNDCOVER – Any evergreen or broadleaf evergreen plant that does not attain a mature height of more than one foot. Sod and seed shall also be considered as qualifying groundcover.

GROUP RESIDENTIAL FACILITY – A facility which is owned or leased by a behavioral health service provider and which: (1) provides residential services and supervision for individuals who are developmentally disabled or behaviorally disabled; (2) is occupied as a residence by not more than eight individuals who are developmentally disabled and not more than three supervisors, or is occupied as a residence by not more than twelve individuals who are behaviorally disabled and not more than three supervisors; (3) is licensed by the West Virginia Department of Health or the Division of Human Services; (4) complies with the West Virginia State Fire Commission for residential facilities; and (5) complies with the provisions of the Code of the State of West Virginia, Chapter 27, Article 17, et seq., as amended.

GROUP RESIDENTIAL HOME – A building owned or leased by developmentally disabled or behaviorally disabled persons for purposes of establishing a personal residence. A behavioral health service provider may not lease a building to such persons if the provider is providing services to the persons without a license as provided for in the Code of the State of West Virginia, Chapter 27, Article 17, et seq., as amended.

GUEST HOUSE – An attached or detached building that provides living quarters for guests and (a) contains no kitchen or cooking facility; (b) is clearly subordinate and incidental to the principal residence on the same building site; and (c) is not rented or leased, whether compensation be direct or indirect.

HALFWAY HOUSE – A place for transitional group living arrangements for persons discharged from hospitals, correctional facilities, or in lieu of hospitalization, characterized by the presence of such live-in staff, emphasizing the development of skills necessary for more independent living. The facility shall be licensed and operated in accordance with all applicable laws.

HARDWARE STORE – A facility of 30,000 or fewer square feet gross floor area, primarily engaged in the retail sale of various basic hardware lines, such as tools, builders' hardware, plumbing and electrical supplies, paint and glass, housewares and household appliances, garden supplies and cutlery. If the facility is larger than 30,000 square feet, then it is a HOME IMPROVEMENT CENTER.

HAZARDOUS MATERIAL – Any substance that, because of its quantity, concentration, or physical or chemical characteristics, poses a significant present or potential hazard to human health and safety or to the environment if released into the workplace or the environment. The term includes, but is not limited to, hazardous substances and hazardous wastes.

HEALTH/SPORTS CLUB – A building or portion of a building designed and equipped for the conduct of sports, exercise, or other customary and usual recreational activities, operated for profit or not-for-profit. The sale of sports nutrition products, non-alcoholic beverages, packaged health foods, exercise clothing, and sports videos and magazines is permitted as an accessory use to such facilities.

HEAVY MACHINERY SALES – Establishments primarily engaged in marketing heavy machinery, such as road construction and maintenance machinery, mining machinery, agricultural machinery, industrial machinery and equipment, and so forth.
(Ord. 06-01. Passed 1-3-06.)

HEIGHT – The vertical distance of a building or structure measured in feet and/or stories as set forth herein. (Ord. 06-40. Passed 11-21-06.)

HELIPORT or HELIPAD – An area designed to be used for the landing or takeoff of helicopters including operations facilities, such as maintenance, loading and unloading, storage, fueling, or terminal facilities.

HELISTOP – An area designed to be used for the landing or takeoff of one helicopter, the temporary parking of one helicopter, and other facilities as may be required by federal and state regulations, but not including operation facilities such as maintenance, storage, fueling, or terminal facilities.

HISTORIC DISTRICT – A geographically definable area, designated as historic on a national, state or local register, possessing a significant concentration, linkage or continuity of sites, buildings, structures or objects united historically or aesthetically by plan or physical development.

HISTORIC LANDMARK – A site, building, structure or object designated as historic on a national, state or local register.

HISTORIC SITE – The location of a significant event, a prehistoric or historic occupation or activity, or a building or structure whether standing, ruined or vanished, where the location itself possesses historical, cultural or archaeological value regardless of the value of any existing structure and designated as historic on a national, state or local register.

HISTORIC STRUCTURE – Any structure that is: (a) listed individually in the National Register of Historic Places or preliminarily determined by the United States Secretary of the Interior as meeting the requirements for individual listing in the National Register; (b) certified or preliminarily determined by the United States Secretary of the Interior as contributing to the historical significance of a registered historic district; (c) individually listed on the West Virginia inventory of historic places; (d) individually listed on a Monongalia County, Morgantown or other local inventory of historic places in communities with historic preservation programs that have been certified by an approved state program as determined by the United States Secretary of the Interior.

HOLIDAY DECORATIONS – Displays erected on a seasonal basis in observance of religious, national or state holidays, which are not intended to be permanent and contain no advertising material.

HOME GARDENING – The growing of vegetables, produce or other plants on individual private lots, by the owner or resident of the lot, for personal enjoyment or consumption, or for sale at off-premise locations such as farmers' markets, produce stands, etc. Such activities may occur in any zoning district without permits. This activity is distinguished from AGRICULTURAL ACTIVITY in that the latter is primarily commercial in intent and nature.

HOME IMPROVEMENT CENTER – A facility of more than 30,000 square feet gross floor area, engaged in the retail sale of various basic hardware lines, such as tools, builders hardware, paint and glass, housewares and household appliances, garden supplies, lumber, plumbing and electrical supplies, etc.

HOME OCCUPATION – Any business activity conducted entirely within the owner's primary residence which requires a business license issued by the State of West Virginia and by the City of Morgantown; and is clearly incidental to or secondary to the residential use of the dwelling. Home occupations are divided into two classes, as follows:

HOME OCCUPATION, CLASS 1: An accessory use intended to allow businesses that rely solely on electronic or off-premise transactions. Types in this category include, but are not necessarily limited to:

1. Businesses where all work and communication is conducted over the Internet, telephone, and/or electronic mail; and that do not engage in any on-premise customer contact.
2. Businesses where a service is provided off-premises to a client or customer, with no client or customer visitation to the business location. In these instances, the business location is used solely for bookkeeping and electronic or telephone communication with clients and customers.
3. Businesses where the owner produces a product at the business location and offers it for sale over the Internet or transports the product(s) to off-premise merchants, trade shows, flea markets, and the like for sale. No products are displayed or offered for sale to customers visiting the business location.

HOME OCCUPATION, CLASS 2: A conditional use intended to allow businesses that generate limited quantities of customer visitation and/or merchandise deliveries. Any Home Occupation that is not clearly of type Class 1 shall be deemed to be Class 2.

HOSPITAL – An institution specializing in giving clinical, temporary, and/or emergency services of a medical or surgical nature to human patients and injured persons, and licensed by state law to provide facilities and services in surgery, obstetrics, and general practice.

HOTEL – A building in which lodging is provided and offered to the public for compensation, and which is open to transient guests and is not a rooming or boarding house.

HOTEL, FULL-SERVICE – A hotel consisting of a building or a group of buildings in which lodging and meals prepared on-premises are provided and offered to guests for compensation; and which is open to transient guests and provides additional accessory services, which may include any of the following: restaurants, meetings rooms, convention and/or conference rooms, catering facilities.

HOUSEHOLD – A family living together in a single dwelling unit with common access to, and common use of, all living and eating areas and all areas and facilities for the preparation and storage of food within the dwelling unit.

HYPERMARKET – A large-scale (minimum of 100,000 square feet) self-service retail store selling food, drugs, household merchandise, clothing, and a variety of other retail goods. The store may, in some cases, include limited, ancillary commercial tenants within the main building, such as medical offices, postage stores, snack counters, coffee shops, hair salons, etc.

IMPERVIOUS SURFACE – Surfaces that do not absorb water. Examples of such surfaces include buildings and concrete or asphalt parking areas, roads, sidewalks, or driveways.

IMPROVEMENT – Any man-made, immovable item that becomes part of, placed on, or is affixed to real estate. (A.O.)

INDUCED HYDRAULIC FRACTURING - The process of injecting water, steam, gas, or other substances into a well to improve hydrocarbon recovery; commonly referred to as "hydrofracking" and/or "fracking". (Ord. 12-26. Passed 7-3-12.)

INDUSTRIAL EQUIPMENT REPAIR ESTABLISHMENT – An establishment primarily engaged in repairing industrial equipment, including repairing heavy construction and earth-moving equipment.

INDUSTRIAL PARK – A planned, coordinated development of a tract of land designed to contain two or more separate industrial buildings. Such development is planned, designed, constructed and managed on an integrated and coordinated basis with special attention given to on-site vehicular circulation, parking, utility needs, building design and orientation, and open space.

INDUSTRIAL SUPPLIES – Establishments primarily engaged in marketing industrial supplies, such as bearings, boxes, gaskets, bottles, rubber goods, welding supplies, metal containers, and so forth.

INDUSTRY, HEAVY – A use engaged in the basic processing and manufacturing of materials, or a use engaged in storage of or manufacturing processes using flammable or explosive materials, or storage or manufacturing processes that potentially involve hazardous or commonly recognized offensive conditions.

INDUSTRY, LIGHT – Research and development activities, the manufacturing, compounding, processing, packaging, storage, assembly, and/or treatment of finished or semi-finished products from previously prepared materials, which activities are conducted wholly within an enclosed building. Finished or semi-finished products may be temporarily stored outdoors pending shipment.

INFILL DEVELOPMENT – To fill in vacant or underused land in existing communities with new development that blends in with its surroundings.

INSTITUTIONAL USE – For the purpose of determining allowable signage, a school, religious institution, or other use operated by a public agency or non-profit organization and permitted as a use in one or more residential zoning districts in the City.

INSTRUCTIONAL STUDIO – A facility offering educational instruction, having regular sessions with regularly employed instructors, but not a school as defined by the State.

JUNK YARD – Any space for storage, abandonment or sale of junk, scrap material or similar waste, including the dismantling, demolition or abandonment of automobiles, other vehicles, machinery or parts. Junkyard shall be synonymous with salvage yard.

KENNEL, COMMERCIAL – Any lot or premises on which four (4) or more dogs, or small animals, at least four (4) months of age, are kept.

KITCHEN – Any room principally used, intended or designed to be used for cooking or the preparation of food. The presence of a range or oven, or utility connections suitable for servicing a range or oven, shall normally be considered as establishing a kitchen.

LABORATORIES – Facilities equipped for experimental study in a science or for testing and analysis; facilities providing opportunity for research, experimentation, observation or practice in a field of study.

LAND DEVELOPMENT – The development of one or more lots, tracts or parcels of land by any means and for any purpose, but does not include easements, rights-of-way or construction of private roads for extraction, harvesting or transporting of natural resources.

LAND TRUST – A private, nonprofit conservation organization formed to protect natural resources, such as productive farm and forest land, natural areas, historic structures, and recreational areas. Land trusts purchase and accept donations of conservation easements. They educate the public about the need to conserve land and some provide land-use and estate planning services to local governments and individual citizens.

LANDSCAPED AREA – A portion of the site or property containing vegetation intended to exist after construction is completed. Landscaped areas include, but are not limited to, natural areas, buffers, streetscapes, lawns and plantings.

LANDSCAPED BUFFER – An area of landscaping separating two distinct land uses, or a land use and a public right-of-way, and acts to soften or mitigate the effects of one land use on the other.

LANDSCAPING – The bringing of the soil surface to a smooth finished grade, installing sufficient trees, shrubs, ground cover and grass to soften building lines, provide shade and generally produce a pleasing visual effect of the premises.

LANDSCAPING PLAN – A site plan intended to demonstrate compliance with the landscaping section of this Ordinance.

LAUNDROMAT – A business that provides washing, drying, and/or ironing machines for hire to be used by customers on the premises.

LIBRARY – A building containing printed and pictorial material for public use for purposes of study, reference and recreation.

LIQUOR STORE – An establishment operated under the authority of the Code of the State of West Virginia, Chapter 60, Article 3 or 3A primarily engaged in the retail sale of packaged alcoholic beverages, such as ale, beer, wine and whiskey, for off-premises consumption.

LOADING DOCK/SPACE – A space or berth available for the loading and/or unloading of goods from commercial vehicles. (Ord. 06-01. Passed 1-3-06.)

LODGING OR ROOMING HOUSE – A building or portion of a mixed-use building that provides sleeping accommodations for no more than 16 people on a transient or permanent basis, without personal care services, with or without meals, but without separate cooking facilities for individual occupants. A building that contains a lodging or rooming housing use may not contain any additional such use nor any other residential dwelling use. Also called a boarding house. (Ord. 09-08. Passed 3-3-09.)

LOGO – The graphic or pictorial presentation of a message, including, but not limited to, the use of shapes, designs, decorations, emblems, trademarks, symbols or illustrations, or the superimposition of letters or numbers or any other use of graphics or images other than the sequential use of letters and numbers.

LOT – See LOT OF RECORD.

LOT AREA – The total area within the lot lines of a lot, excluding any public rights-of-way.

LOT, BUILDING – A parcel of land that was legally existing at the time of adoption of this Ordinance, or is legally created through subdivision thereafter, upon which a building or structure may be erected in accordance with all relevant provisions in this Ordinance (including variance provisions, if applicable). Parcels of land that are created in violation of any provision of the Morgantown Subdivision Ordinance shall not be eligible for the issuance of permits to build any structure thereupon.

LOT, CORNER – A lot located at the intersection of two or more streets. The minimum setback for the side yard abutting the street shall be 150 percent the minimum side yard setback for the district.

LOT COVERAGE – The total area covered, measured from the outside of the exterior walls, by all principal and accessory buildings on a lot. Open porches, decks, balconies and similar features that are not covered by a roof shall not be counted.

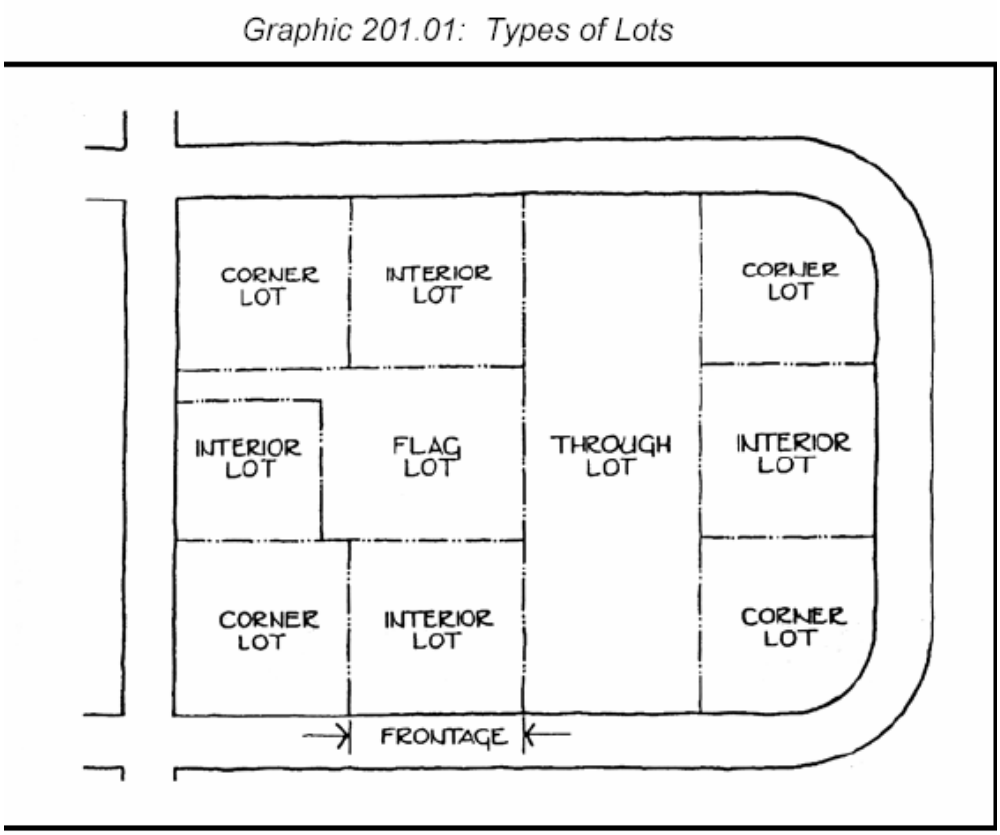
LOT DEPTH – The distance measured from the front lot line to the rear lot line. Where the front and rear lot lines are not parallel, the lot depth shall be measured by drawing lines from the front to rear lot lines at right angles to the front lot line, every ten feet and averaging the length of these lines.

LOT, FLAG – A polygonal-shaped lot with the appearance of a frying pan or flag and staff in which the handle is most often used as the point of access. The handle, when less than the minimum width for a building lot in the zoning district in which it is located, is not to be used in computing the minimum required lot area or delineating the minimum required building envelope.

LOT FRONT – The side of a lot that abuts a public street is the front of the lot. For corner lots, the shortest side fronting upon a street shall be considered the front of the lot. Where buildings exist on the lot, the frontage may be established by the orientation of the building, or of the principal entrance, if building orientation does not clearly indicate lot frontage. Where no other method determines conclusively the front of a lot, the Planning Director shall select one frontage on the basis of traffic flow on adjacent streets, so that the lot is considered to front on the street with the greatest traffic flow.

LOT OF RECORD – A lot that is part of a subdivision or a parcel of land, the map or plat of which has been legally recorded with the Office of the County Clerk, or, a lot or parcel of land, described by metes and bounds, the deed of which has been recorded with the Office of the County Clerk. No building permits shall be issued for any parcel created by metes and bounds description, unless said parcel conforms to all requirements herein or contained within the Morgantown Subdivision Ordinance.

Graphic 1329.02.01: Types of Lots



LOT, IRREGULAR – A lot of such shape or configuration that technically meets the area and frontage requirements of the Ordinance but has unusual elongations, angles or curvilinear lines.

LOT, NONCONFORMING – A lot or parcel of land that was of record and lawfully established and maintained but which, because of the enactment of this code, no longer conforms to the land-use standards or use regulations of the zone in which it is located.

LOT, THROUGH – A lot other than a corner lot with frontage on more than one street. Through lots abutting two streets may be referred to as double frontage lots.

MANUFACTURED HOME – Housing built in a factory according to the Federal Manufactured Home Construction and Safety Standards effective June 15, 1976.

MANUFACTURED HOUSING SALES – Establishments primarily engaged in the retail sale of new and used mobile homes, new manufactured houses, and new modular homes, including incidental storage of homes and materials used in the preparation or transport of such homes to customers.

MANUFACTURING, HEAVY – The manufacturing or compounding process of raw materials. These activities or processes would necessitate the storage of large volumes of highly flammable, toxic matter or explosive materials needed for the manufacturing process. These activities may involve outdoor operations as part of their manufacturing process.

MANUFACTURING, LIGHT – See INDUSTRY, LIGHT.

MARINA, COMMERCIAL – A business engaged in the secure mooring of boats, including facilities for storage and repair of boats and sale of boating supplies and fuel.

MARINA, PRIVATE – An establishment providing docking, moorage space, and related activities limited to the provisioning or minor repair of pleasure boats and yachts, and accessory facilities including, but not limited to showers, toilets, and self-service laundries. Use of a private marina is limited to the owner or resident of the lot upon which the facility is located.

MARINE SUPPLIES – An establishment primarily engaged in the retail sale of motorboats and other watercraft, marine supplies, and outboard motors, including no more than incidental storage.

MARQUEE – A roof-like structure that cantilevers from the wall of a building over its principal entrance, that has no vertical supports other than the wall from which it cantilevers, and that provides a wall surface at least four feet high, generally constructed for purposes of containing a sign. (Ord. 06-01. Passed 1-3-06.)

MIXED-USE DEVELOPMENT – Specifically, the development or use of a tract of land or building(s) or structure(s) containing both residential and non-residential uses. Generally, mixed-use development patterns are planned as a unified complementary whole, that are functionally integrated, and encourage a diversity of compatible land uses.
(Ord. 15-32. Passed 6-2-15.)

MODULAR HOME – A factory built single family house that is constructed in two or more pieces to be assembled upon the parcel of land upon which it is to be situated. Modular homes are designed and constructed so that, once erected on a permanent foundation, they are certified to meet the same Building Code as is required for a "stick-built" house. For zoning purposes, such houses are considered to be identical to stick-built houses.

MOTEL – An establishment providing transient lodging in which the guest rooms are usually accessible from an outdoor parking lot.
(Ord. 06-01. Passed 1-3-06; Ord. 12-26. Passed 7-3-12.)

MOTORCYCLE – Every motor vehicle, other than a tractor, having a saddle for the use of the operator and designed to travel on not more than three wheels in contact with the ground, including but not limited to motor vehicles known as motor driven cycles, motor scooters, or motorcycles without regard to weight or brake horsepower.
(Ord. 08-06. Passed 3-4-08.)

MOTORCYCLE SALES ESTABLISHMENT – Establishments primarily engaged in the retail sale of new and/or used motorcycles, motor scooters, clothing and accessories, and personal watercraft, including incidental storage, maintenance and servicing.

MOVIE THEATER, LARGE – A building for showing motion pictures or for live dramatic, dance, musical, or other productions, which is usually commercially operated. Consists of five (5) or more screens, audience seating and auditorium, and a lobby and refreshment stand.

MOVIE THEATER, SMALL – A building for showing motion pictures or for live dramatic, dance, musical, or other productions, which is usually commercially operated. Consists of four (4) or fewer screens, audience seating and auditorium, and a lobby and refreshment stand.

NEIGHBORHOOD CONVENIENCE STORE – See CONVENIENCE STORE, NEIGHBORHOOD.

NEWSSTAND – A temporary structure, manned by a vendor, that sells newspapers, magazines, and other periodicals.

NONPROFIT ORGANIZATION – A corporation established pursuant to the Code of the State of West Virginia, Chapter 31E-3 and duly organized for any lawful purpose including any one or more of the following: charitable, benevolent, educational, civic, patriotic, political, religious, social, fraternal, literary, cultural, athletic, scientific, agricultural, horticultural, animal husbandry, and professional commercial, industrial or trade association.

NURSERY, PLANT – An establishment for the growth, display, and sale of plants, shrubs, trees and materials used in indoor or outdoor planting, conducted within or without an enclosed building.

NURSING HOME – A use providing bed care and in-patient services for persons requiring regular medical attention but excluding a facility providing surgical or emergency medical services and excluding a facility providing care for alcoholism, drug addiction, mental disease, or communicable disease.

OFFICE – A room or suite of rooms or portion of a building used for the practices of a profession or for the conduct of a business that involves the accessory sale of goods from the premises.

OFFICE BUILDING – A building used primarily for offices that may include ancillary services for office workers, such as a restaurant, coffee shop, newspaper, or candy stand.

OFFICE EQUIPMENT REPAIR ESTABLISHMENT – An establishment involved in repairing office equipment, such as typewriters, copying machines, computers, calculators, and so forth.

OFFICE, MEDICAL – An office for medical providers including doctors, surgeons and dentists.

OFFICE PARK – A development that contains a number of separate office buildings, supporting uses and open space designed, planned, constructed, and managed on an integrated and coordinated basis, and located on one or more parcels under single ownership.

OFFICE SUPPLIES ESTABLISHMENT – Places of business where stationery and other supplies typically used in offices are the main items offered for sale.

OIL CHANGE FACILITY – Operations that provide lubrication and/or checking, changing, or additions of those fluids and filters necessary to the maintenance of a vehicle. It is intended that these services will be provided while customers wait, generally within a 15 to 30 minute time period. Rotation of tires is also permitted. If the establishment offers tire sales, tune-ups or other mechanical servicing and repair, then the facility shall be deemed an AUTOMOBILE REPAIR FACILITY.

OPEN SPACE – Any land or area devoid of buildings or structures, preserved for any of the following reasons: (1) conserve or enhance natural or scenic resources; or (2) promote protection of streams or water supply; or (3) promote conservation of soils, or wetlands; or (4) enhance the value to the public of abutting or neighboring parks, forests, wildlife preserves, nature reservations, or sanctuaries; or (5) enhance recreational opportunities.

OPEN SPACE, IMPROVED – Parks, playgrounds, swimming pools, ball fields, plazas, landscaped green spaces, and other areas that are created or modified by man. Improved open space shall not include spaces belonging to schools, community centers or other similar areas in public ownership.

OPEN SPACE, NATURAL – Areas of natural vegetation, water bodies, or other landforms that are to be left undisturbed. Creation of a graded and surfaced walking trail through areas of natural open space shall constitute disturbance of the area in the amount of the length of the walking trail multiplied by its approximate average width. Natural open space shall not include schools, community centers or other similar areas in public ownership. (A.O.)

OPERATOR - For the purpose of an extractive industry use, the person or company, either proprietor or lessee, in charge and in control of the management and day-to-day operations of an extractive industry development site.
(Ord. 12-26. Passed 7-3-12.)

ORDER – Includes a column, or cylindrical upright member composed of a capital, shaft and base, as well as an entablature and pedestal appropriate to the order to which the column belongs. The most easily recognizable orders originated with classical architecture: Greek (doric, ionic and corithian) and Roman (tuscan and composite).

OUTDOOR FLEA MARKET – The principal use of land as an open-air market for secondhand articles and/or antiques.

OUTDOOR STORAGE – The storage of any material for a period of greater than 24 hours, including items for sale or, lease, processing, and repair (including vehicles) not in an enclosed building.

OUTDOOR STORAGE, SEASONAL – Outdoor storage of items for retail sale that are, by their nature, sold during a peak season, including such items as fruits, vegetables, Christmas trees, pumpkins, lawn accessories, bedding plants, etc. and in conjunction with existing commercial establishments. (ord. 06-01. Passed 1-3-06.)

OVERLAY DISTRICT – An area where certain additional requirements are superimposed upon a base zoning district or underlying zoning district and where the requirements of the base or underlay district may or may not be altered. Where the standards of the overlay and base or underlying zoning district are different, the more restrictive standards shall apply. (Ord. 14-48. Passed 11-5-14.)

PARAPET – The portion of a wall which extends above the roofline.

PARCEL – A single lot, or a grouping of old lots acquired by a single deed and considered as one buildable lot for zoning purposes. Parcels that consist of a grouping of old City lots acquired by a single deed may be subdivided for purposes of creating more buildable parcels, provided all regulations contained within this ordinance and the Subdivision Ordinance are adhered to.

PARK – Any area that is predominately open space, used principally for active or passive recreation, and not used for a profit-making purpose. Any area designated by the City as a park.

PARK AND RECREATION SERVICES – Establishments which are non-commercial, not-for-profit facilities designed to serve the recreation needs of community residents. Such facilities include development recreation facilities (neighborhood parks), community parks, regional parks and special use facilities, school and religious institution ballfields, football fields and soccer fields.

PARKING AISLE – The clear space for either one or two-way traffic movement or maneuvering between rows of parking stalls. (Ord. 06-01. Passed 1-3-06.)

PARKING, AUTOMOBILE – Parking of operational and street legal automobiles on a temporary basis within an off-street parking area.

PARKING, BICYCLE – Parking of bicycles on a temporary basis with a minimum width of three (3) feet, a minimum length of six (6) feet, and a means of securing individual bicycles. (Ord. 08-06. Passed 3-4-08.)

PARKING LOT, COMMERCIAL – A private parking lot that is the stand-alone use of a parcel, and whose stalls are leased to individuals for any length of time.

PARKING LOT, PRIVATE – An open area, other than a street or alley, designed to be used for the temporary parking of more than four motor vehicles, whether free or for compensation, and available for private use or as an accommodation for clients or customers. (Ord. 06-01. Passed 1-3-06.)

PARKING, MOTORCYCLE – Parking of operational and street legal motorcycles on a temporary basis with a minimum width of four (4) feet and a minimum length of 9 feet.

PARKING, REMOTE – A parking lot on a site other than the property that is serves, usually at a substantial distance, and often connected by a shuttle bus.

PARKING, SHARED – Joint use of a parking area by more than one use. (Ord. 08-06. Passed 3-4-08.)

PARKING SPACE, COMPACT – A space in a garage or parking area, not less than 7 feet wide clear dimension and 16 feet long clear dimension, reserved for the parking of only one compact automobile.

PARKING SPACE, HANDICAP – A space in a garage or parking area not less than 13 feet wide and 18 feet long in clear dimension, reserved exclusively for an automobile registered with the State with handicapped license plates or displaying an official state issued handicapped placard.

PARKING STRUCTURE – A structure designed to accommodate vehicular parking spaces that are fully or partially enclosed or located on the deck surface of a building. This definition includes parking garages, deck parking and underground or under building parking areas.

PARKING, PUBLIC – A publicly owned or operated open area or parking garage, other than a street or alley, designed to be used for the temporary parking of more than four motor vehicles, whether free or for compensation, and available for public use or as an accommodation for clients or customers. (Ord. 06-01. Passed 1-3-06.)

PARKING, TANDEM – The placement of parking spaces one behind the other, so that the space nearest the driveway or street access serves as the only means of access to the other space. (Ord. 08-06. Passed 3-4-08.)

PARSONAGE – The permanent place of residence of the pastor or minister of a church. May be considered accessory to a church.

PASSENGER STATION, RAILROAD, MOTOR BUS – A facility designed to accommodate passengers who arrive and depart on commercial buses, or rail which may include management offices, bus parking or storage areas and personal services for passengers.

PATIO – A level surfaced area directly adjacent to a principal building, without walls or a roof. A patio may be constructed of any material or combination of materials, and is typically constructed at grade level or slightly higher, and is not intended for the parking or storage of vehicles.

PATIO HOUSE – A detached, single family unit typically situated on a reduced size lot that orients outdoor activity within rear or side yard patio areas for better use of the site for outdoor living space.

PAVED SURFACE AREA – Ground surface covered with cobblestones, clay fired bricks, concrete precast paver units (including, but not limited to, grasscrete) poured concrete with or without decorative surface materials, blacktop, or other asphalt or rubber mixture which may include sand or gravel as an ingredient and which creates a hard surface. A graded natural surface or one covered with rolled stone or overlaid with loose gravel is not considered a paved surface.

PAWNSHOP – Any business that loans money on deposit of personal property or deals in the purchase or possession of personal property on condition of selling the same back again to the pledger or depositor, or loans or advances money on personal property by taking chattel mortgage security thereon, and takes or receives such personal property.

PENAL/CORRECTIONAL INSTITUTION – Facility for the confinement or safe custody of persons so confined as the result of a legal process and includes attendance centers established for persons sentenced to serve periods of community service.

PENNANT – Any lightweight plastic, fabric or other material, whether or not containing a message of any kind, which is suspended from a rope, wire, string or pole, usually in series, and which is designed to move in the wind.

PERFORMANCE GUARANTEE – Any security that may be accepted by the City as a guarantee that improvements required as part of an application for development are satisfactorily completed.

PERSON – Any association, company, corporation, firm, organization or partnership singular or plural, of any kind.

PERSONAL SERVICES ESTABLISHMENT – A business which is associated with the grooming of persons or the maintenance or repair of personal wardrobe articles and accessories, and may include a barber shop, beauty parlor, shoe repair shop, self-service laundry, but not a tattoo parlor. The definition shall apply whether or not the individual engaged in the offering of said service is required to be licensed by the State of West Virginia.

PERSONAL STORAGE FACILITY or SELF-SERVICE STORAGE FACILITY – A building or group of buildings consisting of individual, self-contained units leased to individuals, organizations, or businesses for self-service storage of personal property. Also commonly referred to as mini-warehouses.

PLAN – A written description for the development of land.

PLANNING COMMISSION – The officially constituted body appointed to carry out planning duties and responsibilities in accordance with the Code of the State of West Virginia, Chapter 8A, Articles 1 through 12, et seq., as amended. (A.O.)

PLANNING DIRECTOR – The Director of the Department of Development Services for the City of Morgantown or his or her designee.
(Ord. 12-26. Passed 7-3-12.)

PLAT – A map of a land development.

PLAZA – An open space that may be improved, landscaped, or paved usually surrounded by buildings or streets. Such spaces are generally associated with commercial buildings.

PORCH – A covered but unenclosed projection from the main wall of a building that may or may not use columns or other ground supports for structural purposes. If a porch is uncovered it is considered to be a deck.

PORTICO – A porch or walkway, open to the outside air that is covered by a roof supported by columns or pillars, typically leading to the entrance of a building. A portico is considered a "canopy" for purposes of determining signage.

POSTER BOX – A box installed on a wall for the purpose of displaying posters of movies at a theater.

PRIVATE CLUB – Any corporation or unincorporated association meeting the definition of private club as contained and utilized within the Code of West Virginia Chapter 60, Article 7, Section 1 et seq. as the same applies to licensing for sale of alcoholic liquor. These establishments are permitted to sell liquor, beer and wine.

PROFESSIONAL SERVICES ESTABLISHMENT – An establishment engaged in providing professional services such as physical and/or massage therapy, consulting, legal, engineering and the like, but not including personal services.

PUBLIC IMPROVEMENT – Any improvement, facility, or service together with its associated public site or right-of-way necessary to provide transportation, drainage, public utilities, cable television, or similar essential services.

PUBLIC PLACE – Any lots, tracts or parcels of land, structures, buildings or parts thereof owned or leased by a governing body or unit of government.

RECREATION FACILITY, COMMERCIAL, INDOOR – A privately owned commercial establishment designed and equipped for the conduct of leisure activities and other recreational activities wholly within an enclosed building. Examples of such uses include but are not limited to indoor play areas, training studios for martial arts, gymnastics and dance, bowling alleys, shooting ranges and skating - skateboard rinks. Publicly owned facilities are generally exempt from municipal zoning regulations.

RECREATION FACILITY, COMMERCIAL, OUTDOOR – A privately owned commercial establishment designed and equipped for the conduct of sports, leisure activities and other recreational activities wholly or partially outside of any building or structure. Examples of such uses include but are not limited to swimming pools, driving ranges, miniature golf courses, amusement parks, skateboard facilities and gocart tracks. Publicly owned facilities are generally exempt from municipal zoning regulations.

RECREATIONAL VEHICLE (RV) – A vehicle built on a single chassis, containing 400 square feet or less when measured at the largest horizontal projections and designed to be self propelled or towed by another vehicle. A recreational vehicle is not designed or intended for use as a permanent dwelling, but as temporary living quarters for recreational camping, travel, or seasonal use. This definition includes vehicles such as travel trailers, motor homes, boats, house- boats, and campers.

RECYCLABLE COLLECTION CENTER/ SOLID WASTE TRANSFER STATION – A facility for the collection, separation, compaction, processing and storage of solid waste or recyclable materials until said waste can be transported or transferred to a sanitary landfill or other facility approved and licensed for the disposal of solid wastes or the recycling of materials by the State of West Virginia.

RECYCLING COLLECTION POINT – An accessory use, structure, or enclosed area that serves as a neighborhood drop-off point for temporary storage of recyclable materials. A recycling collection point may also include a facility for the temporary collection of used clothing and household goods. (Ord. 06-1. Passed 1-3-06.)

RELATED PERSONS - Persons related by blood, marriage, adoption, guardianship or other duly-authorized custodial relationship but limited to the following: husband, wife, child, grandchild, great grandchild, stepchild, parent, grandparent, great grandparent, stepparent, aunt, uncle, nephew, niece, and first cousin. (Ord. 10-24. Passed 7-6-10.)

REPAIR OR MAINTENANCE – An activity that restores the character, scope, size, or design of a serviceable area, structure, or land use to its previously existing, authorized, and undamaged condition. Activities that change the character, size or scope of a project beyond the original design and drain, dredge, fill, flood, or otherwise alter additional regulated wetlands are not included in this definition.

REPAIR SHOP, SMALL ENGINE OR MOTOR – An establishment primarily engaged in the repair or refurbishment of engines and motors, excluding passenger vehicles.

RESEARCH AND DEVELOPMENT CENTER – Research, development, and testing laboratories that do not involve the mass manufacture, fabrication, processing, sale of products, or, a structure or complex of structures designed or used primarily for research development functions related to industry and similar fields of endeavor.

RESTAURANT – A commercial establishment where food and beverages are prepared, served, and consumed primarily within the principal building and where food sales constitute more than sixty (60) percent of the gross sales receipts.

RESTAURANT, PRIVATE CLUB – A restaurant that also dispenses liquor and has been issued a license by the West Virginia Alcohol and Beverage Control Agency.

RESTAURANT, DRIVE-IN – An establishment whose primary business is serving food to the public for consumption on the premises by order from and service to vehicular passengers outside the structure.

RESTAURANT, FAMILY – An establishment engaged in the preparation of food and beverages containing no more than 3,000 gross square feet and characterized primarily by table service to thirty (30) or fewer customers in non-disposable containers. Typical uses include cafes, coffee shops, and small restaurants.

RESTAURANT, FAST-FOOD – Restaurants where most customers order and are served their food at a counter or in a motor vehicle in packages prepared to leave the premises, or able to be taken to a table or counter to be consumed. This facility may or may not include a drive-through facility.

RESTAURANT, PRIVATE WINE – A restaurant that is licensed to sell beer and wine, but no liquor, and that sells at least $2500 worth of food each month, as stated in West Virginia State Law.

RETAIL SALES ESTABLISHMENT – A business having as its primary function the supply of merchandise or wares to the end consumer. Such sales constitute the “primary function” of the business when such sales equal at least eighty (80) percent of the gross sales of the business.

RETAINING WALL – A wall or terraced combination of walls used to retain more than eighteen (18) vertical inches of material.

RIGHT-OF-WAY – A strip of land acquired by reservation, dedication, prescription, or condemnation and intended to be occupied by a street, trail, waterline, sanitary sewer, and/or other public utilities or facilities.

RIVER WALK – A publicly owned or privately owned way, generally open to the sky and unobstructed by buildings, that runs along the river edge and is open to the pubic during specified times. It may include without limitation, any combination of open space, paved areas, landscaped areas, pedestrian paths, and pedestrian furnishings.

ROUNDABOUT/ TRAFFIC CIRCLE – An island that may be landscaped and located at the intersection of two streets used to reduce traffic speeds and accidents without diverting traffic onto adjacent residential streets

SALVAGE YARD – A facility or area for storing, keeping, selling, dismantling, shredding, compressing, or salvaging scrap or discarded material or equipment. Scrap or discarded material includes, but is not limited to, metal, paper, rage, tires, bottles, motor vehicle parts, machinery, structural steel, equipment and appliances. The term includes facilities for separating trash and debris from recoverable resources, such as paper products, glass, metal cans, and other products that can be returned to a condition in which they may again be used for production.

SCHOOL K-12 – A school offering educational instruction in grades kindergarten (K) through twelve (12), licensed by the West Virginia Department of Education.

SETBACK – The minimum distance by which any building or structure must be separated from a street right-of-way or lot line.

SETBACK, FRONT – The shortest distance from the street right-of-way line to the closest point of the foundation of a building or projection thereof.

SETBACK, FRONT, ON CORNER LOTS – The front setback of a corner lot shall be measured from the side of the lot designated as the "front." On a corner lot, only one street line shall be considered a front line, which shall be the shorter street frontage.

SETBACK, GARAGE ENTRANCE – A setback measured from a street lot line to the entrance to a garage or carport. It is essentially a minimum driveway length.

SETBACK, REAR – The shortest distance between the building line and the rear lot line.

SETBACK, SIDE – The shortest distance between the building line and the side lot line.

SEXUALLY-ORIENTED BUSINESS – Shall include "adult book store", "adult motion picture theatre" and "adult videotape store." This excludes "adult entertainment."

SHOOTING RANGE, INDOOR – The use of a structure for archery and/or the discharging of firearms for the purposes of target practice or temporary competitions.

SHOPPING CENTER – A group of retail and other commercial establishments that is planned, owned, and managed as a single property.

SHOPPING CENTER, LARGE-SCALE – A group of buildings larger than 30,000 square feet of gross floor area engaged in the sale or rental of goods for consumer or household use. This type of shopping center may or may not contain hypermarkets.

SHOPPING CENTER, MEDIUM-SCALE – A group of buildings of more than 10,000 square feet and not greater than 30,000 square feet of gross floor area engaged in the sale or rental of goods for consumer or household use; excluding, however, animal sales or service; building materials and/or supplies, sales, or rental; and food sales or markets.

SHOPPING CENTER, SMALL-SCALE – A group of buildings of 10,000 square feet or fewer of gross floor area engaged in the sale or rental of goods for consumer or household use; excluding, however, animal sales or service; building materials and/or supplies, sales or rental; and food sales or markets.

SIGN – Any device, fixture, placard or structure that uses any color, form, graphic, illumination, symbol or writing to advertise, announce the purpose of, or identify the purpose of a person or entity, or to communicate information of any kind to the public.

SIGN, ABANDONED – A sign and/or supporting structure which no longer identifies a bona fide business conducted or product sold on the premises. A sign shall be deemed abandoned when these conditions have been in existence for a period exceeding ninety (90) calendar days.

SIGN, ANIMATED – Any sign that uses movement or change of lighting to depict action or create a special effect or scene, except LED displays on restaurant menu boards.

SIGN AREA – The entire face of a sign including the advertising surface and any framing, trim, or modeling, but not including the supporting structure.

SIGN, AWNING – A sign located on an awning. See "CANOPY SIGN."

SIGN, BANNER – A sign with or without characters, letters, illustrations, or ornamentations applied to cloth, paper, flexible plastic, or fabric of any kind with only such material for backing. All banners are temporary signs. (Ord. 06-01. Passed 1-3-06.)

SIGN, BILLBOARD - An off-premise sign, usually of the pole or pylon sign type, for which a static message or copy on the sign can be changed manually (e.g. paint, paper, vinyl, etc.), mechanically (e.g. tri-action, etc.) or electronically (e.g. digital displays using LED or similar technology controlled via electronic communication through a secure network). Such signs are prohibited within the City, except as provided in Article 1359 "ISOD, Interstate Sign Overlay District" and Article 1369 "Signs". (Ord. 13-10. Passed 3-6-12.)

SIGN, BUILDING MARKER – Any sign indicating the name of a building and date and incidental information about its construction. Such sign typically is cut into a masonry surface or made of bronze or other permanent material, and is not regulated under this Ordinance.

SIGN, BUILDING – Any sign attached to any part of a building, as contrasted to a ground sign.

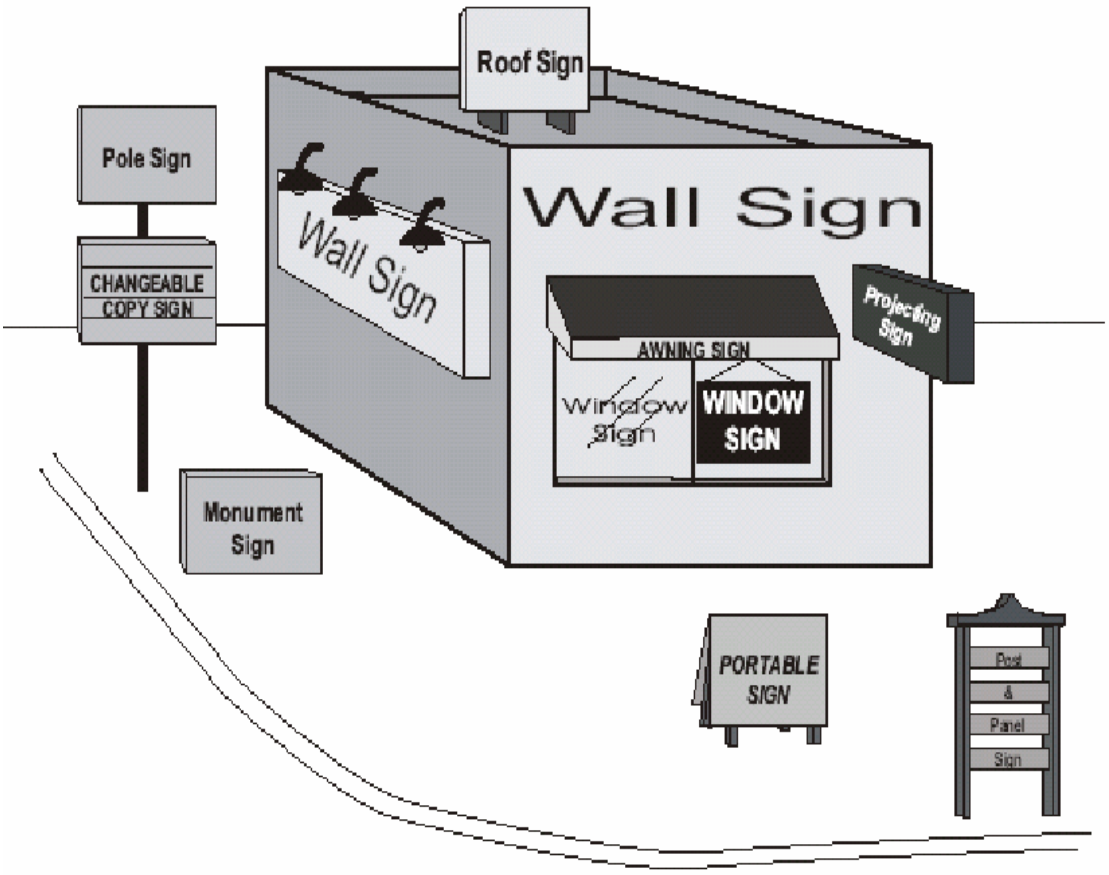
SIGN, CANOPY – Any sign that is a part of or attached to a structural protective cover over a door, entrance, window or outdoor service area. A marquee is not a canopy sign.

SIGN, CHANGEABLE COPY – Any sign designed so that letters or numbers attached to the sign can be periodically changed to indicate a different message.

SIGN, COMMERCIAL MESSAGE – Any sign, wording, logo or other representation, except for the actual name of the business, that, directly or indirectly, names, advertises or calls attention to a business, product, service or other commercial activity.

SIGN, CONSTRUCTION – Any sign bearing the names of contractors, architects, engineers and the like, or advertising, promotions, price ranges and similar information, that is placed at a construction site that has received development plan approval.

Graphic 201.02: Types of Signs



SIGN COPY – Any word, letter, number or emblem affixed to the sign surface either permanently or in removable form.

SIGN, DIRECTIONAL – An on premise sign that includes information assisting in the flow of pedestrian or vehicular traffic such as enter, exit, and one-way. A directional sign excludes commercial messages and logos but may include information, that has a purpose secondary to the use of the site on which it is located, such as “no parking,” “entrance,” “loading only,” “telephone,” and similar information and directives. A directional sign may also include information stating the hours of operation of a business, emergency telephone numbers, credit card usage, or other information of a similar nature.

SIGN, DIRECTORY – A ground or building sign that lists tenants or occupants of a building or project, with unit numbers, arrows or other directional information.

SIGN, ELECTRONIC SCROLLING MESSAGE – A sign with a fixed or changing display/message composed of a series of lights, wherein the sequence of message and the rate of change is electronically programmed and can be modified by electronic processes.

SIGN, EXTERNALLY ILLUMINATED – A sign illuminated primarily by light directed toward or across it or by backlighting from a source not within it. Sources of illumination for such signs may be in the form of gooseneck lamps, spotlights, or luminous tubing.

SIGN FACE – The area of a sign on which the copy is placed.

SIGN FLAG, FLAGPOLE – See FLAG, BUSINESS FLAG AND PUBLIC FLAG definitions.

SIGN, FLASHING – A sign, the illumination of which is not constant in intensity when in use, and which exhibits sudden or marked changes in lighting effects. LED displays on restaurant menu boards are not considered flashing signs.

SIGN, FREESTANDING – A sign that is attached to, erected on, or supported by some structure (such as a post, mast, frame, or other structure) that is not itself an integral part of or attached to a building or other structure whose principal function is something other than support.

SIGN, GROUND – Any sign attached to the ground, as contrasted to a building sign; a freestanding sign.

SIGN HEIGHT – The vertical distance measured from the lowest adjacent grade to the highest point of the sign or sign structure.

SIGN, IDENTIFICATION – A sign bearing the address of the premises or name of occupant, but containing no logo or commercial message.

SIGN, ILLUMINATED – A sign that is illuminated by electrical or other artificial devices.

SIGN, INTERNALLY ILLUMINATED – A sign whose light source is either located in the interior of the sign so that the rays go through the face of the sign, or which is attached to the face of the sign and is perceived as a design element of the sign. Such signs may not be located in any residential, office, or neighborhood services district.

SIGN, MARQUEE – A sign attached to or mounted on top of a marquee.

SIGN, MENU BOARD – An accessory sign providing items and prices associated with a drive-thru window.

SIGN, MONUMENT – A freestanding sign where the base of the sign structure is on the ground or a maximum of twelve (12) inches above the adjacent grade. The width of the top of the sign structure can be no less than 90 and no more than 120 percent of the width of the base.

SIGN, NEON – A sign containing glass tube lighting in which gas and phosphors are used in combination to create a colored light.

SIGN, NONCONFORMING SIGN – Any sign that met the requirements of the City at the time it was erected, but does not conform to the requirements of this Ordinance.

SIGN, OFF-PREMISE – A sign that directs attention to a business, commodity, service, or entertainment not exclusively related to the premises where such a sign is located or to which it is affixed. Such signs may or may not be of the pole sign variety.

SIGN, ON-PREMISE – Any sign identifying or advertising a business, person, activity, goods, services, or products, located on the premises where the sign is installed and maintained. (Ord. 06-01. Passed 1-3-06.)

SIGN, POLE – A sign that is mounted on a freestanding pole(s) or other support so that the bottom edge of the sign face is six feet or more above the grade. Such signs are prohibited within the City, except as provided in Article 1359 "ISOD, Interstate Sign Overlay District" and Article 1369 "Signs." Also called a PYLON SIGN. (Ord. 13-10. Passed 3-6-13.)

SIGN, POLITICAL – A sign attracting attention to political candidates or issues, expressing support for a candidate for public office or another position regarding a public figure or issue, but bearing no commercial message.

SIGN, PORTABLE – Any sign not permanently attached to the ground or other permanent structure or a sign designed to be transported, including, but not limited to, signs designed to be transported by means of wheels; signs made as A-frames or T-frames; and balloons used as signs. Such signs are prohibited within the City.

SIGN, POST AND PANEL – A sign consisting of one or more panels which are supported between two posts permanently anchored in the ground.

SIGN, PROJECTING – Any sign attached to a building wall and extending laterally more than 18 inches from the face of such wall.

SIGN, PUBLIC EVENT BANNER – A banner sign advertising or announcing a special community wide event or activity conducted by, or sponsored by, or on behalf of a unit of local government, West Virginia University, a charitable organization, or a not-for-profit corporation. A special community wide event or activity is one that occurs not more than twice in any twelve (12) month period and seeks to attract donations, participants, or customers throughout the city.

SIGN, PUBLIC INFORMATION – Any sign erected and maintained by public officials or public agencies, or approved and authorized for use by state or local government authorities.

SIGN, PYLON – See SIGN, POLE.

SIGN, REAL ESTATE – A sign advertising real property for sale or for lease.

SIGN, ROOF – A sign erected above the eaves of a building.

SIGN, SANDWICH BOARD – A sign not permanently attached to the ground or some type of permanent structure; a sign connected to or located on A or T frames; a two-sided sign attached to boards.

SIGN, SHINGLE – A sign suspended from and located entirely under a covered porch, covered walkway, or an awning. See SIGN, SUSPENDED.

SIGN, SPECIAL EVENT – A sign advertising or announcing a special community wide event or activity conducted by, or sponsored by, or on behalf of a unit of local government, West Virginia University, a charitable organization, or a nonprofit corporation. A special community wide event or activity is one that occurs not more than twice in any twelve (12) month period and seeks to attract donations, participants, or customers throughout the City.

SIGN, SUSPENDED – A sign that is suspended from the underside of a horizontal plane surface and supported by such surface.

SIGN, TEMPORARY – Any sign that is used only temporarily and is not permanently mounted, and that can be used only for a designated period of time.

SIGN, TRAFFIC – A sign indicating federal, state, or municipal regulations for automobile, truck, bicycle or pedestrian movement.

SIGN, V-TYPE – A type of sign with two faces connected at one end, but facing away from each other at angles that impart a "V" shape to the sign. For purposes of computing surface area, such signs are two separate signs if the angle between the two outer surfaces is less than 60 degrees; otherwise the wings shall be considered one sign.

SIGN, WALL – Any sign painted on or attached to and extending not more than six (6) inches from an exterior wall in a parallel manner.

SIGN, WINDOW – Any sign that is applied to the inside of glassed areas of a building. Such signs shall be treated as wall signs.

SITE – A lot, tract or parcel of land considered as one land-unit for purposes of this ordinance. For a single-family residence, the site shall be the subdivided lot on which it is located. For multi-family projects, the site shall be all land occupied by the buildings in the project and adjoining such property and under common ownership with it. For vacant land, the site shall be all of the adjoining vacant land under single ownership. For single-occupancy, non-residential properties, the site shall be the subdivided lot that is occupied. For multiple-occupancy properties, the site shall be all land included under the original "site plan" or "subdivision plan" approval under the Zoning Ordinance.

SITE PLAN – A plan depicting the proposed development of a property, in terms of the location, scale and configuration of buildings and other features containing all the required information under the site plan review section of this Ordinance.

SMART GROWTH – Planning, regulatory, and development practices and techniques founded upon and promoting the following principles: (1) using land resources more efficiently through compact building forms, infill development, and modernization in street and parking standards in order to lessen land consumption and preserve natural resources; (2) supporting the location of stores, offices, residences, schools, recreational spaces, and other public facilities within walking distance of each other in compact neighborhoods that are designed to provide alternate opportunities for easier movement and interaction; (3) providing a variety of housing choices so that the young and old, single persons and families, and those of varying economic ability may find places to live; (4) supporting walking, cycling, and transit as attractive alternatives to driving; providing alternate routes that disperse, rather than concentrate, traffic congestion; and lowering traffic speeds in neighborhoods; (5) connecting infrastructure and development decisions to minimize future costs by creating neighborhoods where more people use existing services and facilities; and by integrating land use and development with transit routes and stations; and (6) improving the development review process and development standards so that the developers are encouraged to apply the principles stated above.

SNACK BAR/ SNACK SHOP – An establishment similar to a restaurant, but limited to the extent that no food is cooked on the premises other than heating by a microwave oven, no drive-through windows exist on the premises, and seating for customers does not exceed twelve (12).

SPECIFIED ANATOMICAL AREAS – (1) Less than completely and opaquely covered human genitals, pubic region, buttocks, or female breast below a point immediately above the top of the areola; or (2) human male genitals in a discernibly turgid state, even if completely or opaquely covered.

SPECIFIED SEXUAL ACTIVITIES – (1) Human genitals in a state of sexual stimulation or arousal; (2) acts of human masturbation, sexual intercourse or sodomy; or (3) fondling, erotic display or erotic touching of human genitals, pubic region, buttocks or breasts, even if completely and opaquely covered.

SPORTING GOODS – Establishments primarily engaged in selling sporting goods, sporting equipment and accessories.

SPRAWL – Poorly planned or uncontrolled growth, usually of a low density nature, within previously rural or under-developed areas, that is land consumptive, auto-dependent, designed without respect to its surroundings, and some distance from existing development and infrastructure.

SQUARE – Open spaces that may encompass up to an entire block, located at the intersection of important streets, and set aside for civic purposes, and offering such amenities as paved walks, lawns, trees, and/or civic buildings.

STACKING LANE – An area for temporary queuing of motor vehicles.

STAFF – Planning and/or other City of Morgantown department staff.

STATE – The State of West Virginia, unless otherwise specified.

STEALTH TECHNOLOGY – Towers designed with alternative design structures such as clock towers, artificial trees and similar non-traditional structures that are compatible with the surroundings and camouflage or partially conceal the presence of telecommunications towers. Antennae erected on alternative structures such as ball field light poles, electric utility poles, water towers and similar existing structures.

STICK-BUILT HOUSE – Standard residential construction using permitted building materials and meeting all applicable City Building Codes.

STORAGE, OUTSIDE – The storage, collection or display for more than three (3) consecutive days, or any part of a day for three consecutive days, of any products, materials, equipment, appliances, vehicles not in service, and/ or personal property of any kind on an unenclosed, uncovered area.

STORMWATER MANAGEMENT – Any storm water management technique, apparatus, or facility that controls or manages the path, storage, or rate of release of storm water runoff. Such facilities may include storm sewers, retention or detention basins, drainage channels, drainage swales, inlet or outlet structures, or other similar facilities.

STORY – That portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above.

STREET, ALLEY – A public or private way permanently reserved as a secondary means of access to abutting property. For the purpose of determining setbacks, alley shall be synonymous with street. For the purpose of determining adjacent properties, parcels separated by an alley shall be considered abutting parcels.

STREET, ARTERIAL – A street designated for large volumes of traffic movement. Certain arterial streets may be classed as limited access highways to which entrances and exits are provided only at controlled intersections and access is denied to abutting properties.

STREET, COLLECTOR – A street which primarily collects traffic from local streets and feeds it to an arterial street. Collector streets provide circulation within neighborhood areas.

STREET, CUL-DE-LOOP – A street that turns into and reconnects with its main axis, with the center or island used for parking or open space purposes.

STREET, CUL-DE-SAC – A street with a single common ingress and egress and with a turnaround at the end. Such streets are typically associated with urban sprawl models of growth, and are known to diminish street connectivity.

STREET, DEAD-END – A local street open at one end only and without a special provision for vehicles turning around. Such streets are typically associated with urban sprawl models of growth.

STREET ENCLOSURE – An urban design principle whereby street space is semi-enclosed by placing building facades and/or street trees close to the curbs on both sides of the street, with as few gaps as possible. It is understood that this type of enclosure promotes pedestrian comfort, safety and visual interest. An ideal ratio for enclosure is 3:1, whereby the front facades of buildings on opposite sides of the streets are separated by not more than three (3) times their average height. Any ratio smaller than 6:1 is generally regarded as ineffective in achieving enclosure.

STREET FRONTAGE – The distance for which a lot line adjoins a public or private street from one lot line intersecting said street to the furthest lot line intersecting the same street.

STREET, FRONTAGE ROAD – A minor street, parallel to and adjacent to an arterial street, whose primary purpose is providing access to abutting properties.

STREET, INTERSTATE HIGHWAY – The highest type of primary arterial highway, with full access control, high design speeds. Access control is exercised to give preference to through traffic, by providing access connections with selected public roads only, and by prohibiting crossings at grade or direct private driveway connections.

STREET, LOOP – A short, independent street that usually terminates along the same collector street of its origin.

STREET, PRIVATE – Any road or street that is not publicly owned and maintained and used for access by the occupants of the development, their guests, and the general public.

STREET, RESIDENTIAL – A street used primarily for access to abutting properties, usually residential.

STREET WALL – The wall or part of the building nearest to the street line.

STRUCTURAL ALTERATION – (1) Any change in the supporting members of a building, such as bearing walls or partitions, columns, beams or girders, or any rebuilding of the roof or exterior walls; (2) a change in the supportive structure of a sign such as support beams or poles, uprights or braces, cabinet supports, or any rebuilding of the supportive elements of a sign; (3) any action that changes the height, size or shape of a sign or any action that affects the structural supports of a sign so as to prolong the life of a sign.
(Ord. 06-01. Passed 1-3-06.)

STRUCTURE – Anything constructed, erected, or situated by man that requires location on the ground or being attached to something having location on the ground; but not including vehicles, recreational vehicles, campers, tents less than thirty-six square feet in area, retaining walls, fences not over eight feet in height, yard and play equipment, utility lines and underground facilities. (Ord. 12-26. Passed 7-3-12.)

STRUCTURE, DETACHED – A structure with no vertical common or party wall with another structure.

SUBDIVISION – The division of a lot, tract or parcel of land into two or more lots, tracts or parcels, or the recombination of existing lots, tracts, or parcels.

SUBDIVISION REGULATIONS – The Subdivision Regulations of the City of Morgantown, West Virginia, as adopted by ordinance by the Morgantown City Council and as subsequently amended.

SUBDIVISION, CLUSTER – A subdivision in which the lot sizes are reduced below those normally required in the zoning district in which the development is located, in return for the provision of permanent open space.

SUBDIVISION, MAJOR – Any subdivision not classified as a minor subdivision, including but not limited to subdivisions of five (5) or more lots, or any size subdivision requiring any new street, other than an internal access drive in a shopping center or office park, or extension of the local governmental facilities, or the creation of any public improvements. Such subdivisions must be reviewed and approved by the Planning Commission.

SUBDIVISION, MINOR – Any subdivision containing not more than four (4) lots in which all lots have frontage on an existing street, not involving any new street or the extension of municipal facilities, of the creation of any public improvements, and not in conflict with any provision or portion of the Comprehensive Plan, Official Zoning Map, Subdivision Ordinance, or this Ordinance. Such subdivisions are reviewed by the Planning Director.

SUBSTANTIAL DAMAGE – Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT – Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure before the start of construction of the improvement. Includes structures that have incurred "substantial damage" regardless of the actual repair work performed. The term does not, however, include either: (1) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications that have been identified by the local code enforcement official and that are the minimum necessary to assure safe living conditions, or (2) any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure".

SWIMMING POOL – A pool or tub constructed either above or below grade and having a capacity of 1,000 or more gallons.

TANNING STUDIO – Any business that uses artificial lighting systems to produce a tan on an individual's body. The use specifically excludes spas, gymnasiums, athletic clubs, health clubs, and any exercise equipment.

TATTOO PARLOR/ BODY-PIERCING STUDIO – An establishment whose principal business activity, either in terms of operation or as held out to the public, is the practice of one or more of the following: (1) placing of designs, letters, figures, symbols, or other marks upon or under the skin of any person, using ink or other substances that result in the permanent coloration of the skin by means of the use of needles or other instruments designed to contact or puncture the skin; (2) creation of an opening in the body of a person for the purpose of inserting jewelry or other decoration.

TAVERN – A place licensed to sell only beer and wine, but no liquor. Food may or may not be served. Taverns are allowed in all districts except residential and office districts.

TAXI – Any motor vehicle other than a limousine offered to the public by a taxicab service for the purpose of carrying or transporting passengers for a charge or a fee.

TAXICAB SERVICE – A service that offers transportation in passenger automobiles and/or vans to persons for compensation.

TELECOMMUNICATIONS, CLASS I – Class I telecommunications facilities shall include but are not limited to such facilities as television antennas, ham radio antennas, am/fm reception. No Class I facility may be utilized for cell phone reception.

TELECOMMUNICATIONS, CLASS II – Class II telecommunications facilities shall include but are not limited to such facilities as antennae and associated electronic equipment designed expressly for use by cell phone companies, as regulated under the Federal Telecommunication Act of 1996, that are not intended to be supported by or attached to a new telecommunications tower, as defined. They may be attached to existing, permitted tower structures, as provided for in this Ordinance.

TELECOMMUNICATIONS, CLASS III – Class III telecommunications facilities shall include but are not limited to such facilities as antennae and associated electronic equipment that is supported by or attached to a new telecommunications tower, as defined herein, and is designed expressly for use by cell phone companies, as regulated under the Federal Telecommunications Act of 1996.

TEMPORARY LIGHTING – Lighting installed or erected for a specific purpose or activity and on a nonpermanent basis. Temporary lighting must be removed once the purpose or activity is discontinued.

TERMINAL, TRUCK or TERMINAL, MOTOR FREIGHT – Any premises used by a motor freight company regulated by the public utility commission and/ or the Interstate Commerce Commission as a carrier of goods, which is the origin and / or destination point of goods being transported, for the purpose of storing, transferring, loading, and unloading goods.

THEATER, OUTDOOR DRIVE-IN – An open-air lot devoted primarily to the showing of motion pictures for patrons in automobiles. These uses frequently include parks, playgrounds, recreational facilities and open spaces.

THEATER – An establishment offering to the public movies or live performances.

THIS ORDINANCE – All portions of this Zoning Ordinance including the Zoning Maps for the City of Morgantown, West Virginia as adopted by the Morgantown City Council and as subsequently amended.

TOWING SERVICE – Establishment that provides for the removal and temporary storage of vehicles but does not include disposal, permanent disassembly, salvage, or accessory storage of inoperable vehicles.

TRADITIONAL NEIGHBORHOOD DESIGN – A "Smart Growth" development that exhibits several of the following characteristics: alleys, streets laid out in a grid system, buildings oriented to the street, front porches on houses, pedestrian-orientation, compatible, mixed land uses, village squares and greens.

TRADITIONAL NEIGHBORHOOD DISTRICT – A district that requires or is characterized by traditional neighborhood design.

TRAFFIC CALMING – Physical improvements installed on a street that are intended to reduce motorist speed, decrease motor vehicle volumes, and increase safety for pedestrians and non-motorized vehicles.

TRAFFIC IMPACT ANALYSIS – A formal analysis prepared by a traffic engineer or transportation planner, on the effect of traffic generated by a development on the capacity, operations, and safety of the public street and highway system.

TRANSIENT AMUSEMENT ENTERPRISE – Carnivals, circuses or other similar transient amusement enterprise.

TRANSIT-ORIENTED DEVELOPMENT – Moderate and high-density housing concentrated in mixed use developments located along transit routes. Land is developed for commercial, industrial, social and public uses to complement and service the community. The location, design and mix of uses in a TOD emphasize pedestrian-oriented environments and encourage the use of public transportation.

TREE – A plant having at least one well defined stem or trunk and normally attaining a mature height of at least ten (10) feet, with an average mature spread of ten (10) feet, and having a trunk that shall be kept clear of leaves and branches at least six (6) feet above grade at maturity

TREE, PUBLIC – Any tree located on City owned or controlled property including parks, street rights-of-way, parkways, etc.

TRIPLEX – A detached residential structure containing three (3) and only three (3) dwelling units, designed for occupancy by not more than three (3) families living independently of each other. Such units are also classified as multi-family.

UNIVERSITY OR COLLEGE – A public or private institution providing full-time or part-time education beyond the high school level and including any lodging rooms or housing for students or faculty. Business and trade schools are not considered colleges or universities.

UNNECESSARY HARDSHIP – A hardship by reason of exceptional shape of a lot, exceptional topographic conditions, or other exceptional physical conditions of a parcel of land. Unnecessary hardship shall not include personal or financial hardship or any other hardship that is self-imposed.

UPHOLSTERY/INTERIOR DECORATING SERVICE – An establishment offering re-upholstery and repair services and specific upholstery materials for sale.

UPLIGHTING – Any light source that distributes illumination above a 90-degree horizontal plane.

URBAN AREA – All lands or lots within the jurisdiction of the Morgantown Municipal Planning Commission.

USE, ACCESSORY – A land-use that is (1) subordinate in area, extent and purpose to the principal use; (2) contributes to the comfort, convenience, or necessity of the principal use; and (3) is located on the same lot and in the same zoning district as the principal use.

USE, CONDITIONAL – A use which because of special requirements or characteristics may be permitted in a particular zoning district only after review by the Board of Zoning Appeals and upon issuance of a conditional use permit, and subject to the limitations and conditions specified in this Ordinance.

USE, EXISTING – The use of land, buildings or activity permitted or in existence prior to the adoption of this ordinance and subsequent amendments.

USE, PERMITTED – Any use allowed within a zoning district, subject to the restrictions applicable to that zoning district and is not a conditional use.

USE, PRINCIPAL – The primary use of any lot. Only one principal use may be permitted on a lot, unless authorized specifically by this ordinance.

USE, PUBLIC – A use by an agency or department of the City, county, state, or federal government. This shall also include public utilities or uses by any organization that receives funding either all or in part from any agency or department of the City, county, state, or federal government. This shall also include buildings and premises used in the operation of the public use.

UTILITY – A public or private distribution service to the public that is regulated by the West Virginia Public Service Commission.

VARIANCE – A deviation from the minimum standards of this ordinance. A variance cannot permit a land use that is otherwise prohibited in the zoning district and cannot change the zoning classification of a parcel of land.

VESTED RIGHT – A right that has become fixed. Vested rights are often established by showing that some development permit has been obtained and substantial construction started on the project.

VETERINARY CLINIC – A use or structure intended or used primarily for the testing and treatment of animals on an emergency or outpatient basis. Veterinary clinic shall not include the boarding or training of animals, except for medical purposes and shall not provide outdoor runs or kennels. Also includes veterinary hospital.

VIDEO GAMING or LOTTERY – A lottery that allows a game to be played utilizing an electronic computer and an interactive terminal device, equipped with a video screen and keys, a keyboard or other equipment allowing input by an individual player, into which the player inserts coins or currency as consideration in order for play to be available, and through which terminal device, the player may receive free games or a voucher that can be redeemed for a cash or non-cash prize, or nothing, determined wholly or predominantly by chance. "Video lottery" does not include a lottery game that merely utilizes an electronic computer and a video screen to operate a lottery game and communicate the results of the game and which does not utilize an interactive electronic terminal device allowing input by one or more players. Video gaming or lottery shall be regulated in accordance with all applicable State and other regulations.

VIDEO GAMING or LOTTERY ESTABLISHMENT – An establishment at which any form of gambling of chance is permitted or played, including “video lottery” machines licensed by the West Virginia Lottery Commission pursuant to Chapter 29, Article 22B of the Code of West Virginia, but excluding establishments that only sell lottery tickets. Such establishments are permitted only in industrial zoning districts, and shall be subject to the same parking requirements as a food service establishment.

VIDEO RENTAL STORE – An establishment primarily engaged in the retail rental or lease of videotapes, films, CD-ROMs, DVDs, electronic games, cassettes or other electronic media. Sale of film, videotapes, laser discs, CD-ROMs, DVDs, and electronic merchandise associated with VCRs, video cameras, and electronic games are permitted accessory uses.

VISTA – A distant view or prospect, especially one seen through an opening, as between rows of buildings or trees.

VISUAL ANCHOR – An important building, monument, or civic structure that serves to terminate a vista, or as a dominant focal point for the average motorist or pedestrian.

WALL, EXTERIOR – A vertical, structural component of a building which encloses habitable or usable space; a parapet extending not more than twelve inches above a flat roof shall be considered part of the exterior wall for purposes of determining signage.

WAREHOUSE – Facilities characterized by extensive warehousing, frequent heavy trucking activity, open storage of material, or nuisances such as dust, noise and odors, but not involved in manufacturing or production.

WAREHOUSING AND DISTRIBUTION – Establishments involved in storing, stocking or distributing of merchandise or commodities.

WELLNESS CENTER – An establishment in which any combination of the following activities are provided: stress management, aerobics and other exercise programs, nutrition counseling, complementary medicine, physical therapy, cardiac rehabilitation therapy and other similar non-invasive health-related activities.

WHOLESALE ESTABLISHMENT – The sale of commodities to retailers or jobbers and shall include the sale of commodities for the purpose of carrying on any trade or business even if the said trade or business is the consumer or end user of the commodity.

WINDBLOWN DEVICE – Any banner, pennant, spinner, streamer, propeller, disc, moored blimp, gas balloon or flag (which is not of local, state, federal, corporate, nonprofit or religious origin) that is designed to inform or attract attention, whether or not such device carries a message, all or part of which is set in motion by wind, mechanical, electrical or any other means.

WRECKER SERVICE – A service for towing wrecked, illegally parked, or disabled automobiles or freeing automobiles stalled in snow or mud.

ZONING – The division of a municipality into districts or zones which specify permitted and conditional uses and development standards for real property within the districts or zones.

ZONING DISTRICT – A specifically delineated area or district within the corporate limits of the City for which the requirements governing use, placement, spacing, size, lot dimensions, and bulk of buildings and premises are uniform.

ZONING MAP – The map or maps that geographically illustrate all zoning district boundaries within the City of Morgantown, as described within this Ordinance, and which is certified as the official zoning map for the City.

ZONING OFFICER – That person appointed by the City Manager and who has any other authority this Zoning Ordinance may confer upon him or her to administer the Zoning Ordinance and to issue zoning permits.

CHAPTER SEVEN - Land Use

Art. 1331. Establishment of Zoning Districts and Zoning Map.
Art. 1333. R-1, Single Family Residential District.
Art. 1335. R-1A, Single Family Residential District.
Art. 1337. R-2, Single and Two-Family Residential District.
Art. 1339. R-3, Multi-Family Residential District.
Art. 1341. PRO, Professional, Residential and Office District.
Art. 1343. OI, Office and Institutional District.
Art. 1345. B-1, Neighborhood Business District.
Art. 1347. B-2, Service Business District.
Art. 1349. B-4, General Business District.
Art. 1351. Performance Standards for Buildings in the General Business (B-4) District.
Art. 1353. B-5, Shopping Center District.
Art. 1355. I-1, Industrial District.
Art. 1357. PUD, Planned Unit Development District.
Art. 1359. ISOD, Interstate Sign Overlay District.
Art. 1360. Airport Overlay District.
Art. 1361. Sunnyside Overlay Districts.
Art. 1362. B-4NPOD, B-4 Neighborhood Preservation Overlay District.

CHAPTER 1331
Establishment of Zoning Districts and Zoning Map

1331.01 Establishment of zoning districts.
1331.02 Establishment of Zoning Map.
1331.03 Determination and interpretation of zoning district boundaries.
1331.04 Annexation.
1331.05 Permitted land uses.
1331.06 Supplemental regulations pertaining to Permitted Land Uses Table.
1331.07 Temporary uses.
1331.08 Accessory structures and uses in residential districts.
1331.09 Demolition.

CROSS REFERENCES
Amendments to text and map - see P. & Z. Art. 1377

1331.01 ESTABLISHMENT OF ZONING DISTRICTS.

(A) The City is hereby classified and divided into the following zoning zones (also referred to as districts):

Abbreviation	Description
R-1	Single Family Residence
R-1A	Single Family Residence
R-2	Single and Two Family Residences
R-3	Multi-Family Residences
PRO	Professional, Residential and Office
B-1	Neighborhood Business
B-2	Service Business
B-4	General Business
B-5	Shopping Center
OI	Office and Institutional
I-1	Industrial
PUD	Planned Unit Development

(B) In addition to the zones listed above, portions of the City may be classified according to the following overlay zones (also referred to as overlay districts):

Abbreviation	Description
ISOD	Interstate Sign Overlay District
SCOD	Sunnyside Central Overlay District
SSOD	Sunnyside South Overlay District
BCOD	Beechurst Corridor Overlay District
B-4NPOD	B-4 Neighborhood Preservation Overlay District

(C) The zone and overlay zone boundaries are shown on the Official Zoning Map. (Ord. 07-18. Passed 6-5-07.)

1331.02 ESTABLISHMENT OF ZONING MAP.

The Official Zoning Map adopted with this ordinance is hereby established as the Official Zoning Map and Zoning Districts (hereinafter "Official Zoning Map") of Morgantown, West Virginia. The Official Zoning Map designates the respective zoning districts in accordance with this ordinance.

1331.03 DETERMINATION AND INTERPRETATION OF ZONING DISTRICT BOUNDARIES.

(A) In determining the boundaries of districts, and establishing the provisions applicable to each district, due and careful consideration has been given to existing conditions, the character of buildings erected in each district, the most desirable use for which the land in each district may be adapted, and the conservation of property values throughout the City.

(B) Where uncertainty exists as to the exact boundaries of any district as shown on the Official Zoning Map, the following rules shall apply:

(1) Unless otherwise indicated, the zone boundary lines are the center lines of streets or such lines extended; and

(2) In the case of further uncertainty, the Board of Zoning Appeals shall interpret the intent of the Zone Map as to the location of the boundary in question.

1331.04 ANNEXATION.

(A) Zoning annexed areas. Prior to the filing of a petition for annexation, the petitioner should petition the Planning Commission for a recommendation as to said parcel's zoning designation. If no such petition is presented to the Planning Commission, the Commission may:

(1) Direct planning staff to study the area proposed for annexation and prepare a report and recommendation for zoning, or

(2) Initiate the establishment of the R-1, Single Family Residential District designation for the area proposed for annexation, which shall remain in place until such time as a formal rezoning petition can be submitted and acted upon.

(B) Comprehensive Plan as zoning guide. On future annexation, the Planning Commission shall give careful consideration to the principles and directives of the Comprehensive Plan of the City, as amended, in making zone district classification recommendations to the Council. If the area under consideration is not addressed in the Comprehensive Plan, the Commission should give careful consideration to the character of existing land uses, and the capacity of existing and future infrastructure serving the area.

1331.05 PERMITTED LAND USES.

The table and supplemental regulations of the Permitted Land Use Table are incorporated in this section and are adopted as the basic land use regulations for the City. The table and supplemental regulations identify the types of land uses that are permitted within the City and any applicable conditions and limitations.

To determine the zone(s) in which a particular use is allowed, find the use in the list of uses along the left-hand side of the Permitted Land Use Table and read across the use row to find the zone column designations.

Legend:

P..... Use is permitted by right in a particular zone; a permit is required.

A..... Use is permitted as an accessory use in a particular zone; a permit is required.

C..... Use is allowed only as a conditional use in a particular zone subject to the limitations and conditions specified; a permit is required.

The uses listed in the Permitted Land Use Table are defined in the Definitions section (Article 1329).

A description of the supplemental regulations immediately follows the Permitted Land Use Table.

Table 1331.05.01 Permitted Land Uses

Uses	R-1	R-1A	R-2	R-3	PRO	B-1	B-2	B-4	OI	B-5	I-1	Supplemental Regulations
Administrative Office						C	P	P	P	P		
Agricultural Activity	P										P	
Airport											C	
Amphitheater							P	P				
Animal Grooming Service		C	C	C	C	P	P	P		P		28, 29
Animal Shelter							C			C	P	
Apparel Shop						P	P	P		P	P	28
Appliance Repair Establishment		C	C	C		P	P	P		P	P	4, 28, 29
Appliance Sales Establishment							P	P		P		
Art Gallery		C	C	C		P	P	P	P	P		28, 29
Artist Studio		C	C	C	P	P	C	P	P	C		28, 29
Assembly Hall						P	P	P		P		28
Assisted Living Facility				C		C	C					
Athletic Field	C	C	C	C		C	P	P		P		
Automotive Paint Shop							P				P	4, 9, 10
Automotive Rentals							C			C		
Automotive Sales							C			C		
Automotive Supply							C			P	P	
Automotive Tire Repair/Sales							P			P	P	4, 9, 10
Automotive/Boat Repair Shop							P				P	4, 9, 10
Automobile Repair Shop, Incidental							C	C		C	P	4, 9, 10
Bakery, Retail		C	C	C		P	P	P		P		28, 29
Bakery, Wholesale							P			P	P	
Barber Shop / Beauty Salon		C	C	C	P	P	P	P		P		28, 29
Bed and Breakfast Inn			C	C		P	P	P				5, 28
Brew Pub						C	P	P		P		18
Building Materials Supplier							P			P	P	9, 10
Car Wash/Detailing							P			P	P	
Caretaker's Residence	C	C	C	C			C		C	C	P	
Cemetery	P	P	P	P			P	P				
Charitable, Fraternal or Social Organization						P	P	P	P	P		28

Uses	R-1	R-1A	R-2	R-3	PRO	B-1	B-2	B-4	OI	B-5	I-1	Supplemental Regulations
Churches, Places of Worship	C	C	C	C		C	P	P		P		12
Clinic, Medical				C		P	P	P	P	P	P	28
Club or Lodge						P	P	P				28
Coin-operated Cleaning/Laundry Service			A	C		P	P	P		P		28
Communications Equipment Building	C	C	C	C		P	P	C	P	P	P	28
Community Center	C	C	P	P	P	P	P	P	C			28
Community Gardens	P	P	P	P		P						28
Composting Operation										P	P	3
Conference Center							P	P		P		
Convenience Store, Neighborhood		C	C	C		P	P	P				28
Dance or Social Club, Youth						C	P			P		
Day Care Facility, Class 1	P	P	P	P	P	P	P	P	P	P		
Day Care Facility, Class 2	C	C	C	P	P	P	P	P	P	P		19
Day Care Facility, Class 3				C	P	P	P	P	P	P		19
Department Store							P	P		P		
Distribution Center											P	
Dog Run							C			C	C	24
Dormitory				P			P	P				
Drive-in Theatre/Outdoor							P				P	
Drive-through Facility						A	A	A	A	A		25
Driving Range, Golf							C				C	
Drug Store		C	C	C		P	P	P		P		28
Dry Cleaning and Laundry Pick-up				P		P	P	P		P		28
Dry Cleaning and Laundry Service						C	P	P		P		
Dwelling, Mixed Use				P		P	P	P	P	P		26, 28
Dwelling, Multi-family			C	P			P	C	C			
Dwelling, Over-store						P	P	P	P	P		20, 28
Dwelling, Single family	P	P	P	P	P							16

Uses	R-1	R-1A	R-2	R-3	PRO	B-1	B-2	B-4	OI	B-5	I-1	Supplemental Regulations
Dwelling, Townhouse			P	P	P		P	P				
Dwelling, Two-family			P	P	P			C				
Electrical Repair Shop						P	P	P		P		4, 28
Emergency Shelter				C		C	C	P				
Equipment or Furniture Rental Establishment							P	P		P	P	9, 10
Essential Services and Equipment	P	P	P	P	P	P	P	P	P	P	P	28
Extractive Industry											P	31
Fairgrounds											P	
Farmer's Market						C	C	P				
Financial Services Establishment					P	P	P	P	P	P		28
Florist Shop		C	C	C		P	P	P		P		28
Fraternity or Sorority House			C	P			P	C				
Funeral Home				P		P	P	P				28
Furniture Sales Establishment (Antique, New or Used)							P	P		P		4
Garden Center							P			P		
Gas Station Mini-Mart							P	P		P	P	8
Gasoline Service Station							P	P		P	P	8
Golf Course	C	C	C	P		P	P	P		P	P	28
Government Facility	P	P	P	P		P	P	P	P	P	P	28
Greenhouse, Non-Commercial	A	A	A	A							P	
Greenhouse, Commercial							P				P	
Grocery Store							P	P		P	P	
Group Residential Facility	P	P	P	P		P	P	P				28
Group Residential Home	P	P	P	P		P	P	P				28
Guest House			C	C								
Half-way House			C	C		C	C					
Hardware Store						C	P	P		P	P	
Health/Sports Club			C	C		P	P	P	P	P	P	28
Heavy Machinery Sales										P	P	4, 9, 10
Heliport or Helipad								C		C	C	

Uses	R-1	R-1A	R-2	R-3	PRO	B-1	B-2	B-4	OI	B-5	I-1	Supplemental Regulations
Home Improvement Center							P	C		P		
Home Occupation, Class 1	A	A	A	A	A	A	A	A	A	A	A	2
Home Occupation, Class 2	C	C	C	C	C	C	C	C	C	C	C	2
Hospital	C	C	C	C		C	P	C		P	C	
Hotel							P	P	P	P		
Hotel, Full-service							P	P	P	P		1
Hypermarket							P			P		
Industrial Equipment Repair Establishment											P	
Industrial Park											P	
Industrial Supplies Establishment											P	
Industry, Heavy											C	32
Industry, Light							C			C	P	9, 10
Instructional Studio		C	C	C		P	P	P		P		28
Junkyard											C	17
Kennel, Commercial						C	P					7
Laboratories									P	P	P	9, 10
Laundromat			C	C		P	P	P		P		28
Liquor Store							P	P		P		
Lodging or Rooming House			C	P			P					
Manufactured Homes	P	P	P	P	P							16
Manufactured Housing Sales											P	
Manufacturing, Heavy											P	32
Marina, Commercial							C	C		C	C	14
Marina, Private							C	C		C	C	14
Marine Supplies Establishment							P			P	P	9, 10
Motel							P	P		P		
Motorcycle Sales Establishment							P			P		
Movie Theater, Large							P	C		P		
Movie Theater, Small						P	P	P		P		28

Uses	R-1	R-1A	R-2	R-3	PRO	B-1	B-2	B-4	OI	B-5	I-1	Supplemental Regulations
Newsstand		C	C	C		P	P	P	P	P		
Nursery, Plant							P	C		C		
Nursing Home				P			P		P			
Office Building				C	P	C	P	P	P	P		
Office Equipment Repair Establishment							P	P		P	P	4, 9, 10
Office, Medical					P		P	P	P	P		
Office Park									C	P	P	
Office Supplies Establishment						P	P	P	P	P		28
Oil Change Facility							P	P		P	P	
Outdoor Flea Market						C	C	C		C		
Outdoor Storage							C			C	P	
Outdoor Storage, Seasonal							P			P	P	
Park and Recreational Services	C	C	C	P		P	P	P	P			11, 28
Parking Lot, Commercial				C		P	P	P				28
Parking Lot, Private			C	C	C	C						
Passenger Station, Motor Bus, Railroad						C	P	P		P	P	
Pawnshop						P	P	P		P		28
Penal/Correctional Institution											C	
Personal Services Establishment				C	P	P	P	P	C	P		28, 29
Personal Storage Facility							C			C	C	15
Private Club							C			P	P	18
Professional Services Establishment			C	C	P	P	P	P		P		28, 29
Recreation Facility, Commercial, Outdoor						C	P			P		11
Recreational Facility, Commercial, Indoor						C	P			P		11
Recyclable Collection Center/ Solid Waste Transfer Station											P	6
Recycling Center										P	P	
Repair, Small Engine and Motor Shop							P	P		P	P	4, 9, 10

Uses	R-1	R-1A	R-2	R-3	PRO	B-1	B-2	B-4	OI	B-5	I-1	Supplemental Regulations
Research and Development Center									C	P	P	
Restaurant				P		P	P	P	P	P		27, 28
Restaurant with Drive-in							P	P	P	P		
Restaurant, Family			C	P		C	P	P	P	P		28
Restaurant, Fast Food						C	P	P	P	P		22, 25, 27
Restaurant, Private Club						C	P	C		P	P	18, 27
Restaurant, Private Wine						P	P	P		P	P	
Retail Sales Establishment						P	P	P		P		28
Re-use of Closed/Vacant School or Church	C	C	C	C		C	C	C				
Salvage Yard											C	
School (K-12), Private	C	C	C	C		C	P	P		P		
Sexually Oriented Business											C	
Shooting Range, Indoor							C			C	P	
Shopping Center, Large Scale										P		
Shopping Center, Medium Scale										P		
Shopping Center, Small Scale						C	P			P		
Snack Bar/Snack Shop				C		P	P	P	A	P		28
Sporting Goods Establishment						C	P	P		P		
Tattoo Parlor/Body-Piercing Studio				C			P	P	C	P	P	29
Tavern				~~C~~		P	P	P		P	P	21, 28
Taxicab Service							P			P	P	23
Telecommunications Class I	P	P	P	P	P	P	P	P	P	P	P	30

Uses	R-1	R-1A	R-2	R-3	PRO	B-1	B-2	B-4	OI	B-5	I-1	Supplemental Regulations
Telecommunications Class II			P	P		P	P	P	P	P	P	30
Telecommunications Class III						C	C	C		C	C	30
Transient Amusement Enterprise							P			P	P	
Terminal, Truck or Motor Freight											P	
University or College, Private							C	P		P		
Upholstery / Interior Decorating Service							P	P		P		4
Video Gaming / Lottery Establishment											P	13
Veterinary Clinic						P	P	P		P		7, 28
Warehousing / Distribution									P		P	21
Wellness Center			C	C	P	C	P	P	P	P		
Wholesale Establishment									P	P	P	
Wrecker Service							C				P	

(Ord. 06-37. Passed 11-8-06; Ord. 06-48. Passed 12-5-06; Ord. 07-17. Passed 6-5-07; Ord. 07-19. Passed 6-5-07; Ord. 07-20. Passed 6-5-07; Ord. 07-53. Passed 11-6-07; Ord. 09-08. Passed 3-3-09; Ord. 09-16. Passed 5-5-09; Ord. 09-29. Passed 7-7-09; Ord. 11-44. Passed 11-1-11; Ord. 12-27. Passed 7-3-12; Ord. 13-32. Passed 7-2-13.)

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1331.06 SUPPLEMENTAL REGULATIONS PERTAINING TO PERMITTED LAND USES TABLE.

(1) A FULL-SERVICE HOTEL with ten (10) or more separate guest rooms that also has an accessory restaurant within the same building may have a private club located within the establishment.

(2) HOME OCCUPATIONS shall be permitted when the following conditions can be met:

(a) A HOME OCCUPATION CLASS 1 is considered an accessory use, and is personal to the applicant, is not transferable to any other person, and does not apply to any other business of the applicant.

(b) A HOME OCCUPATION CLASS 2 is considered a conditional use, and is personal to the applicant, is not transferable to any other person, and does not apply to any other business of the applicant.

(c) The following regulations apply to both classes of home occupations:

(i) A home occupation shall be compatible with residential uses of the dwelling, shall not change the residential character of the dwelling, and shall not detract from the residential character of the neighborhood.

(ii) A home occupation shall produce no detectable fumes, odors, dust, heat, noise, vibration, glare, electro-magnetic field, electrical interference or other effects outside the dwelling, including transmittal through vertical or horizontal party walls.

(iii) A home occupation shall not require fixed installation of equipment or machinery that substantially changes the residential character of the dwelling.

(iv) A home occupation shall occupy not more than twenty-five (25) percent of the floor area of the principal structure, and shall not require internal or external alterations or construction features not customary to a residential dwelling.

(v) A home occupation shall be conducted entirely within the principal building. No home occupation shall be conducted outdoors or in any accessory building or garage, except that parking of a vehicle used in conducting the business and/or simple storage of materials or goods used in association with the business may be permitted in such buildings.

(vi) Shall have no more than one vehicle with business identification, and shall have no vehicle with greater than one (1.0) ton capacity and shall not have any trailer.

(vii) Except as required by State law, there shall be no exterior indication of the home occupation, no exterior signs, nor any other on-site advertising visible from the exterior.

(viii) A home occupation shall not involve on-site employment of persons not residing in the dwelling, except as otherwise provided in this ordinance.

(ix) A home occupation shall register as a business with the City of Morgantown Finance Office and shall pay applicable business and occupation taxes.

(x) If the applicant is not the owner of the property at which the home occupation will be conducted, the applicant must verify that written notice of intention to conduct the home occupation has been given to the owner of the property, and the application shall be accompanied by a copy of the letter by which notice was provided to the owner of the property.

(xi) No sexually oriented business, as defined herein, may be permitted as a home occupation.

(xii) Merchandise delivery and/or pick-ups to and from the premises that are associated with the home occupation, and that utilize a commercial delivery service or the United States Postal Service, shall not exceed four (4) per day.

(d) The following regulations apply to Home Occupations, Class 2:

(i) If any resident living within 300 feet of a Home Occupation, Class 2 believes that it is being conducted in violation of the imposed conditions or believes that the home occupation is detracting from the residential character of the neighborhood, the resident can submit a petition for revocation of the conditional use permit. If the Planning Director is unable to resolve the problem informally, it will be placed on the agenda of the Board of Zoning Appeals for a public hearing. On the basis of evidence introduced at this hearing, the Board may suspend or revoke the conditional use permit temporarily or permanently, or impose additional restrictions on the conduct of the business.

(ii) After a Home Occupation, Class 2 conditional use permit is granted, if the holder of the permit wishes to make any change in the conduct of the business that departs from the description in the application or from any other conditions or restrictions imposed by the Board of Zoning Appeals, the holder of the permit must obtain prior permission of the Board on the basis of a new application.

(iii) Retail sales shall not occur nor services be provided on the premises on a regular basis or in substantial volume, such that customer visitation to the premises is deemed to be unreasonable. The Board of Zoning Appeals shall decide if customer visitation for the proposed type and volume of retail activities or services is reasonable when considering the conditional use permit application.

(iv) The application for a Home Occupation, Class 2 conditional use permit must be filled out completely, or the application shall be deemed to be incomplete and shall not be considered by the Board of Zoning Appeals.

(Ord. 08-11. Passed 3-4-08.)

(3) COMPOSTING OPERATION SITES shall be screened with landscaping, or an opaque fence or wall to a height of at least six feet.

(4) All storage associated with REPAIR ESTABLISHMENTS shall be indoors.

(5) In all residential districts where permitted, a BED AND BREAKFAST INN shall retain the architectural orientation and form characteristic of the surrounding neighborhood. (Ord. 07-19. Passed 6-5-07.)

(6) RECYCLABLE COLLECTION CENTER/SOLID WASTE TRANSFER STATION shall be permitted subject to the following conditions:

(a) Unloading areas for materials shall not be less than 50 feet from any adjoining property, unless unloading is conducted entirely within a building.
(b) Portions of a site used for truck maneuvering or the storage, bailing, processing, or other handling of materials must be enclosed by an opaque fence or wall within a non-glare finish not less than 8 feet in height.
(c) Loading and unloading areas must be paved.
(d) The site must be kept clear of litter, scrap paper, or other refuse matter.
(e) Chemical or heating processes shall not be conducted on materials.

(7) Outdoor KENNEL and storage areas shall not be visible from streets and/or adjacent properties. No outdoor kennels or storage areas shall be permitted in the B-1, Neighborhood Business District.

(8) Fuel dispensing pumps shall be located no closer than twelve (12) feet from any property line.

(9) Use shall be conducted within the buildings or structures on the site, except when located in an Industrial District.

(10) All storage shall be indoors, except when located in an Industrial District.

(11) PARK AND RECREATION COMMERCIAL USES, such as miniature golf, go-cart tracks, swimming pools and so forth, shall not be permitted in residential districts unless owned and operated by an agency exempt from the regulations of this ordinance.

(12) CHURCHES AND PLACES OF WORSHIP shall meet the following requirements:

(a) A minimum lot size of 15,000 sq. ft. is required;
(b) Churches and religious facilities may include customary accessory uses including gymnasiums, daycare, classroom, meeting rooms, etc.

(13) VIDEO GAMING OR LOTTERY ESTABLISHMENTS shall comply with the following conditions:

(a) May locate no closer than 500 feet from another video gaming or lottery establishment. Proof that the establishment meets this distancing requirement shall be submitted by the applicant to the Planning Director in a form approved by the Planning Director.

(b) May locate no closer than 500 feet from a place of worship, school, hospital, nursing home, assisted living facility and residential uses of all types. Proof that the establishment meets this distancing requirement shall be submitted by the applicant to the Planning Director in a form approved by the Planning Director.
(Amended by Ord. 06-14, Passed 06-06-2006.)

(c) Subject to all applicable zoning regulations including parking, signage, landscaping, etc.

(d) Subject to all applicable State regulations.

(e) The 500 foot buffer provided in paragraphs (a) and (b) above shall be measured as the shortest distance between any portion of both buildings. (Amended by Ord. 06-14, Passed 06-06-2006.)

(f) For the purpose of paragraph (b) above, a place of worship shall be defined as an institution which qualifies as tax exempt under the provisions of 26 U.S.C. §501(c)(3), within which weekly religious services are offered to the congregation and/or the general public. (Amended by Ord. 06-14, Passed 06-06-2006.)

(14) MARINAS shall comply with the following regulations:

(a) All applicable federal and state rules and permit requirements shall be complied with.

(b) The use shall be designed and operated to maintain compatibility with natural resources and to minimize impacts on adjoining properties with regard to noise, traffic, glare, odor, and dust.

(c) No portion of the primary facility shall be within thirty (30) feet of the riparian line of an adjoining use.

(d) All structures and other activities must be within the riparian rights area of the applicant and must be designed in a manner that will not restrict or otherwise infringe upon the riparian rights of adjacent riparian owners.

(15) SELF STORAGE AND PERSONAL STORAGE FACILITIES must comply with the following:

(a) Storage facilities should utilize a masonry (brick, stone, or split-face decorative block) façade on all vertical wall surfaces visible from a public street or from any residentially zoned or used property.

(b) The use of shiny metal roofing or unfinished metal roofing should not be allowed. Metal roofs should be finished in a neutral, earth-tone color that does not unduly call attention to the buildings. Examples of colors that should be avoided include, but are not limited to: orange, red, yellow, white, etc. When such facilities are located near residentially zoned or used properties, roofing materials should be comparable to those used on the adjacent residential buildings.

(c) Security fencing surrounding such facilities should be ornamental in character, and of a type that is unobtrusive to nearby residentially zoned or used properties. Examples of ornamental fencing include, but are not limited to, wrought iron, or similar fencing, wooden privacy fencing, vinyl coated chain link fencing, masonry, landscape buffers that are double the normal requirements; and earth tone colors, etc.

(d) Parking requirements for such facilities are found in the Parking Section of this Ordinance.

(16) All SINGLE-FAMILY DWELLING UNITS shall comply with the following design standards regardless of the zoning district in which they are located:

(a) Roof pitch shall be a minimum of 3:12.

(b) Roofing material shall be of a type that is in compliance with the West Virginia State Building Code.

(c) Roof overhand or eaves shall be designed for a minimum of six (6) inches as measured from the vertical side of the building and not including rain gutters, which are required.

(d) The unit's exterior finish shall be wood siding, vinyl siding, composite siding (cement board), stone, brick or other material approved by the West Virginia State Building Code.

(e) A perimeter enclosure is required in accordance with the West Virginia State Building Code. For manufactured housing units, all tow bars, axles and wheels shall be removed. The housing unit shall rest on a required center support and meet tie-down requirements per the West Virginia State Building Code.

(f) No housing unit shall be less than twenty-four (24) feet in width.

(17) JUNKYARDS shall comply with the following:

(a) The area to be occupied by the junkyard shall be located at least three hundred (300) feet from any residential district.

(b) Every junkyard operation shall either be conducted wholly within a substantially constructed building or within an area which shall be surrounded completely on all sides by a continuous solid fence, except for entrances and exits constructed of brick or wood and kept in repair so that the fence shall hide from view any part of the junkyard and its contents. The fence shall be at least eight (8) feet in height and shall be constructed at street corner intersections so as to permit adequate vision clearance on the street. If the fence is constructed of wood, it shall be completely painted.

(c) No junk shall be loaded, unloaded or placed outside the enclosure fence, temporarily or permanently, either on the property or in the public right-of-way.

(d) Every junkyard shall be conducted so as not to create a nuisance for reason of noise or disagreeable odors or fumes. The loading or unloading of junk and the use of breakup hammers shall be carried on during the normal daylight business period only.

(e) All premises used as a junkyard shall be maintained in a clean, sanitary and neat condition so that rats, vermin and fire hazards shall be reduced to a minimum and the accumulation of anything not defined as junk, including waste and foodstuffs and similar materials, shall not be permitted.

(18) When reviewing new or the expansion of existing conditional use PRIVATE CLUB applications, the Board of Zoning Appeals shall consider potential adverse impacts on surrounding residential properties such as, but not limited to, the arrangement and use of outdoor seating areas, hours of wine and liquor sales, noise, etc.
(Ord. 07-20. Passed 6-5-07.)

(19) DAY CARE FACILITIES, CLASS 2 and CLASS 3 shall comply with the following:

(a) Permitted as a home occupation with a conditional use permit and subject to the following requirements:

(i) An outdoor recreation area may be approved by the Board of Zoning Appeals upon consideration of the care provider's operations plan and site specific circumstances so as to assure personal safety and to minimize offsite impacts upon adjacent properties.

(ii) There shall be no swimming pool on-site.

(iii) An on-site outdoor recreation area, if provided, shall be enclosed by a minimum three-foot high solid wall or fence with self-latching gate.

(iv) There shall be no structural additions or equipment not customary in a residential dwelling except those modifications required under State regulations for Child Care Facilities, Building Code or Fire Code regulations pertaining to this class of day care facilities.

(20) OVER-STORE DWELLING UNITS shall comply with the following:

(a) The total gross floor area of such units cannot equal or exceed the total gross floor area of the office or commercial portion of the building. If the total gross floor area of the residential portion equals or exceeds that of the non-residential portion, then the residential use shall be considered the principal use of the land and the building shall be considered a mixed-use dwelling.

(b) Parking shall be in accordance with the commercial or office use of the building. Tenants of the residential portion of the building shall be allowed to freely use the parking lot associated with the non-residential portion of the building.

(c) No such units may be on the ground floor or street level of any building.

(21) Except no WAREHOUSING/DISTRIBUTION FACILITY of any type shall be located within 300 feet of any property line of any residential district.
(Ord. 07-53. Passed 11-6-07.)

(22) FAST FOOD RESTAURANTS shall comply with the following:

(a) No drive-through facilities shall be permitted in the B-1 districts.

(b) No outdoor play areas are permitted in the B-1 districts.

(c) Franchise color schemes or materials are discouraged in the B-1 districts.

(23) TAXICAB SERVICE ESTABLISHMENTS shall comply with the following standards:

(a) All on-site repair and/or maintenance of vehicles shall be conducted entirely within an enclosed building.

(b) All outdoor storage of associated vehicles shall be entirely enclosed within a screened area surrounded by a privacy fence not less than 6 feet in height.

(24) A DOG RUN may not be located on any property within 200 feet of any residential property.

(25) DRIVE-THROUGH FACILITIES in association with a restaurant shall not be allowed in the B-1 district. In all other districts they shall be considered an accessory use in those districts where it is permitted.

(26) MIXED USE DWELLING UNITS shall comply with the following:

(a) Shall be buildings that are primarily residential with a subordinate amount of commercial or office space located on the ground floor and in the front of the building facing the primary street frontage. The commercial or office space shall not be less than 20 percent and not more than 60 percent of the ground floor area.

(b) Residential units may be on the ground floor, but shall not access the building from the front facade located on the primary street.

(c) Parking shall be at least one (1) parking space for each residential unit, plus twenty-five (25) percent of the usual non-residential parking requirement.

(27) A RESTAURANT, in the B-1 and B-4 Districts, which seeks to obtain a state license as a private club for dispensing alcoholic beverages per the Code of the State of West Virginia, Chapter 60, Article 7, Section 1 et seq., shall be subject to the following conditions upon approval of its conditional use application as a RESTAURANT, PRIVATE CLUB:

(a) Such private club shall have as its principal purpose the business of serving meals on its premises to its patrons and to members of such club and their guests. For the purposes of this section, the term "meal" shall be consistent with that of the State of West Virginia as defined in its Legislative Rules and Regulations pertaining to Private Club License and shall not include packaged potato chips and similar products; packaged crackers; packaged nuts; packaged desserts (fruit pies, cakes, cookies, etc.); and bar sausages and similar products.

(b) Such private club with a bar shall post a sign not smaller than three (3) square feet in a prominent location near the bar that states the following: "It is a violation of City Ordinance to serve wine or liquor beverages after 1:00 a.m."

(c) No such applicant may be licensed as a private club under this conditional use that has not been in operation for at least one year as a bona fide restaurant before making application for a license under this conditional use. However, when an applicant owns another bona fide restaurant the same as the one being proposed, the Board of Zoning Appeals may consider the proposed restaurant application on the basis of the existing restaurant which has been in operation for at least one year. In the B-4 district the Board of Zoning Appeals may waive the requirement, to be in business for one year as a bona fide restaurant, when the applicant's written description of the business operations, menu, and floor plans, demonstrate clearly that the establishment will meet the criteria in this subsection.

(d) In the B-4 district a full-service hotel, convention or conference center which serves meals and services to private functions shall be exempt from the requirements of this section when the areas where liquors are served are only accessible from an internal part of the building. Such a hotel's bar facilities may serve to the general public after 9 p.m.

(e) Food and non-alcoholic beverages shall comprise a minimum of 60 percent of total gross sales of all food and drink items in each calendar month.

(f) Such private club shall provide a seating capacity for at least fifty (50) persons, at a table or counter maintained for the principal purpose of serving meals. Seats at a bar, which is primarily for the serving of alcoholic beverages, shall not be counted as meeting the minimum seating capacity of the establishment. Liquor or wine may be served either at seats intended primarily for dining, or at any bar area within the restaurant, with or without an accompanying meal.

(g) Liquor or wine shall not be served later than 1:00 a.m., except on New Year's Eve.

(h) The private club shall, at the time of each sale or at the time of payment, record the amount of revenue derived from the sale of liquor and wine beverages separately from the amount of revenue derived from the sale of food and nonalcoholic beverages.

(i) During each calendar month, the private club shall maintain and preserve accurate and adequate records including those required by paragraphs (e) and (h) above, to prove compliance to the City's Finance Director, and shall make all such records available for review and audit promptly upon request by the Finance Director. The records for each month shall be preserved for not less than twenty-four (24) months next following.

(j) Quarterly, the private club shall send to the City Finance Director summaries showing the amount of revenue derived from liquor and wine beverages versus the amount derived from the sale of food and non-alcoholic beverages.

(k) In addition to the above requirements, in the B-4 district the following shall apply:

(i) The August 2, 1994 City ordinance which created this regulation stated that the specific locations at which private club licenses existed on the date of the August 2, 1994 ordinance shall become legal non-conforming uses and subject to the nonconforming provisions of the City's Zoning Ordinance, except that such use shall not be permitted to expand within the building it occupies. Effective November 11, 2003, this regulation is amended to permit the expansion of a private club location which became a legal nonconforming use in the B-4 district on August 2, 1994, and still exists as a legal nonconforming use within the structure that it occupied as of August 2, 1994 subject to the requirements of this Ordinance, and provided that no structural alterations are made within the building in order to allow the use to expand, except those that may be required by the Building Inspections Department. No such nonconforming use location shall be allowed to increase the number of private clubs existing within it beyond that existing as of August 2, 1994. Nothing herein shall prohibit the location of a restaurant/private club by conditional use within any such nonconforming use location in addition to a private club, which may already exist.

(ii) Existing non-conforming uses may apply to become approved conditional uses under the requirements of this ordinance. For purposes of this subsection, any location which had a private club license for the year 1993-94, and expiring on June 30, 1994, will have sixty (60) days from the adoption of this subsection to obtain State and City Private Club licenses for 1994-95 and thereby remain a legal non-conforming use.

(Ord. 07-20. Passed 6-5-07.)

(28) In the B-1 district, two-story buildings are permitted uses; however, one-story buildings require a conditional use permit regardless if the proposed land use is a permitted use. In the PRO district, drive-through facilities are prohibited. (Ord. 06-01. Passed 1-3-06.)

(29) In the R-1, R-1A, R-2 and R-3 districts, the following regulations shall apply to permitted non-residential uses:

(a) Buildings shall be required to be two stories.

(b) Gross building size shall not exceed 2,000 square feet with not more than half (1,000 square feet) being devoted to non-residential use; and any café or food service area shall be limited to 500 square feet of customer seating area.

(c) May have residential or office uses on second floor, but no residential use shall be permitted on ground floor.

(d) All building facades visible from a public street shall be faced with masonry, stone, wood siding, or stucco-covered block. No vinyl, metal, or exposed concrete block walls.

(e) Shall have a minimum front setback of three (3) feet and a maximum of six (6) feet.

(f) All parking lots shall be screened along the street frontage by a decorative masonry wall (not concrete block) between three and one-half (3.5) and five (5) feet in height, and by dense landscaping along property lines not adjoining a public street.

(g) If residential units are placed above storefront, no extra parking shall be required for them.

(h) Front façade of the building shall have a fenestration ratio of at least forty (40) percent.

(i) A canvas awning not less than 6 feet in width shall be placed over the entry, and may extend to partially cover the sidewalk, provided that the leading edge of the awning extends no closer than two (2) feet to the curb line of the street.

(j) If no sidewalk exists, the property owner shall be required to construct one in front of the building's primary façade according to Engineering Department standards.

(k) Signage for such structures shall be limited to a total of four (4) square feet and all signs shall be either wall or suspended signs. No other sign types shall be permitted. Signs shall not be internally illuminated.

(l) No security bars, screens or gates shall be permitted to be attached to the primary façade.

(m) No alcoholic beverages may be sold or consumed on any premises permitted in this conditional use.

(n) No drive-through lanes or windows shall be permitted for any use.

(o) Hours of operation shall be limited to 9:00 a.m. to 8:00 p.m. daily.

(Ord. 15-27. Passed 6-2-15.)

(30) TELECOMMUNICATIONS FACILITIES shall comply with the following standards:

(a) Permitted Classes.

(i) Class I Telecommunications Facilities shall include but are not limited to such facilities as television antennas, ham radio antennas, am/fm reception. Any Class I facility cannot be utilized for cell phone reception.

(ii) Class II Telecommunications Facilities shall include but are not limited to such facilities as antennae and associated electronic equipment designed expressly for use by cell phone companies, as regulated under the Federal Telecommunication Act of 1996, that is not intended to be supported by or attached to a new telecommunications tower, as defined.

(iii) Class III Telecommunications Facilities shall include but are not limited to such facilities as antennae and associated electronic equipment that is supported by or attached to a new telecommunications tower, as defined herein, and is designed expressly for use by cell phone companies, as regulated under the federal Telecommunications Act of 1996.

(iv) Nothing in this section is construed to regulate home satellite dishes, whether such dish is used for television reception or other purposes.

(b) Standards for Facilities.

(i) Class I Facilities.

1) Permitted in any zoning district;

2) Maximum height of sixty (60) feet above grade;

3) Standard Building Permit required; and

4) A structural engineer shall certify that the design of such structure is such that in the event of structural failure, no part of the structure will encroach upon any adjoining property or public right-of-way.

(ii) Class II Facilities.

1) Permitted in any zoning district except R-1 and R-1A;

2) Antenna or associated electronic equipment shall be designed for co-location on an existing, permitted telecommunications tower, or attachment to an existing building, water tank or other existing structure. Unless specifically being attached to an existing, permitted telecommunications tower, these facilities must be designed utilizing the latest stealth technologies as defined in this Ordinance. They may be attached to an existing, permitted telecommunications tower as a co-location, as per the requirements of this Ordinance.

3) Approval shall be provided under the standards for a Development of Significant Impact.

(iii) Class III Facilities.

1) Permitted as a conditional use in B-1, B-2, B-4, B-5 and I-1 districts;

2) Class III is reserved for applicants seeking to erect a new tower structure, with associated antennae and electronic equipment;

3) Towers shall be designed in such a manner as to permit future collocation of other carrier's antennae, rather than construction of additional single-use towers;

4) Minimize adverse visual impact of towers and telecommunications facilities through careful design, siting, landscaping and innovative camouflaging techniques;

5) Security fencing shall be provided around the equipment shed. A clear zone shall be established at a distance of 1.5 times the tower height around the base within which there are no existing buildings;

6) Avoid potential damage to property caused by towers and telecommunications facilities by ensuring that such structures are soundly and carefully designed, constructed, modified, maintained, and removed when no longer used or determined to be structurally unsound.

(c) If the erection or installation of a telecommunications facility has the potential to cause an impact on an historic property, as determined by the Planning Director, then the application for the telecommunications facility shall include completion of the Section 106 review process of the National Historic Preservation Act. (Ord. 06-01. Passed 1-3-06.)

(31) The following regulations are specific to EXTRACTIVE INDUSTRY development:

(a) Extractive Industry uses are considered Major Developments of Significant Impact of a Regional Scale for the purpose of site plan review and approval.

(b) Regardless of zoning classification, property annexed into the City still obligated to a mineral, oil and/or gas rights lease agreement with another party may exercise such lease for the surface extraction development of minerals, oil and/or gas as established under said lease for a period not to exceed seven years following annexation. If development of significant impact site plan approval is not obtained within three years of annexation, then the surface extraction development right shall expire unless otherwise permitted under this Ordinance. All extractive industry development, regardless of zoning classification, must comply with related site plan review and performance standards of this Ordinance.

(c) A recreational vehicle or camper may be utilized as a caretaker's residence for a period not to exceed eighteen months. After eighteen months, the caretaker's residence on an extractive industry development site must meet the supplemental regulations for all single-family dwelling units provided in Section 1331.06(16). (Ord. 12-28. Passed 7-3-12.)

(32) HEAVY INDUSTRY and HEAVY MANUFACTURING uses are considered Development of Significant Impact, regardless of gross floor or land area, for the purpose of site plan review and approval. (Ord. 15-33. Passed 6-2-15.)

1331.07 TEMPORARY USES.

(A) Intent. Temporary Uses shall be permitted in all districts by the grant of a Temporary Use Permit issued by the City Manager, or his designee, in accordance with the requirements of this section.

(B) General Provisions.

(1) The duration of the temporary period is stated hereinafter, provided, however, renewal of such permit may be requested. The Planning Director is not obligated to renew such permits.

(2) Temporary Uses shall be subject to all the regulations of the applicable district in which they are located.

(3) Temporary Use permit applications shall be categorized as Type II Site Plan Submissions and shall require a public hearing before the Planning Commission.

(C) Permitted Temporary Uses.

(1) Temporary office, model home or model apartment, and incidental signs thereof, both incidental and necessary for the sale, rental, or lease of real property in the Zoning District. Maximum time permitted: eighteen (18) months.

(2) Bazaars, carnivals, and similar temporary uses. Maximum time permitted: ten (10) days.

(3) Sale of Christmas trees, outdoor tent theater, sale of seasonal fruits and vegetables from roadside stands, tent sales. Maximum time permitted: sixty (60) days and no more than four (4) sales per year.

(4) Freestanding canopies or awnings used to enclose permitted outdoor seating areas of restaurants and/or private clubs and taverns. Maximum time permitted: four and one-half (4.5) months between April 15 to September 1. Such canopies or awnings shall be designed to withstand a wind load of thirty (30) pounds per square foot.

(5) Other similar uses deemed temporary by the Planning Commission and attached with such time period, conditions and safeguards as the Board may deem necessary.

(D) Standards.

(1) Adequate access and off-street parking facilities shall be provided which shall not interfere with traffic movement on adjacent streets.

(2) Any flood lights or other lighting shall be directed upon the premises and shall not be detrimental to adjacent properties.

(3) No commercial banners shall be permitted in a residential district.

(4) Signs shall not flash or blink or resemble traffic and emergency warning signals, and shall be limited in size to twenty (20) square feet each and in number to three signs.

(5) The lot shall be put in clean condition devoid of temporary use remnants upon termination of the temporary period.

1331.08 ACCESSORY STRUCTURES AND USES IN RESIDENTIAL DISTRICTS.

(A) Customary and incidental accessory buildings and uses are allowed in all residential districts, as specifically regulated in that district, provided that:

(1) In no case shall the maximum lot coverage permitted in a zoning district be exceeded.

(2) Accessory structures, if detached from a principal structure, shall not be placed in the front yard. If placed in a side yard, accessory structures shall not be located closer to the street than the required front setback of the principal structure.

(3) Accessory structures, if detached from a principal structure, shall not be located closer than five feet to the side or rear property line. (Amended by Ord. 06-14, Passed 06-06-2006.)

(4) On corner lots, accessory structures shall not be located between any portion of the principal structure and either street.

(5) When an accessory structure is attached to a principal structure, it shall comply in all respects with the requirements of this Zoning Ordinance applicable to the principal structure(s).

(6) Any structure connected to another structure by an open breezeway (i.e., without enclosed walls) shall be deemed to be a separate structure.

(7) The total square footage of all accessory structures shall not exceed fifty (50) percent of the first or ground floor area of the principal building.

(8) The square footage of the first (ground) floor of the accessory structure(s) shall be included in the computation of lot coverage.

(9) Accessory structures shall not exceed eighteen (18) feet in height.

(10) No accessory structure shall be constructed with a cellar or below-grade story.

(11) No part of any such structure shall be designed or used for sleeping purposes, and no cooking fixtures shall be placed or permitted therein.

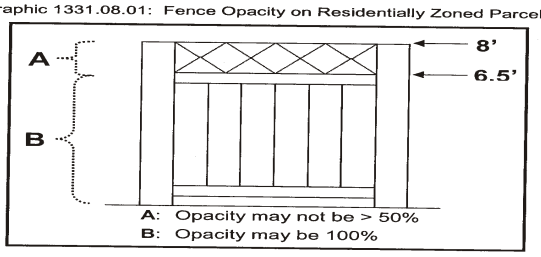
(12) Any accessory structure designed as a poolhouse shall be located no farther than ten feet from the swimming pool to which it shall be accessory. A swimming pool and poolhouse shall constitute one accessory structure.

(13) A private garage may be constructed as part of a principal structure, provided that when so constructed the garage walls shall be regarded as the walls of the principal structure in applying the applicable front, side and rear setback requirements.

(B) Fences. Fences may be erected, with a building permit, on residentially zoned parcels, provided they meet the following restrictions:

(1) They may not exceed six and one-half (6.5) feet in height at any point unless the entire fence or that portion of fence above six and one-half (6.5) feet is open fifty percent or more. Fences permitted to exceed six and one-half (6.5) feet as provided herein may not be constructed of chain link or wire and may not exceed eight (8) feet in height at any point. (See Graphic 1331.08.01).

Graphic 1331.08.01: Fence Opacity on Residentially Zoned Parcels



(2) No portion of an opaque fence (less than seventy (70) percent open in any one square foot portion of the fence panel) erected within a sight triangle may exceed two and one-half (2.5) feet in height.

(3) Fences may be erected on a property line (except in violation of subsection (B)(2) hereof), but the City strongly encourages applicants to set them back slightly, to avoid any possibility of illegal encroachment onto neighboring properties, and to allow for property maintenance. It is the responsibility of the applicant to insure that the fence will not encroach upon an adjacent lot or within a public right-of-way. If a fence erected after the date of this ordinance is found to encroach onto an adjacent lot, the City Manager, or his designee, will order its removal within thirty (30) days of confirmation of the encroachment and receipt of a notice by the fence owner.

(4) Fences may be constructed of stone, brick, wood, vinyl, chain link or wire, wrought iron, aluminum, and ornamental concrete block, provided all other requirements herein are met. They shall not be constructed with barbed wire, razor wire, or electrified wire.

(a) Fencing must comply with West Virginia State Building Code standards.

(b) Fences must comply with all applicable local, state and federal regulations.

(5) Fences may be erected, with a building permit, on non-residentially zoned parcels, provided they meet the following restrictions:

(a) They may not exceed ten (10) feet in height except for those surrounding industrial uses, in which case they may be up to fifteen (15) feet in height at any point.

(b) No portion of an opaque fence (less than seventy (70) percent open in any one square foot portion of the fence panel) erected within a sight triangle may exceed two and one-half (2.5) feet in height.

(c) Fences may be constructed of stone, brick, wood, vinyl, wire, metal, ornamental concrete block, etc. except in the following districts: B-4, PUD, B-1, and O-I. In these districts, no chain link or other wire fences shall be permitted. For purposes of this section, ornamental concrete block shall mean pre-formed concrete blocks that are modified by covering the exposed surfaces with stucco, or using split-faced block, or ornamental landscaping blocks commonly found in home improvements stores and typically used for planting beds and retaining walls.

(d) Fences must comply with all applicable local, state and federal regulations.

(e) Fences of at least eight (8) feet in height may have barbed wire placed above the eight (8) foot mark. Under no circumstances shall concertina, razor or electric fences be permitted.

(Ord. 09-17. Passed 5-5-09.)

1331.09 DEMOLITION.

(A) Vacant lots created as a result of building demolition shall be, at a minimum, seeded/landscaped to help mitigate standing water or erosion and shall be maintained by the owner. Such vacant lots shall be completely cleared, except when landscape features are to be preserved, graded, and seeded/landscaped within thirty (30) days of the time of demolition, unless redevelopment plans have been submitted to the City for approval within that time. This period may be reasonably extended and/or temporary alternate measures approved when inclement seasonal conditions impede effective seeding/landscaping.

(B) The demolition of all structures within designated historic neighborhoods shall be reviewed for comment by the Planning Commission, which shall consult with the Historic Landmarks Commission as part of its review process. This review shall be completed prior to the issuance of any demolition permit.

(C) The demolition of all structures within the B-4 zoning district shall be reviewed for comment by the Design Review Committee. This review shall be completed prior to the issuance of any demolition permit.

(D) If the Chief Building Inspector certifies that a structure is in imminent danger of collapse or poses extraordinary threat to public safety, a review process shall not be required before the issuance of a demolition permit.

(Ord. 09-14. Passed 4-7-09.)

ARTICLE 1333
R-1, Single Family Residential District

1333.01 Purpose.
1333.02 Permitted principal and conditional uses.
1333.03 Lot provisions.
1333.04 Setbacks.
1333.05 Encroachments into setbacks.
1333.06 Building height.
1333.07 Performance standards.

CROSS REFERENCES
Design standards - see P. & Z. 1331.06(16)
Non-residential uses - see P. & Z. 1331.06(29)
Accessory uses - see P. & Z. 1331.08
Permitted signs - see P. & Z. 1369.06

1333.01 PURPOSE.
The purpose of the Single Family Residential (R-1) District is to:
(A) Provide for attractive single family neighborhoods for residents who prefer larger lot sizes and do not generally desire to live in close proximity to other types of uses, and
(B) Preserve the desirable character of existing single family neighborhoods, and
(C) Protect the single family residential areas from change and intrusion that may cause deterioration, and provide for adequate light, ventilation, quiet, and privacy for neighborhood residents.

1333.02 PERMITTED PRINCIPAL AND CONDITIONAL USES.
See the Permitted Land Use Table 1331.05.01.

1333.03 LOT PROVISIONS.
(A) The minimum lot size shall be 7,200 square feet.

(B) The minimum lot frontage shall be 70 feet. The frontage requirement may be waived for a parcel not fronting on an existing road if the parcel is served by a proper right-of-way.

(C) Maximum lot coverage shall be 40 percent.

1333.04 SETBACKS.

(A) The following setbacks shall be required for all principal structures, except as otherwise provided in Section 1363.02(B), Yard, Building Setbacks and Open Space Exceptions:

(1) Minimum Front setback:..... 25 feet
(2) Maximum Front setback:..... 30 feet
(3) Minimum Side setback:..... 10 feet
(4) Minimum Rear setback: ..... 25 feet

1333.05 ENCROACHMENTS INTO SETBACKS.

(A) Architectural features may project into a required setback as provided below:

(1) Fire escapes, chimneys, cornices, awnings, canopies, eaves, sills, pilasters, lintels, gutters or other similar features may extend into a setback a distance not exceeding three (3) feet, except that such features shall not extend closer than three (3) feet from the property line.
(2) Uncovered stairs, landings and porches shall not extend closer than three (3) feet from the property line.
(3) Open and covered, but un-enclosed front porches attached to single family dwellings may extend into the required front setback a distance equal to fifty (50) percent of the setback depth. Such porches may not subsequently be enclosed unless the normal setback requirements for the district are met.

(B) No permitted encroachment noted above shall extend to within three (3) feet of an accessory structure.

(C) Fences, walls, terraces, steps or other similar features may encroach into a required setback, except as provided in Section 1363.03, Safety and Vision. Such appurtenances shall not be located within access, drainage, or utility easements.

(D) HVAC mechanical units may be located no closer than five (5) feet to a side lot line.

(E) Parking shall be permitted in the front setback only on approved driveways constructed to the standards of the City Engineering Department and arranged so that no part of any vehicle parked on the driveway encroaches into the right-of-way of any street.

1333.06 BUILDING HEIGHT.

(A) The maximum height of a principal structure shall not exceed two and one-half (2.5) stories or thirty-five (35) feet, whichever is less, except as provided in Section 1363.02(A), Height Exceptions.

(B) The maximum height of an accessory structure shall not exceed eighteen (18) feet. (Ord. 06-40. Passed 11-21-06.)

1333.07 PERFORMANCE STANDARDS.

(A) All residential construction shall substantially conform in street orientation to adjacent interior lot homes.

(B) On a corner lot, the front lot line shall be the lot line having the shortest dimension along the street right-of-way line. The required side yard setback on the side facing a street shall be one and one-half (1.5) times the normal side setback requirement.

(C) Civic buildings such as private schools and churches should be built so that they terminate street vistas whenever possible, and shall be of sufficient design to create visual anchors for the community.

(D) Materials:

(1) Residential buildings should be clad in wood siding, vinyl siding, composite siding (cement board), stone, or brick.

(2) Civic building walls shall be clad in stone, wood, brick, marble, or cast concrete.

(3) Garden walls should not be made from cinderblocks unless of the ornamental variety designed for use in landscaping projects.

(4) Civic building roofs shall be clad in slate, sheet metal, corrugated metal, and/or diamond tab asphalt shingles.

(5) Principal building roofs should have a pitch that substantially conforms to the roof pitches of adjacent homes.

(E) Homes should have substantial front porches oriented toward primary street frontage. Covered, but unenclosed front porches shall not count toward the permitted maximum lot coverage.

(F) Garages, if attached to the home, should be recessed a minimum of seven (7) feet from the primary building line of the front façade, unless located directly underneath the first floor of the house. Detached garages shall not be located in the front half of a lot.

(G) Sidewalks shall be constructed along the frontage of a lot upon which a use is to be constructed unless waived by the City Engineer for single and two family infill development on practicability merits. New sidewalks shall be at least five (5) feet wide. The City Engineer shall have the discretion to reduce this minimum standard to four (4) feet based on site constraints, or to conform to an existing but incomplete sidewalk along the same side of the street. (Amended by Ord. 06-14, Passed 06-06-2006.)

ARTICLE 1335
R-1A, Single Family Residential District

1335.01 Purpose.
1335.02 Permitted principal and conditional uses.
1335.03 Lot provisions.
1335.04 Setbacks.
1335.05 Encroachments into setbacks.
1335.06 Building height.
1335.07 Performance standards.

CROSS REFERENCES
Design standards - see P. & Z. 1331.06(16)
Non-residential uses - see P. & Z. 1331.06(29)
Accessory uses - see P. & Z. 1331.08
Permitted signs - see P. & Z. 1369.06

1335.01 PURPOSE.
The purpose of the Single Family Residential (R-1A) District is to:
(A) Provide for single family neighborhoods on smaller lots, located within convenient walking distance of other uses, and
(B) Preserve the desirable character of existing single family neighborhoods, and
(C) Protect the single family residential areas from change and intrusion that may cause deterioration, and
(D) Provide for adequate light, ventilation, quiet, and privacy for neighborhood residents.

1335.02 PERMITTED PRINCIPAL AND CONDITIONAL USES.
See the Permitted Land Use Table 1331.05.01.

1335.03 LOT PROVISIONS.
(A) The minimum lot size shall be 3,500 square feet.

(B) The minimum lot frontage shall be thirty (30) feet. The frontage requirement may be waived for a parcel not fronting on an existing road if the parcel is served by a proper right-of-way.

(C) Maximum lot coverage shall be fifty (50) percent.

1335.04 SETBACKS.

(A) The following setbacks shall be required for all principal structures, except as otherwise provided in Section 1363.02(B) Yard, Building Setbacks and Open Space Exceptions:

(1) Minimum Front setback:.....8 feet
(2) Maximum Front setback: .....20 feet
(3) Minimum Side setback:.....5 feet
(4) Minimum Rear setback: .....20 feet.

(B) On a corner lot, the front lot line shall be the lot line having the shortest dimension along the street right-of-way line. The required side yard setback on the side facing a street shall be one and one-half (1.5) times the normal side setback requirement. (Amended by Ord. 06-24, Passed 07-18-2006)

1335.05 ENCROACHMENTS INTO SETBACKS.

(A) Architectural features may project into a required setback as provided below:

(1) Fire escapes, chimneys, cornices, awnings, canopies, eaves, sills, pilasters, lintels, gutters or other similar features may extend into a setback a distance not exceeding three (3) feet, except that such features shall not extend closer than three (3) feet from the property line.
(2) Uncovered stairs, landings and porches shall not extend closer than three (3) feet from the property line.
(3) Open and covered, but un-enclosed front porches attached to single family dwellings may extend into the required front setback a distance equal to fifty (50) percent of the setback depth. Such porches may not subsequently be enclosed unless the normal setback requirements for the district are met.

(B) No permitted encroachment noted above shall extend to within three (3) feet of an accessory structure.

(C) Fences, walls, terraces, steps or other similar features may encroach into a required setback, except as provided in Section 1363.03, Safety and Vision. Such appurtenances
shall not be located within access, drainage, or utility easements.

(D) HVAC mechanical units may be located no closer than five (5) feet to a side lot line.

(E) Parking shall be permitted in the front setback only on approved driveways constructed to the standards of the City Engineering Department and arranged so that no part of any vehicle parked on the driveway encroaches into the right-of-way of any street.

1335.06 BUILDING HEIGHT.

(A) The maximum height of a principal structure shall not exceed two and one-half (2.5) stories or thirty-five (35) feet, whichever is less, except as provided in Section 1363.02(A), Height Exceptions.

(B) The maximum height of an accessory structure shall not exceed eighteen (18) feet. (Ord. 06-40. Passed 11-21-06.)

1335.07 PERFORMANCE STANDARDS.

(A) All residential construction shall substantially conform in street orientation to adjacent homes.

(B) Civic buildings such as private schools, churches, should be built so that they terminate street vistas whenever possible, and shall be of sufficient design to create visual anchors for the community.

(C) Materials:

(1) Residential building should be clad in wood siding, vinyl siding, composite siding (cement board), stone, or brick.

(2) Civic building walls shall be clad in stone, brick, wood, marble, or cast concrete.

(3) Garden walls should not be made from cinderblocks unless of the ornamental variety designed for use in landscaping projects.

(4) Civic building roofs shall be clad in slate, sheet metal, corrugated metal, and/or diamond tab asphalt shingles.

(5) Principal building roofs should have a pitch that conforms substantially to the roof pitches of adjacent homes.

(D) Homes should have substantial front porches oriented toward the primary street frontage. Covered, but unenclosed, front porches shall not count toward the permitted maximum lot coverage.

(E) Garages, if attached to the home, should be recessed a minimum of seven (7) feet from the primary building line of the front façade, unless located directly underneath the first floor of the house. Detached garages shall not be located in the front half of any lot.

(F) Sidewalks shall be constructed along the frontage of a lot upon which a use is to be constructed unless waived by the City Engineer for single and two family infill development on practicability merits. New sidewalks shall be at least five (5) feet wide. The City Engineer shall have the discretion to reduce this minimum standard to four (4) feet based on site constraints, or to conform to an existing but incomplete sidewalk along the same side of the street. (Amended by Ord. 06-14, Passed 06-06-2006.)

ARTICLE 1337
R-2, Single and Two-Family Residential District

1337.01 Purpose.
1337.02 Permitted principal and conditional uses.
1337.03 Lot provisions.
1337.04 Setbacks.
1337.05 Encroachments into setbacks.
1337.06 Building height.
1337.07 Performance standards.

CROSS REFERENCES
Design standards - see P. & Z. 1331.06(16)
Non-residential uses - see P. & Z. 1331.06(29)
Accessory uses - see P. & Z. 1331.08
Permitted signs - see P. & Z. 1369.06

1337.01 PURPOSE.
The purpose of the Single and Two-Family Residential (R-2) District is to:
(A) Provide for two-family housing development and customary accessory uses at a density slightly higher than in single family neighborhoods, and
(B) Preserve the desirable character of existing medium density family neighborhoods, and
(C) Protect the medium density residential areas from change and intrusion that may cause deterioration, and
(D) Provide for adequate light, ventilation, quiet, and privacy for neighborhood residents.

1337.02 PERMITTED PRINCIPAL AND CONDITIONAL USES.
See the Permitted Land Use Table 1331.05.01.

1337.03 LOT PROVISIONS.
(A) The minimum lot size shall be 5,000 square feet and the minimum lot frontage shall be forty (40) feet. The frontage requirement may be waived for a parcel not fronting on an existing road if the parcel is served by a proper right-of-way.

(B) Maximum lot coverage shall be fifty (50) percent.

1337.04 SETBACKS.

(A) The following setbacks shall be required for all principal structures, except as otherwise provided in Section 1363.02(B) Yard, Building Setbacks and Open Space Exceptions:

(1) Minimum Front setback:.....10 feet
(2) Maximum Front setback:.....20 feet
(3) Minimum Side setback:.....5 feet
(4) Minimum Rear setback: .....20 feet.

(B) On a corner lot, the front lot line shall be the lot line having the shortest dimension along the right-of-way line. The required side yard setback on the side facing a street shall be one and one-half (1.5) times the normal side yard setback requirement.

1337.05 ENCROACHMENTS INTO SETBACKS.

(A) Architectural features may project into a required setback as provided below:

(1) Fire escapes, chimneys, cornices, awnings, canopies, eaves, sills, pilasters, lintels, gutters or other similar features may extend into a setback a distance not exceeding three (3) feet, except that such features shall not extend closer than three (3) feet from the property line.
(2) Uncovered stairs, landings and porches shall not extend closer than three (3) feet from the property line.
(3) Open and covered, but unenclosed front porches attached to single family dwellings or two-family dwellings may extend into the required front setback a distance equal to fifty (50) percent of the setback depth. Such porches may not subsequently be enclosed unless the normal setback requirements for the district are met.

(B) No permitted encroachment noted above shall extend to within three (3) feet of an accessory structure.

(C) Fences, walls, terraces, steps or other similar features may encroach into a required setback, except as provided in Section 1363.03, Safety and Vision.

(D) HVAC mechanical units may be located no closer than five (5) feet to a side lot line.

(E) Parking shall be permitted in the front setback only on approved driveways constructed to the standards of the City Engineering Department and arranged so that no part of any vehicle parked on the driveway encroaches into the right-of-way of any street. (Amended by Ord. 06-24, Passed 07-18-2006)

1337.06 BUILDING HEIGHT.

(A) The maximum height of a principal structure shall not exceed two and one-half (2.5) stories or thirty-five (35) feet, whichever is less, except as provided in Section 1363.02(A), Height Exceptions.

(B) The maximum height of an accessory structure shall not exceed eighteen (18) feet.

(C) Minimum building height for a two-family dwelling should be two (2) stories. (Ord. 06-40. Passed 11-21-06.)

1337.07 PERFORMANCE STANDARDS.

(A) All residential construction shall substantially conform in street orientation to adjacent homes.

(B) Civic buildings such as private schools, churches should be built so that they terminate street vistas whenever possible, and should be of sufficient design to create visual anchors for the community.

(C) Materials:

(1) Residential buildings should be clad in wood siding, vinyl siding, composite siding (cement board), stone, or brick.

(2) Garden walls shall not be made from cinderblocks unless of the ornamental variety designed for use in landscaping projects.

(3) Principal building roofs should have a pitch that conforms to the roof pitches of adjacent homes.

(D) Two-family dwellings should have substantial front porches oriented toward the primary street frontage. The total width of a front porch should not be less than fifty (50) percent of the width of the front façade. Covered, but unenclosed, front porches shall not count toward the permitted maximum lot coverage.

(E) Garages, if attached to the home, shall be recessed a minimum of seven (7) feet from the primary building line of the front façade, unless located directly underneath the first floor of the house. Detached garages shall not be located in the front half of a lot.

(F) Sidewalks shall be constructed along the frontage of a lot upon which a use is to be constructed unless waived by the City Engineer for single and two family infill development on practicability merits. New sidewalks shall be at least five (5) feet wide. The City Engineer shall have the discretion to reduce this minimum standard to four (4) feet based on site constraints, or to conform to an existing but incomplete sidewalk along the same side of the street. (Amended by Ord. 06-14, Passed 06-06-2006.)

ARTICLE 1339
R-3, Multi-Family Residential District

1339.01 Purpose.
1339.02 Permitted principal and conditional uses.
1339.03 Lot provisions.
1339.04 Setbacks.
1339.05 Encroachments into setbacks.
1339.06 Building height.
1339.07 Performance standards.

CROSS REFERENCES
Design standards - see P. & Z. 1331.06(16)
Non-residential uses - see P. & Z. 1331.06(29)
Accessory uses - see P. & Z. 1331.08
Permitted signs - see P. & Z. 1369.06

1339.01 PURPOSE.
The purpose of the Multi-Family Residential (R-3) District is to:
(A) Provide for a variety of housing density and types, and customary accessory uses at a density higher than in other city neighborhoods, and
(B) Preserve the desirable character of existing high density residential neighborhoods, and
(C) Provide for adequate light, ventilation, quiet, and privacy for neighborhood residents.

1339.02 PERMITTED PRINCIPAL AND CONDITIONAL USES.
See the Permitted Land Use Table 1331.05.01.

1339.03 LOT PROVISIONS.
(A) The minimum lot size shall be 4,000 square feet.

(B) The minimum lot frontage shall be forty (40) feet. The frontage requirement may be waived for a parcel not fronting on an existing road if the parcel is served by a proper right-of-way.

(C) Maximum lot coverage shall be sixty (60) percent.

1339.04 SETBACKS.

(A) The following setbacks shall be required for all principal structures, except as otherwise provided in Section 1363.02(B) Yard, Building Setbacks and Open Space Exceptions:

(1) Minimum Front setback:.....10 feet
(2) Maximum Front setback:.....20 feet
(3) Minimum Side setback:.....5 feet
(4) Minimum Rear setback: .....20 feet.

(B) On a corner lot, the front lot line shall be the lot line having the shortest dimension along the street right-of-way line. The required side yard setback on the side facing a street shall be one and one-half (1.5) times the normal side setback requirement. (Amended by Ord. 06-24, Passed 07-18-2006)

1339.05 ENCROACHMENTS INTO SETBACKS.

(A) Architectural features may project into a required setback as provided below:

(1) Fire escapes, chimneys, cornices, awnings, canopies, eaves, sills, pilasters, lintels, gutters or other similar features may extend into a setback a distance not exceeding three (3) feet, except that such features shall not extend closer than three (3) feet from the property line.
(2) Uncovered stairs, landings and porches shall not extend closer than three (3) feet from the property line. Such porches may not subsequently be enclosed unless the normal setback requirements for the district are met.
(3) Open and covered, but un-enclosed front porches attached to single family or two-family dwellings may extend into the required front setback a distance equal to fifty (50) percent of the setback depth.

(B) No permitted encroachment noted above shall extend to within three (3) feet of an accessory structure.

(C) Fences, walls, terraces, steps or other similar features may encroach into a required setback, except as provided in Section 1363.03, Safety and Vision. Such appurtenances shall not be located within access, drainage, or utility easements.

(D) HVAC mechanical units may be located no closer than five (5) feet to a side lot line.

1339.06 BUILDING HEIGHT.

(A) The permitted maximum height shall be four (4) stories or fifty-five (55) feet, whichever is less, except as provided in Section 1363.02(A), Height Exceptions. A conditional use permit shall be required for buildings in excess of fifty-five (55) feet but less than eighty (80) feet.

(B) The maximum height of an accessory structure shall not exceed eighteen (18) feet.

(C) Minimum building height for a two-family or multifamily dwelling should be two (2) stories. (Ord. 06-40. Passed 11-21-06.)

1339.07 PERFORMANCE STANDARDS.

(A) All residential construction shall substantially conform in street orientation and massing to adjacent structures.

(B) Civic buildings such as private schools, churches should be built so that they terminate street vistas whenever possible, and should be of sufficient design to create visual anchors for the community.

(C) Materials:

(1) Residential buildings shall be clad in wood siding, vinyl siding, composite siding (cement board), stone, or brick.

(2) Garden walls shall not be made from cinderblocks unless of the ornamental variety designed for use in landscaping projects.

(3) Principal building roofs should have a pitch that substantially conforms to the roof pitches of adjacent homes.

(D) Two-family dwellings shall have substantial front porches oriented toward the primary street frontage. The total width of a front porch should not be less than fifty (50) percent of the width of the front façade. Covered but unenclosed front porches shall not count toward the permitted maximum lot coverage.

(E) Garages, if attached to a single family home or two-family dwelling, shall be recessed a minimum of seven (7) feet from the primary building line of the front façade, unless located directly underneath the first floor of the house. If detached, they shall not be located in the front half of a lot.

(F) Sidewalks shall be constructed along the frontage of a lot upon which a use is to be constructed. New sidewalks shall be at least six (6) feet wide, or the same width as an existing but incomplete sidewalk along the same side of the street.

ARTICLE 1341
PRO, Professional, Residential and Office District

1341.01 Purpose.
1341.02 Permitted and conditional uses.
1341.03 Lot provisions.
1341.04 Setbacks and encroachments.
1341.05 Building height, size and use.
1341.06 Parking and loading standards.
1341.07 Performance standards.
1341.08 Landscaping.

CROSS REFERENCES

Factory-built homes - see W. Va. Code 8A-11-1
Home occupation - see P. & Z. 1331.06(2)
Drive-through facilities prohibited - see P. & Z. 1331.06(28)

1341.01 PURPOSE.

The purpose of the Professional, Residential and Office (PRO) district is to provide for a mixed use of professional, office and appropriate residential uses in transition areas between more intensive commercial districts and less intensive residential neighborhood districts.

1341.02 PERMITTED AND CONDITIONAL USES.

See the Permitted Land Use Table 1331.05.01.

1341.03 LOT PROVISIONS.

(A) The minimum lot size shall be 7,000 square feet.

(B) The minimum lot frontage shall be sixty (60) feet.

(C) Maximum lot coverage shall be forty (40) percent.

1341.04 SETBACKS AND ENCROACHMENTS.

(A) The following setbacks shall be required for all principal structures, except as otherwise provided in Section 1363.02(B) Yard, Building Setbacks and Open Space Exceptions:

(1) Minimum Front setback:.....10 feet
(2) Maximum Front setback:.....15 feet
(3) Minimum Side setback:.....15 feet
(4) Minimum Rear setback: .....40 feet.

(B) The minimum setback for accessory structures on a lot shall be ten (10) feet from the rear property line and ten (10) feet from each side property line. No accessory structures are permitted within the front setback.

1341.05 BUILDING HEIGHT, SIZE AND USE.

(A) The maximum height of a principal structure shall not exceed two and one-half (2.5) stories or thirty-five (35) feet, whichever is less, except as provided in Section 1363.02(A), Height Exceptions.

(B) The maximum height of an accessory structure shall not exceed twenty-five (25) feet.

(C) The total maximum gross floor area of any building shall not exceed 4,000 square feet. (Ord. 06-40. Passed 11-21-06.)

1341.06 PARKING AND LOADING STANDARDS.

(A) All uses within this district shall conform to the off-street parking and loading requirements in Article 1365, Parking, Loading and Internal Roadways.

(B) No parking spaces shall be permitted between the front façade of a building and any street right-of-way.

1341.07 PERFORMANCE STANDARDS.

(A) Important structures should be built so that they terminate street vistas whenever possible, and should be of sufficient design to create visual anchors for the community. All principal structures within a development should maintain a consistent architectural style.

(B) Metal paneling shall not be used for any wall surfaces visible from a public street.

(C) Materials:

(1) Walls shall be clad in any combination of wood, stone, brick, marble, and/or cast concrete.

(2) Roofs should be clad in slate, sheet metal, corrugated metal, and/or diamond tab asphalt shingles.

(3) The orders, if provided, should be made of wood or cast concrete.

(D) Configuration: Flat roof lines are allowed.

(E) Techniques:

(1) Windows should be set to the inside of the building face wall.

(2) Rooftop equipment which is enclosed should be enclosed in building material that matches the structure or is visually compatible with the structure.

(F) Residential construction within this district shall follow the height and performance standards listed in Sections 1339.06 and 1339.07.

(G) Business hours for all non-residential uses within the district shall be limited to between 6:00 a.m. and 10:00 p.m.

(H) All lighting shall be low intensity and shielded so as not to cause illumination of adjoining residential properties.

(I) Sidewalks shall be constructed along the frontage of a lot upon which a use is to be constructed. New sidewalks shall be at least six (6) feet wide, or the same width as an existing but incomplete sidewalk along the same side of the street.

1341.08 LANDSCAPING.

Landscaping and screening as required in Article 1367, Landscaping and Screening, shall be provided for all uses, unless otherwise noted.

ARTICLE 1343
OI, Office and Institutional District

1343.01 Purpose.
1343.02 Permitted and conditional uses.
1343.03 Lot provisions.
1343.04 Setbacks and encroachments.
1343.05 Building height and use.
1343.06 Parking and loading standards.
1343.07 Performance standards.
1343.08 Landscaping.

CROSS REFERENCES
Composting operation - see P. & Z. 1331.06(3)
Day care facilities - see P. & Z. 1331.06(19)
Mixed use dwelling units - see P. & Z. 1331.06(26)

1343.01 PURPOSE.
The purpose of the Office and Institutional (OI) District is to:
(A) Provide for office and institutional uses and customary accessory uses on appropriately-sized lots, and
(B) Provide for a suitable environment for office and institutional uses that can be located adjacent to residential uses without undue harmful effects to such residential uses.

1343.02 PERMITTED AND CONDITIONAL USES.
See the Permitted Land Use Table 1331.05.01.

1343.03 LOT PROVISIONS.
(A) The minimum lot size shall be 6,000 square feet.

(B) The minimum lot frontage shall be 60 feet.

(C) The minimum lot depth shall be 100 feet.

(D) Maximum lot coverage shall be 60 percent.

1343.04 SETBACKS AND ENCROACHMENTS.

(A) The following setbacks shall be required for all principal structures, except as otherwise provided in Section 1363.02(B) Yard, Building Setbacks and Open Space Exceptions:

(1) Minimum Front setback:.....15 feet
(2) Maximum Front setback:.....25 feet
(3) Minimum Side setback:.....30 feet
(4) Minimum Rear setback: .....40 feet.

(B) The minimum setback for accessory structures on a lot shall be ten (10) feet from the rear property line and ten (10) feet from each side property line. No accessory structures are permitted within the front setback.

1343.05 BUILDING HEIGHT AND USE.

(A) The maximum height of a principal structure shall not exceed seventy-two (72) feet, except as provided in Section 1363.02(A), Height Exceptions.

(B) The maximum height of an accessory structure shall not exceed twenty-five (25) feet. (Ord. 06-40. Passed 11-21-06.)

1343.06 PARKING AND LOADING STANDARDS.

(A) All uses within this district shall conform to the off-street parking and loading requirements in Article 1365, Parking, Loading and Internal Roadways.

(B) No parking spaces shall be permitted between the front façade of a building and any street right-of-way.

1343.07 PERFORMANCE STANDARDS.

(A) Important structures should be built so that they terminate street vistas whenever possible, and should be of sufficient design to create visual anchors for the community. All principal structures within a development should maintain a consistent architectural style.

(B) Metal paneling may be used for wall surfaces, however the area of metal paneling shall not exceed twenty (20) percent of any one wall face.

(C) Materials:

(1) Walls shall be clad in any combination of stone, brick, marble, approved metal paneling, and/or cast concrete.
(2) Roofs shall be clad in slate, sheet metal, corrugated metal, and/or diamond tab asphalt shingles, when visible. Flat roofs shall be exempt from this requirement.
(3) The orders, if provided, should be made of wood or cast concrete.

(D) Configuration: Flat roof lines are allowed.

(E) Techniques:

(1) Windows should be set to the inside of the building face wall.

(2) Rooftop equipment which is enclosed should be enclosed in building material that matches the structure or is visually compatible with the structure.

(F) Residential construction within this district shall follow the height and performance standards listed in Sections 1339.06 and 1339.07.

(G) Sidewalks shall be constructed along the frontage of a lot upon which a use is to be constructed. New sidewalks shall be at least six (6) feet wide, or the same width as an existing but incomplete sidewalk along the same side of the street.

1343.08 LANDSCAPING.

Landscaping and screening as required in Article 1367, Landscaping and Screening, shall be provided for all uses, unless otherwise noted.

ARTICLE 1345
B-1, Neighborhood Business District

1345.01 Purpose.
1345.02 Permitted and conditional uses.
1345.03 Lot provisions.
1345.04 Setbacks and encroachments.
1345.05 Building height, use and size.
1345.06 Parking and loading standards.
1345.07 Performance standards.
1345.08 Landscaping.

CROSS REFERENCES
Group residential facility - see W. Va. Code 8A-11-2
Outdoor kennels - see P. & Z. 1331.06(7), (24)
Daycare facility - see P. & Z. 1331.06(19)

1345.01 PURPOSE.

The purpose of the Neighborhood Business (B-1) District is to provide areas for convenient business uses, which tend to meet the daily shopping and service needs of the residents of an immediate neighborhood, and which contain pedestrian-oriented, human-scaled construction that is designed to be compatible with the surrounding neighborhood character. Because of the proximity to residential neighborhoods, high quality design is essential in order to preserve the integrity of those neighborhoods.

1345.02 PERMITTED AND CONDITIONAL USES.

See Permitted Land Use Table 1331.05.01.

1345.03 LOT PROVISIONS.

(A) The minimum lot size shall be 3,000 square feet.

(B) The minimum lot frontage shall be 30 feet.

(C) The minimum lot depth shall be 100 feet.

(D) Maximum lot coverage shall be 70 percent.

1345.04 SETBACKS AND ENCROACHMENTS.

(A) The following setbacks shall be required for all principal structures, except as otherwise provided in Article Section 1363.02(B) Yard, Building Setbacks and Open Space Exceptions:

(1) Minimum Front setback:.....5 feet

(2) Maximum Front setback:.....12 feet, unless there is outdoor seating associated with a restaurant, to be located between the building and street, in which case the maximum may be 18 feet.

(3) Minimum Side setback:.....3 feet for any building abutting a residentially zoned parcel, except where such setbacks may cause sight vision problems for motorists, as determined by the Planning Director or City Engineer; or where such setbacks make it impossible to comply with the parking standards of this Ordinance.

(4) Minimum Rear setback: .....20 feet except for through lots, in which case the parcel will be considered to have two front yards.

(B) The minimum setback for accessory structures on a lot shall be five (5) feet from the rear property line and five (5) feet from each side property line. No accessory structures are permitted within the front setback.

(C) On a corner lot, the front lot line shall be the lot line having the shortest dimension along the street right-of-way line.

1345.05 BUILDING HEIGHT, USE AND SIZE.

(A) The minimum permitted height of a principal building shall be two (2) stories. If a one-story building is desired, a conditional use permit shall be required regardless of the proposed use of the building.

(B) The maximum height of a principal structure shall not exceed forty (40) feet, except for small scale shopping centers, which shall not exceed thirty-five (35) feet. Exceptions to this provision can be found in Section 1363.02(A), Height Exceptions.

(C) The maximum height of an accessory structure shall not exceed fifteen (15) feet.

(D) The maximum gross floor area of the footprint of individual non-residential buildings shall be 5,000 square feet, unless otherwise specified. The maximum gross floor area shall be 10,000 square feet for two-story buildings and 15,000 square feet for three-story buildings. For small-scale shopping centers, total area of the building footprint shall not exceed 10,000 square feet, and no individual tenant may occupy more than 3,000 square feet. The maximum gross floor area shall be 20,000 square feet for two-story small-scale shopping centers. Such centers shall not be permitted to have a third story.
(Ord. 06-40. Passed 11-21-06.)

1345.06 PARKING AND LOADING STANDARDS.

(A) All uses within this district shall provide not less than seventy-five (75) percent of the required parking as set forth in Article 1365, Parking, Loading and Internal Roadways.

(B) No parking spaces shall be permitted between the front façade of a building and any street right-of-way. (Ord. 15-28. Passed 6-2-15.)

1345.07 PERFORMANCE STANDARDS.

(A) All construction shall conform in street orientation to adjacent structures, except where this shall cause conflict with other provisions.

(B) Important structures should be built so that they terminate street vistas whenever possible, and should be of sufficient design to create visual anchors for the community. All principal structures within a development should maintain a consistent architectural style.

(C) Materials:
- (1) Walls shall be clad in any combination of stone, brick, stucco, marble, or wood.
- (2) Roofs shall be clad in slate, sheet metal, corrugated metal, and/or diamond tab asphalt shingles, unless the roof is flat and generally not visible from a public street.
- (3) The orders, if provided, should be made of wood or cast concrete.

(D) Configuration:
- (1) Two wall materials may be combined horizontally on one facade. The heavier material shall be below and should not extend above the first floor.
- (2) Skylights shall be flat (non-bubble.)
- (3) Street level windows shall be non-tinted.
- (4) Windows shall be of square or vertical proportion, unless they are transom windows.
- (5) Front facades shall have a fenestration ratio of not less than sixty (60) percent.

(E) Techniques:
- (1) Stucco should be float finish, not of the synthetic variety.
- (2) Windows should be set to the inside of the building face wall.
- (3) All rooftop equipment that is enclosed should be enclosed in building material that matches the structure or is visually compatible with the structure.
- (4) No metal bars or screens shall be permitted to cover windows on any façade facing a street.

(F) Sidewalks:
- (1) Sidewalks shall be constructed along the frontage of a lot upon which a B-1use is to be constructed. New sidewalks shall be at least six (6) feet wide, or the same width as an existing but incomplete sidewalk along the same side of the street.

(2) A canvas or fabric awning may be placed extending from a building over the sidewalk and into the public right-of-way. Such awning must be placed no lower than nine (9) feet above the sidewalk and extend no closer than three (3) feet from the curb line. An encroachment permit is required.

1345.08 LANDSCAPING.

Landscaping and screening as required in Article 1367, Landscaping and Screening, shall be provided for all uses, unless otherwise noted.

ARTICLE 1347
B-2, Service Business District

1347.01 Purpose.
1347.02 Permitted and conditional uses.
1347.03 Lot provisions.
1347.04 Setbacks and encroachments.
1347.05 Building height, use and size.
1347.06 Parking and loading standards.
1347.07 Performance standards.
1347.08 Landscaping.

CROSS REFERENCES
Group residential facility - see W. Va. Code 8A-11-2
Outdoor kennels - see P. & Z. 1331.06(7), (24)
Daycare facility - see P. & Z. 1331.06(19)

1347.01 PURPOSE.
The purpose of the Service Business (B-2) District is to provide areas that are appropriate for most kinds of businesses and services, particularly large space users such as department stores. Typically B-2 districts are located along major thoroughfares.

1347.02 PERMITTED AND CONDITIONAL USES.
See the Permitted Land Use Table 1331.05.01.

1347.03 LOT PROVISIONS.
(A) The minimum lot size shall be 6,000 feet.

(B) The minimum lot frontage shall be 60 feet.

(C) The minimum lot depth shall be 100 feet.

(D) Maximum lot coverage shall be 60 percent.

1347.04 SETBACKS AND ENCROACHMENTS.
(A) The following setbacks shall be required for all principal structures, except as otherwise provided in Section 1363.02(B) Yard, Building Setbacks and Open Space Exceptions:

(1) Minimum Front setback:..... 15 feet
(2) Maximum Front setback:..... 30 feet
(3) Minimum Side setback:..... 5 feet on one side and 20 feet on the side where any access drives are located.
(4) Minimum Rear setback: ..... 40 feet.

(B) The minimum setback for accessory structures on a lot shall be ten (10) feet from the rear property line and ten (10) feet from each side property line. No accessory structures are permitted within the front setback.

(C) On a corner lot, the front lot line is the one having the shortest dimension along the street right-of-way line. The required side yard setback on the side facing a street shall be one and one-half (1.5) times the normal side yard setback requirements.

1347.05 BUILDING HEIGHT, USE AND SIZE.

(A) The maximum height of a principal structure shall not exceed seventy-two (72) feet, except as provided in Section 1363.02(A), Height Exceptions.

(B) The maximum height of an accessory structure shall not exceed twenty (20) feet. (Ord. 06-40. Passed 11-21-06.)

1347.06 PARKING AND LOADING STANDARDS.

(A) All uses within this district shall conform to the off-street parking and loading requirements in Article 1365, Parking, Loading and Internal Roadways.

(B) No parking spaces shall be permitted between the front façade of a building and any street right-of-way.

1347.07 PERFORMANCE STANDARDS.

(A) Important structures should be built so that they terminate street vistas whenever possible, and should be of sufficient design to create visual anchors for the community. All principal structures within a development should maintain a consistent architectural style.

(B) Metal paneling may be used for wall surfaces but the area of the metal paneling should not exceed twenty (20) percent of any one wall face.

(C) Materials:

(1) Walls should be clad in stone, brick, marble, stucco, approved metal paneling, and/or cast concrete.

(2) Roofs should be clad in slate, sheet metal, corrugated metal, and/or diamond tab asphalt shingles.

(3) The orders, if provided, should be made of wood or cast concrete.

(D) Techniques:

(1) Windows should be set to the inside of the building face wall.

(2) All primary entrance exterior doors should have rectangular recessed panels or glass.

(3) All rooftop equipment that is enclosed should be enclosed in building material that matches the structure or is visually compatible with the structure.

(E) Playground equipment, if provided, shall be located entirely behind the principal structure and shall meet required setbacks.

(F) Sidewalks shall be constructed along the frontage of a lot upon which a use is to be constructed. New sidewalks shall be at least six (6) feet wide, or the same width as an existing but incomplete sidewalk along the same side of the street.

1347.08 LANDSCAPING.

Landscaping and screening as required in Article 1367, Landscaping and Screening, shall be provided for all uses, unless otherwise noted.

ARTICLE 1349
B-4, General Business District

1349.01 Purpose.
1349.02 Permitted and conditional uses.
1349.03 Lot provisions.
1349.04 Setbacks and encroachments.
1349.05 Building height.
1349.06 Floor area ratio (FAR).
1349.07 Lot area per dwelling unit (residential density).
1349.08 Parking and loading standards.
1349.09 Performance standards.
1349.10 Landscaping.

CROSS REFERENCES
Group residential facility - see W. Va. Code 8A-11-2
Outdoor kennels - see P. & Z. 1331.06(7), (24)
Daycare facility - see P. & Z. 1331.06(19)

1349.01 PURPOSE.
The purposes of the General Business District (B-4) are to:
(A) Promote development of a compact, pedestrian-oriented central business district consisting of a high-intensity employment center, vibrant and dynamic mixed-use areas, and residential living environments that provide a broad range of housing types for an array of housing needs;
(B) Promote a diverse mix of residential, business, commercial, office, institutional, education, and cultural and entertainment activities for workers, visitors, and residents;
(C) Encourage pedestrian-oriented development within walking distance of public transit opportunities at densities and intensities that will help to support transit usage and businesses;
(D) Promote the health and well-being of residents by encouraging physical activity, alternative transportation, and greater social interaction;
(E) Create a place that represents a unique, attractive, and memorable destination for visitors and residents; and,
(F) Enhance the community's character and historical significance through the promotion of high-quality urban design.
(Ord. 07-57. Passed 11-6-07.)

1349.02 PERMITTED AND CONDITIONAL USES.
See the Permitted Land Use Table 1331.05.01.
(Ord. 07-57. Passed 11-6-07.)

1349.03 LOT PROVISIONS.

(A) The minimum lot size shall be 1,500 square feet.

(B) The minimum lot frontage shall be 30 feet.

(C) The minimum lot depth shall be 50 feet.

(D) Maximum lot coverage shall not exceed ninety (90) percent; however, in no case shall the lot coverage exceed that which will permit adequate space for provision and servicing of a dumpster on an approved pad.
(Ord. 07-57. Passed 11-6-07.)

1349.04 SETBACKS AND ENCROACHMENTS.

(A) The following setbacks shall be required for all principal structures, except as otherwise provided in Section 1363.02 (B) Yard, Building Setbacks and Open Space Exceptions:

(1) No minimum front or street side building setback is required. For developments that are bordered on all sides by public right-of-way (i.e., entire City block), then the minimum front or street side building setback is 15 feet.

(2) The maximum front and street side building setback may not exceed the average front yard depth of the nearest two (2) lots on either side of the subject lot or 10 feet, whichever is less (See Graphic 1349.04.01). For developments that are bordered on all sides by public right-of-way (i.e., City block), then the maximum front or street side building setback is 20 feet.

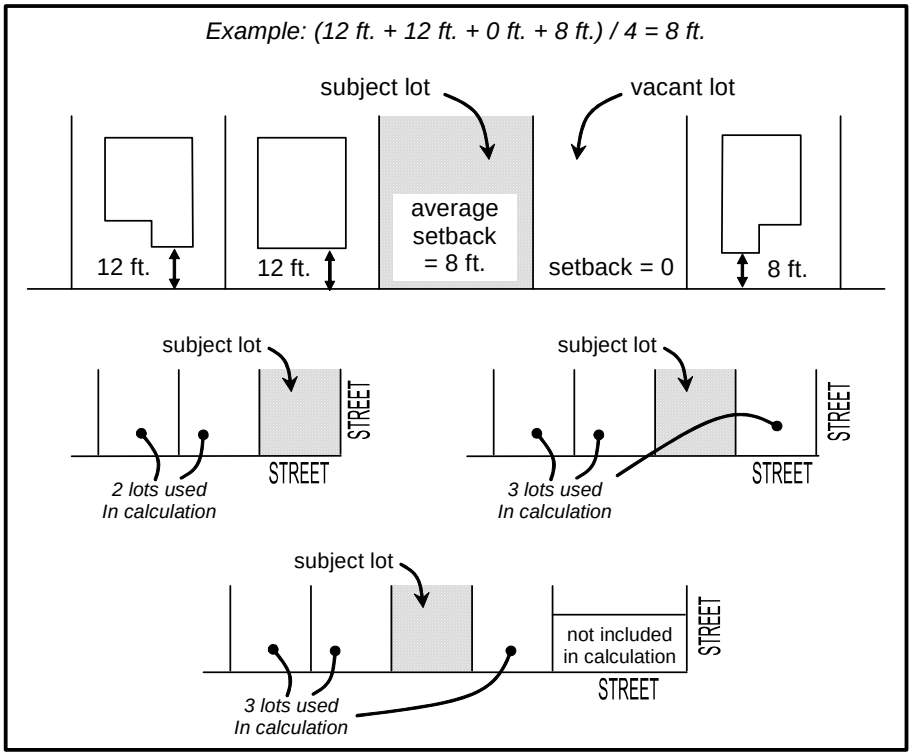
(a) If one or more of the lots required to be included in the averaging calculation are vacant, such vacant lots will be deemed to have a yard depth of zero (0) feet.

(b) When the subject lot is a corner lot, the average setback will be computed on the basis of the two (2) adjacent lots that front the same street as the subject lot.

(c) When the subject lot abuts a corner lot fronting the same street, the average setback will be computed on the basis of the abutting corner lot and the nearest two (2) lots that front on the same street as the subject lot.

(d) Lots fronting a different street than the subject lot or separated from the subject lot by a street or alley may not be used in computing the average.

Graphic 1349.04.01 – Calculating Setbacks



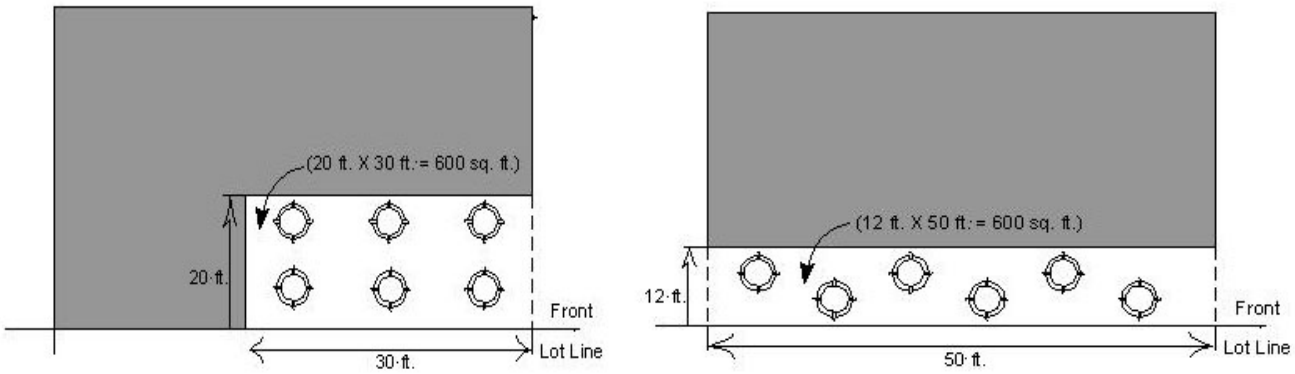
(3) The following exceptions to the maximum front and street side building setbacks apply:

(a) Buildings taller than three (3) stories may be set back farther than the maximum setback in order to accommodate design elements that preserve adequate sunlight distribution and airflow as required in Article 1351.01 (I) below.

(b) A portion of the building may be set back from the maximum setback line in order to provide an articulated façade or accommodate a building entrance feature, provided that the total area of the space created must not exceed one square foot for every linear foot of building frontage.

(c) A building may be set back farther than the maximum setback in order to accommodate an outdoor eating area. In order to preserve the continuity of the street wall, the building may be set back no more than 12 feet from the front or street side property line; or, at least 40 percent of the building façade may not be located beyond the maximum setback line. The total area of an outdoor eating area that is located between a public sidewalk and the building façade may not exceed 12 times the building's street frontage in linear feet.

Graphic 1349.04.02 - Exceptions to Minimum Front and Street Side Setbacks



(4) Minimum Side setback: No interior side setbacks are required for the first floor. For floors above the first floor, interior side setbacks shall be sufficient to comply with applicable building codes.

(5) Minimum Rear setback: The minimum rear setback shall be ten percent (10%) of the lot depth or ten (10) feet, whichever is greater.

(B) The minimum setback for accessory structures on a lot shall be five (5) feet from the rear property line and five (5) feet from each side property line. No accessory structures are permitted within the front setback. With the exception of newspaper/periodical racks, parcel post drop boxes, and automatic teller machines, no vending machines (i.e. soft drink) or storage units (i.e. ice) are permitted within the front setback or on public right-of-way.
(Ord. 07-57. Passed 11-6-07.)

1349.05 BUILDING HEIGHT.

(A) The minimum height of a principal structure shall be two (2) stories.

(B) The maximum height of a principal structure, unless otherwise restricted by Article 1362 B-4NPOD, B-4 Neighborhood Preservation Overlay District, shall not exceed 120 feet, except as provided in Section 1363.02 (A), Height Exceptions.

(C) The maximum height of an accessory structure, unless otherwise restricted by Article 1362 B-4NPOD, B-4 Neighborhood Preservation Overlay District, shall not exceed thirty-five (35) feet. (Ord. 07-57. Passed 11-6-07.)

1349.06 FLOOR AREA RATIO (FAR).

The maximum FAR for all development in this district is 7.0. Area designed, constructed, and utilized to provide parking structure facilities shall be exempt from the maximum FAR, provided such area does not exceed 115% of the minimum parking requirement. (Ord. 07-57. Passed 11-6-07.)

1349.07 LOT AREA PER DWELLING UNIT (RESIDENTIAL DENSITY).

The minimum lot area per dwelling unit in this district is 300 square feet. (Ord. 07-57. Passed 11-6-07.)

1349.08 PARKING AND LOADING STANDARDS.

(A) Off-street parking shall be provided in accordance with Article 1365, Parking, Loading and Internal Roadways for all Developments of Significant Impact within this district, unless otherwise restricted by Article 1362 B-4NPOD, B-4 Neighborhood Preservation Overlay District, except as follows:

(1) Residential: Parking shall not be required for the first twenty-two (22) occupants, as determined by the West Virginia State Building Code and adopted and implemented by the City, within permitted residential development. With the exception of the first twenty-two (22) occupants, the minimum number of parking spaces for permitted residential uses shall be one-half a space (0.5) per occupant, as determined by the West Virginia State Building Code and adopted and implemented by the City.

(2) Nonresidential: Parking shall not be required for permitted nonresidential uses and development with a gross floor area of less than 15,000 square feet. The minimum number of parking spaces for permitted nonresidential uses shall be provided in accordance with Table 1365.04.01 "Minimum Off-Street Parking Requirements" for that gross floor area of 15,000 square feet and greater.

(3) Movie Theaters, as defined in this Zoning Ordinance.

(4) Reduction in Minimum Required Parking – The B-4 zoning district is characterized by businesses and mixed-uses that are well connected to pedestrian and public transit routes and are in close proximity to publicly provided parking facilities. In addition, the uses in the B-4 district are characterized by a mixture of primarily daytime and nighttime uses. For these reasons, the minimum parking requirements may be reduced somewhat in the B-4 district, as a conditional use, as provided in Section 1365.04 "Determining the Number of Spaces Required."

(5) Fee In-Lieu-of Parking – RESERVED

(6) The Board of Zoning Appeals, with the recommendation of the Planning Commission, may permit as a conditional use alternate strategies (i.e. remote parking, etc.) to meet minimum off-street parking requirements provided the intent of this Ordinance is observed and substantial justice done.

(B) All on-site surface parking must be located to the rear of the principal building or otherwise screened so as to not be visible from public right-of-way or residential zoning districts.

(C) Bicycle Storage – For all Developments of Significant Impact in this district, the following minimum bicycle storage amenities must be provided:

(1) One (1) indoor, secured, sheltered bicycle storage space per dwelling unit.

(2) Each space shall be a minimum of 3-feet X 6-feet X 4 feet.

(3) Each bicycle shall be individually secured with a lock to a permanent structure.

(4) There should be sufficient space for easy access to each bicycle.

(D) Loading – Residential uses containing thirty (30) or more dwelling units shall conform to the loading requirements set forth in Section 1365.10 as a "Type II Use" (see Table 1365.10.01). (Ord. 15-34. Passed 6-2-15.)

1349.09 PERFORMANCE STANDARDS.

See Article 1351, Performance Standards for Buildings in the General Business (B-4) District. (Ord. 07-57. Passed 11-6-07.)

1349.10 LANDSCAPING.

Landscaping and screening as required in Article 1367, Landscaping and Screening, shall be provided for all uses, unless otherwise noted.
(Ord. 07-57. Passed 11-6-07.)

ARTICLE 1351
Performance Standards for Buildings in the General Business (B-4) District

1351.01 Standards.

1351.01 STANDARDS.

(A) Chimneys, cooling towers, elevator bulkheads, fire towers, penthouses, stacks, tanks, water towers, transmission towers, or essential mechanical appurtenances, may be erected to any height not prohibited by other laws or ordinances.

(B) The following regulations apply to private pedestrian walks, street furniture, and open space on private property.

(1) All sidewalks, pedestrian walks, open space areas and recreation facilities shall be suitably paved or surfaced for their respective uses, landscaped with trees and/or shrubs and other appropriate plant materials, and provided with benches, trash receptacles, and lighting to coordinate with street furniture already in place.

(2) Street furniture includes such items as benches, trash receptacles, ATM and telephone enclosures, vending boxes, planters, light standards, bollards, drinking fountains, and other similar improvements. Such furnishings should be integrated into the overall design of the streetscape, and new furnishing shall match existing examples already installed, where practical.

(3) Where possible, the various elements should be clustered to eliminate visual clutter. Elements on poles, such as light standards, planters, traffic signs, and light should be installed in cluster to avoid forming unnecessary pedestrian barriers or conflicting with curb parking. When street furnishings or planting areas are added, sidewalks should be wide enough to accommodate both the improvement and pedestrian traffic.

(4) Obstacles, such as obsolete signposts, parking meter standards, post or vending boxes, and other items no longer in use, should be removed from sidewalks, and any holes or other scars to the pavement repaired. Previous patching or repairs that do not match current paving should be replaced with materials that blend with the overall color, texture, and pattern of the pavement materials. Whenever possible, replace entire sidewalk segments.

(5) Sidewalks are to have a safe and even walking surface, and areas that have settled or are otherwise damaged shall be repaired and/or replaced to provide an even and safe surface. Sidewalks that are replaced or repaired shall be constructed of material consistent with existing materials and shall be in conformity to the Downtown Comprehensive Revitalization Plan model. Any historic sidewalk paving material should be repaired and retained rather than replaced.

(C) Private parking facilities shall comply with the following:

(1) All parking areas shall be designed to City standards, with a hard paved, permanent surface such as asphalt, concrete, or pavers, and shall be properly lighted (minimum of 2 foot candles). All parking areas shall incorporate concrete curbs, gutters and adequate storm drain systems. Parking areas shall be designed with adequate ingress and egress from a public right-of-way or private street.

(2) Points of potential conflict between pedestrian and vehicular traffic, such as crosswalks, parking lots, and alleys shall be clearly identified by a contrast in color and/or texture and /or material as appropriate. Parking spaces shall not be closer than twenty (20) feet to such crossing.

(3) Parking structures shall be designed with building-like facades and architectural context that will complement the scale, facades and materials found within the district. Where feasible, the design of parking structures shall incorporate street level retail or service uses to ensure pedestrian viability of the block.

(D) Curb Cuts. No part of a driveway leading from a public street shall be nearer than thirty-five (35) feet to the street right-of-way line of any intersecting street, nor nearer than thirty (30) feet to the end of a curb radius at an intersecting street, nor shall the driveway be nearer than thirty (30) feet to any other part of another driveway entering a public street. The maximum width of any driveway leading from a public street shall not exceed twenty-six (26) feet at the curb line or twenty-two (22) feet at the street right-of-way line. Driveways that cross pedestrian walks shall be designated to allow for barrier free pedestrian travel.

(E) Corner Visibility. Where public rights-of-way intersect or where drives from parking lots enter a street or alley, a clear vision triangle is required as determined by the City Engineer.

(F) Landscaping.

(1) Any land not covered by buildings or pavement shall be suitably landscaped and maintained. Plans for treatment of landscape areas shall be submitted for approval in accordance with Article 1367.

(2) For perennial plantings adjacent to public streets, street trees must be pruned sufficiently to allow pedestrian movement under the canopy. All perennial plant materials used shall meet the following criteria:
(a) Plants selected shall be tolerant of urban conditions, and with low/minimum maintenance.
(b) Plants selected shall be hardy species chosen on the basis of their height, form, color and visual interest.
(c) Plant materials should visually complement the building facades and public improvements.
(d) Plants selected should have deep root systems to avoid damage to road and sidewalk pavement.
(Ord. 06-01. Passed 1-3-06.)

(G) Vacant Lots.
(1) Street frontages where vacant lots have been created as a result of building demolition shall be either fenced or landscaped to avoid "gaps" in the architectural or urban facades/streetscapes.
(2) If the site is to be landscaped, a continuous evergreen shrub and/or tree screen shall be planted, with an installed minimum height of thirty-six (36) inches. (Ord. 09-14. Passed 4-7-09.)

(H) Main Street Morgantown Urban Design Guidelines. Aesthetic controls and specifications contained in the Urban Design Guidelines, as adopted in City Code, may be used in evaluating a development proposal.

(I) To minimize canyon effects created by tall structures, buildings taller than three (3) stories shall incorporate design elements that preserve adequate light and airflow to public spaces including streets and sidewalks. Desired design elements include, but are not limited to, one or a combination of recessing or "stepping back" upper floors, increased front and/or street side setbacks while incorporating measures to preserve the continuity of the predominant street wall, etc. Site plan applications for buildings taller than three (3) stories must include the following:
(1) An air flow analysis conducted by a licensed architect or professional engineer, describing and illustrating the estimated impact of the proposed building on existing patterns of air flow in the general vicinity; and how those impacts may affect existing properties within a 300 foot radius of the site.
(2) A sunlight distribution analysis conducted by a licensed architect or professional engineer, describing and illustrating the impact of the proposed building on sunlight distribution in the general vicinity, with special emphasis on predicting light blockage and shadow casting onto all properties within a 300 foot radius of the site.

(J) Floor-to-Floor Heights and Floor Area of Ground-floor Space.

(1) All nonresidential floor space provided on the ground floor of a mixed-used building must have a minimum floor-to-ceiling height of eleven (11) feet.

(2) All nonresidential floor space provided on the ground floor of a mixed-use building must contain the following minimum floor area:

(a) At least 800 square feet or 25 percent of the lot area (whichever is greater) on lots with street frontage of less than 50 feet; or

(b) At least 20 percent of the lot area on lots with 50 feet of street frontage or more.

(K) Transparency.

(1) A minimum of sixty percent (60%) of the street-facing building façade between three (3) feet and eight (8) feet in height must be comprised of clear windows that allow views of indoor nonresidential space or produce display areas.

(2) The bottom edge of any window or product display window used to satisfy the transparency standard of subsection (K)(1) hereof may not be more than three (3) feet above the adjacent sidewalk.

(3) Product display windows used to satisfy these requirements must have a minimum height of four feet and be internally lighted.

(L) Doors and Entrances.

(1) Buildings must have a primary entrance door facing a public sidewalk. Entrances at building corners may be used to satisfy this requirement.

(2) Building entrances may include doors to individual shops or businesses, lobby entrances, entrances to pedestrian-oriented plazas, or courtyard entrances to a cluster of shops or businesses.

(Ord. 07-57. Passed 11-6-07.)

(M) Solid Waste. All new development shall, to the greatest extent feasible, provide sufficient area within the principal structure for the collection, storage, and removal of solid waste. Where internal areas are not feasible, external solid waste containment facilities shall be enclosed with masonry materials and an opaque gate. Said external facilities shall be designed so that they integrate with and compliment the architectural vocabulary of the principal structure. (Ord. 08-08. Passed 3-4-08.)

ARTICLE 1353
B-5, Shopping Center District

1353.01 Purpose.
1353.02 Permitted and conditional uses.
1353.03 Lot provisions.
1353.04 Setbacks and encroachments.
1353.05 Building height and use.
1353.06 Parking and loading standards.
1353.07 Performance standards.
1353.08 Landscaping.

CROSS REFERENCES
Composting sites - see P. & Z. 1331.06(3)
Churches - see P. & Z. 1331.06(12)
Private club restaurant - see P. & Z. 1331.06(18)

1353.01 PURPOSE.
The purpose of the Shopping Center (B-5) District is to permit a group of establishments to be planned, constructed and managed as a total entity. Typically, B-5 districts are located along major thoroughfares.

1353.02 PERMITTED AND CONDITIONAL USES.
See the Permitted Land Use Table 1331.05.01.

1353.03 LOT PROVISIONS.
(A) The minimum lot size shall be 0.5 acre.

(B) The minimum lot frontage shall be 60 feet.

(C) The minimum lot depth shall be 100 feet.

(D) Maximum lot coverage shall be 60 percent.

1353.04 SETBACKS AND ENCROACHMENTS.
(A) The following setbacks shall be required for all principal structures, except as otherwise provided in Section 1363.02(B) Yard, Building Setbacks and Open Space Exceptions:
(1) Minimum Front setback:..... 20 feet
(2) Minimum Side setback:..... 30 feet
(3) Minimum Rear setback: ..... 30 feet

(B) The minimum setback for accessory structures on a lot shall be five (5) feet from the rear property line and five (5) feet from each side property line. No accessory structures are permitted within the front setback.

(C) On a corner lot, the front lot line shall be the lot line having the shortest dimension along the street right-of-way line.

1353.05 BUILDING HEIGHT AND USE.

(A) The minimum height of a principal structure shall be twenty-five (25) feet and the maximum height shall not exceed seventy-five (75) feet, except as provided in Section 1363.02(A), Height Exceptions.

(B) The maximum height of an accessory structure shall not exceed twenty-five (25) feet.

1353.06 PARKING AND LOADING STANDARDS.

All uses within this district shall conform to the off-street parking and loading requirements in Article 1365, Parking, Loading and Internal Roadways.

1353.07 PERFORMANCE STANDARDS.

(A) All principal structures within a development should maintain a consistent architectural style.

(B) Architectural metal paneling may be used for wall surfaces but shall not exceed twenty (20) percent of any wall facing a public street.

(C) Materials:

(1) Walls shall be clad in stone, brick, marble, approved metal paneling, and/or cast concrete.

(2) Roofs should be clad in slate, sheet metal, corrugated metal, and/or diamond tab asphalt shingles.

(D) Techniques:

(1) Windows should be set to the inside of the building face wall.

(2) All primary entrance exterior doors should have rectangular recessed panels or glass.

(3) All rooftop equipment that is enclosed should be enclosed in building material that matches the structure or is visually compatible with the structure.

(E) Sidewalks shall be constructed along the frontage (where feasible) of a lot upon which a use is to be constructed. New sidewalks shall be at least six (6) feet wide, or the same width as an existing but incomplete sidewalk along the same side of the street.

1353.08 LANDSCAPING.

Landscaping and screening as required in Article 1367, Landscaping and Screening, shall be provided for all uses, unless otherwise noted.

ARTICLE 1355
I-1, Industrial District

1355.01 Purpose.
1355.02 Permitted and conditional uses.
1355.03 Lot provisions.
1355.04 Setbacks and encroachments.
1355.05 Building height and use.
1355.06 Parking and loading standards.
1355.07 Landscaping.
1355.08 Performance standards.

CROSS REFERENCES
Composting sites - see P. & Z. 1331.06(3)
Recycling station - see P. & Z. 1331.06(6)
Self storage facilities - see P. & Z. 1331.06(15)

1355.01 PURPOSE.

The purpose of the Industrial District (I-1) is to allow for the development of research and industrial parks, wholesale business, manufacturing and the like while ensuring the health and safety of Morgantown residents. Industrial districts are intended to be located on major thoroughfares where truck traffic does not disrupt local streets.
(Ord. 12-29. Passed 7-3-12.)

1355.02 PERMITTED AND CONDITIONAL USES.

See the Permitted Land Use Table 1331.05.01.
(Ord. 12-29. Passed 7-3-12.)

1355.03 LOT PROVISIONS.

(A) The minimum lot size shall be two (2) acres.

(B) The minimum lot frontage shall be 60 feet.

(C) The minimum lot depth shall be 100 feet.

(D) Maximum lot coverage shall be 40 percent.
(Ord. 12-29. Passed 7-3-12.)

1355.04 SETBACKS AND ENCROACHMENTS.

(A) The following setbacks shall be required for all principal structures, except as otherwise provided in Section 1363.02(B) Yard, Building Setbacks and Open Space Exceptions:

(1)	Minimum Front setback	50 feet
(2)	Minimum Side setback	30 feet
(3)	Minimum Rear setback	30 feet

(B) The minimum setback for accessory structures on a lot shall be five (5) feet from the rear property line and five (5) feet from each side property line when abutting another I-1 District zoned property. No accessory structures are permitted within the front setback, or within the side setback along a public or private street. Where an I-1 District abuts another zoning district, a minimum setback of thirty (30) feet shall be provided for the yard along the shared zoning district boundary line.

(C) On a corner lot, the front lot line shall be the lot line having the shortest dimension along the street right-of-way line. The required side yard setback on the side facing a street shall be one and one-half (1.5) times the normal side yard setback requirement. (Ord. 12-29. Passed 7-3-12.)

1355.05 BUILDING HEIGHT AND USE.

(A) The maximum height of a principal structure shall not exceed sixty-five (65) feet, except as provided in Section 1363.02(A), Height Exceptions.

(B) The maximum height of an accessory structure shall not exceed thirty-five (35) feet. (Ord. 12-29. Passed 7-3-12.)

1355.06 PARKING AND LOADING STANDARDS.

All uses within this district shall conform to the off-street parking and loading requirements in Article 1365, Parking, Loading and Internal Roadways. (Ord. 12-29. Passed 7-3-12.)

1355.07 LANDSCAPING.

Landscaping and screening as required in Article 1367, Landscaping and Screening, shall be provided for all uses, unless otherwise noted. (Ord. 12-29. Passed 7-3-12.)

1355.08 PERFORMANCE STANDARDS.

(A) A Light Industry Use is one which ordinarily uses only light machinery; is conducted entirely within enclosed substantially-constructed buildings; does not use the open area around such buildings for storage of raw materials or manufactured products or for any other industrial purpose and conforms to the following performance standards:

(1) Smoke. No smoke is emitted of a density greater than No. 1 according to the Ringlemann's Scale, except that smoke of a density not in excess of No. 2 of Ringlemann's Scale shall be permitted for a period not in excess of six minutes in any hour.

(2) Fly Ash. No particles from any flue or smokestack shall be permitted to escape beyond the confines of the building in which it is produced.

(3) Dust. No dust of any kind produced by the industrial operations shall be permitted to escape beyond the confines of the building in which it is produced.

(4) Odor. No noxious or obnoxious odor of any kind shall be permitted to extend beyond the lot line.

(5) Gases and Fumes. No gases or fumes toxic to persons or injurious to property shall be permitted to escape beyond the building in which they occur.

(6) Glare. No glare shall be seen from any street or any residential area.
(7) Vibration. No intense earth shaking vibration shall be created or maintained by any industry beyond the property on which it is located.
(8) Noise and Sound. A maximum of 70 decibels at the property line is permitted. Noise is required to be muffled so as not to become objectionable due to intermittence, beat frequency or shrillness. Sound may equal but may not exceed street traffic noise in the vicinity during a normal day shift work period.
(9) Exhaust Control. Exhaust from any internal combustion engine or compressor, stationary or mounted on wheels, used in connection with any operation shall not be discharged into the open air unless it is equipped with an exhaust muffler, mufflers, or an exhaust box constructed of noncombustible materials designed and installed to sufficiently suppress disruptive noise and vibrations and prevent the escape of noxious or obnoxious gases or fumes. All such equipment shall be maintained in good operating condition according to manufacturer's specifications.

(B) Heavy Industry or Heavy Manufacturing Use is one which requires both buildings and open area for manufacturing, fabricating, processing, extraction, heaving, repairing, dismantling, storage or disposal of equipment, raw materials, manufactured products or wastes and provided the use conforms to the following performance standards:
(1) Smoke. No smoke is emitted of a density greater than No. 2 according to the Ringlemann's Scale, except that smoke of a greater density shall be permitted for a period not in excess of six minutes in any one hour.
(2) Fly Ash. No particles from any flue or smokestack shall exceed 0.3 grains per cubic foot of flue gas at a stack temperature of 500 degrees Fahrenheit.
(3) Dust. No dust of any kind produced on the development site shall be permitted to escape beyond the limits of the property being used. Watering, wetting or other methods or materials must be used to control dust to adjacent properties. Watering, wetting, chemical suppression, or any other dust control measures which result in deposition of the dust control media and/or the captured dust upon the ground surface, or upon surfaces draining to the ground surface, shall be subject to regulation under City Code Article 929 "Stormwater Management and Surface Water Discharge Control" of the City of Morgantown.
(4) Odor. No noxious or obnoxious odor of any kind shall be permitted to extend beyond the lot lines.
(5) Gases and Fumes. No gases or fumes toxic to persons or injurious to property shall be permitted to escape beyond the building in which they occur.
(6) Glare. No glare shall be seen from any street or any residential area.
(7) Vibration. No intense earth shaking vibration shall be created or maintained by any industry beyond the property on which it is located.
(8) Noise and Sound. A maximum of 70 decibels at the property line is permitted. Noise is required to be muffled so as not to become objectionable due to intermittence, beat frequency or shrillness. Sound may equal but not exceed street traffic noise in the vicinity during a normal day shift work period.

(9) Exhaust Control. Exhaust from any internal combustion engine or compressor, stationary or mounted on wheels, used in connection with any operation shall not be discharged into the open air unless it is equipped with an exhaust muffler, mufflers, or an exhaust box constructed of noncombustible materials designed and installed to sufficiently suppress disruptive noise and vibrations and prevent the escape of noxious or obnoxious gases or fumes. All such equipment shall be maintained in good operating condition according to manufacturer's specifications.

(10) Perimeter Landscaping and Fencing. For the purpose of screening, buffering, and security, the following improvements shall be installed within thirty (30) days after commencement of development.

(a) Landscaping. Where a heavy industry, heavy manufacturing, or extractive industry development site abuts a nonindustrial property (zoned or used) or public or private street, a thirty (30) foot landscaping transitional yard shall be installed the length of said common border as follows:

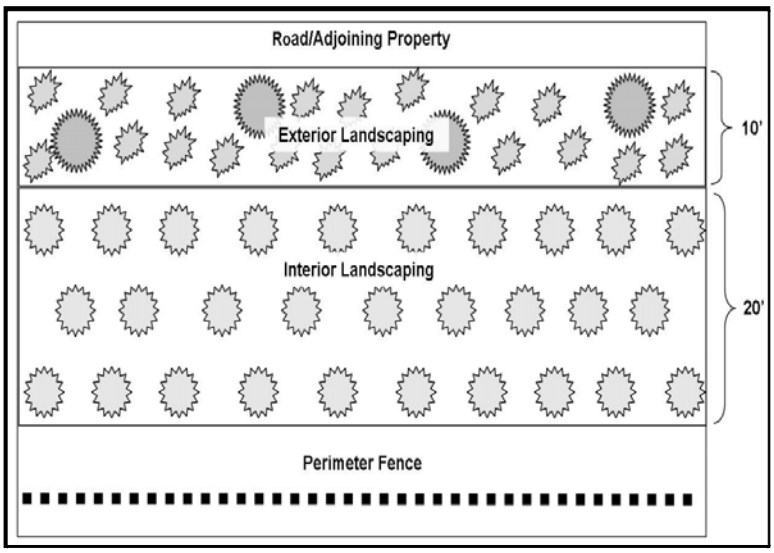
(i) A ten (10) foot wide exterior landscaping transition area containing three (3) to four (4) medium to large trees and fifteen (15) to twenty (20) evergreen shrubs per 100 linear feet.

(ii) A twenty (20) foot wide interior landscaping transition area containing parallel, staggered and/or concentric rows of evergreen trees or evergreen hedge planted eight (8) to twelve (12) feet on center per 100 linear feet.

(iii) Trees shall have a minimum two inch (2) caliper and shrubs shall be at least three (3) gallons in size.

(b) Fencing. A minimum ten (10) foot black vinyl-coated chain link fence must be erected the entire perimeter of a heavy industry, heavy manufacturing, or extractive industry development site between the landscaping transitional yards and the development site. Prominently displayed no trespassing signs are required on all four or more sides of the perimeter fencing.

Graphic 1355.08.01: Perimeter Landscaping and Fencing - Industry



(c) Entrance Gate specifications. All perimeter fences shall be equipped with at least one (1) entrance gate. The gate shall meet the following specifications:

(i) Each gate shall be not less than twelve (12) feet wide and be composed of two (2) gates, each of which is not less than six (6) feet wide, or one (1) sliding gate not less than twelve (12) feet wide. If two (2) gates are used, gates shall latch and lock in the center of the span;

(ii) The gates shall be provided with a combination catch and locking attachment device for a padlock, and shall be kept locked except when being used for access to the site; and,

(iii) The person in charge of the development site must provide the Morgantown Fire Department with a Knox Padlock or Knox Box entry system or equivalent on the gate to access the site in case of an emergency.

(d) Administrative Adjustment. The Planning Director may approve administrative adjustments to the perimeter landscaping and fencing design if it is found that the adjustments:

(i) Are consistent with the spirit and intent of the landscaping and fencing requirements; and,

(ii) Will not adversely affect the proposed development, use of adjacent property or neighborhoods, or obstruct sight lines at intersections; and,

(iii) Are necessary to accommodate an alternative or innovative design that achieves to the same or better degree the objective of the landscaping and fencing standard to be modified.

(11) Signage. For development that involves the use, storage, or generation of highly flammable, toxic, explosive, or hazardous materials, the following signage shall be provided as approved or designated by the City Fire Marshal.

(a) Prominently displayed permanent weatherproof retroreflective signs reading "DANGER NO SMOKING OR OPEN FLAME ALLOWED" shall be posted upon completion of the perimeter fencing at the entrance gate(s) or in any other appropriate location. Sign lettering shall be at least four (4) inches in height and shall be red on a white background or white on a red background.

(b) Prominently displayed permanent weatherproof labels must be located on each tank containing highly flammable, toxic, explosive, or hazardous materials indicating the exact chemicals that are contained in the tank. Sign lettering shall be at least six (6) inches in height, contrasting with the background color.

(12) Waste Disposal. All waste and hazardous materials used, stored, or generated by the development may only be discharged into above-ground and/or axle-mounted tanks. Waste materials shall be removed from the site and transported to an approved and permitted off-site disposal facility no less frequently than every thirty (30) days. Wastewater stored in on-site above-ground and/or axle-mounted tanks shall be removed as necessary, except:

(a) Domestic sanitary sewage shall be discharged to a public sanitary sewer, as required under City Code Article 921 "Sewer Regulations" of the City of Morgantown. Such discharge shall conform to the rules and regulations of the Morgantown Utility Board; and,

(b) Certain limited process/industrial waste may be discharged to the public sanitary sewer, but only as allowed and regulated under City Code Article 923 "Industrial Wastes" of the City of Morgantown. Any such allowed industrial discharge shall conform to the rules and regualtions of the Morgantown Utility Board.

(c) Any liquid, or semi-liquid, waste not characterized as domestic sanitary sewage or as allowed industrial discharge, as described in items (a) and/or (b) above, shall be disposed of as herein provided above.

(13) Security. At all times, the development site shall have a minimum of one security camera mounted inside the perimeter fencing. Signs shall be posted on the fence or wall of the site to indicate that activity on the site may be recorded by video surveillance. Camera systems shall be maintained in proper operating condition and shall be designed and located to meet the following requirements:

(a) Capture clear video images (day and night) of all traffic entering and exiting the gate(s).

(b) Be equipped with motion detection technology.

(c) Be equipped with panning technology to pan immediately to any motion detected at or near the gate(s).

(d) Show the date and time of all activity on the footage.

(e) Be capable of being viewed at the monitoring facility.

The person in charge of the development site shall maintain video data for a period of five (5) business days. At the request of City law enforcement officials, the person in charge of the development shall make available recorded footage required herein.

(14) Storage of equipment. On-site storage of equipment is prohibited on the development site except when servicing on-going operations. No vehicle or item of machinery shall be parked or stored on any public street, right-of-way or in any development site driveway entrance which constitutes a fire hazard or an obstruction to or interference with fighting or controlling fires except that equipment which is necessary for the operations of the development site. The Morgantown Fire Department shall be the entity that determines whether equipment on the site constitutes a fire hazard.

(15) Private roads and driveway entrances. Prior to the commencement of development, all private roads and driveway entrances to the development site shall be at least twenty-four (24) feet wide and have an overhead clearance of at least fourteen (14) feet. At a minimum, the road shall be surfaced with bituminous surface treatment (e.g., chip seal), however asphalt and concrete paving are preferred. Roads shall not be surfaced with gravel or caliche. All private roads shall have a concrete drive approach constructed in accordance with City design standards. In particular cases these requirements governing surfacing of private roads may be altered at the discretion of the City Engineer after consideration of all circumstances including, but not limited to, the following: distances from public streets and highways; distances from nonindustrial property (zoned or used); topographical features; nature of the soil; and, exposure to wind.

(C) An Extractive Industry Use involves the extraction of minerals, including solids, such as coal and ores; liquids, such as crude petroleum; and gasses, such as natural gasses. In addition to the Heavy Industry or Heavy Manufacturing Use performance standards provided in Section 1355.08(B), extractive industry uses shall conform to the following performance standards:

(1) Minimum area. The tract of land on which an extractive industry use is to be developed must have a minimum area of five (5) acres.

(2) External Setbacks. An extractive industry development must be a distance, calculated from the outermost boundary of its development site in a straight line without regard to intervening structures or objects, of no less than:

(a) 625 feet from the R-1, R-1A, R-2, R-3, and PUD Districts.

(b) 625 feet from the property boundary on which the following protected uses exist:

(i) A dwelling unit located within any zoning district other the R-1, R-1A, R-2, R-3, and PUD Districts.

(ii) A church or place of worship.

(iii) A hospital.

(iv) A public or private school (K-12).

(v) A day care facility.

(vi) A park.

(c) 100 feet from the 1% (100-year) floodplain.

(d) 1,000 feet from the Morgantown Utility Board public water supply intake.

(e) 1,000 feet from the 1% (100-year) floodplain of the Monongahela River south or upstream of the Morgantown Lock and Dam.

(3) External Setback Exception. With variance approval by the Board of Zoning Appeals, the external setbacks provided in paragraph (b) above may be reduced to not less than 300 feet when there is the written consent of sixty percent (60%) of the surface property owners within the external setback exception radius area between 300 feet and 625 feet around said extractive industry development site. In the event such consent is not obtained, and upon providing evidence of an attempt to obtain written consent of sixty percent (60%) of the surface property owners, then the distance may be reduced to not less than 300 feet with variance approval by the Board of Zoning Appeals. For protection of the public health, safety and welfare, the Board of Zoning Appeals may impose additional requirements for a reduction of such distance, and take into account the presence of natural or man-made barriers.

(a) External setback exception applicants shall adhere to the following written consent or objection verification methodology:

(i) A consent/objection form provided by the Planning Department shall be used by the applicant to obtain consent or objection from all surface property owners as described above. Only one consent/objection form may be obtained from each property owner. Said form shall at a minimum include the name and contact information of the applicant and the operator; a description of the proposed extractive industry development; a map illustrating the location and extent of the proposed extractive industry development site and the external setback exception radius area; the name and address of the surface property owner; the tax map and parcel number(s) owned by the individual surface property owner; and, signature lines to provide written consent or objection by the individual surface property owner.

(ii) The applicant shall submit to the Planning Department a complete list of the names and addresses of all property owners for parcels that are, in whole or in part, within 625 feet of the proposed extractive industry development site. Such information shall be obtained from the Monongalia County Assessor's Office.

(iii) The applicant shall be responsible for sending by certified mail the consent/objection form described above to all property owners with the radius of 300 feet and 625 feet around the proposed extractive industry development site.

(iv) For those surface property owners for which consent or objection is not obtained on the form described above, evidence of an attempt to obtain same shall be provided by returned unopened certified mailings and/or certified mail receipts. Certified unopened mailings returned due to incorrect address shall not be sufficient evidence of an attempt to obtain consent or objection.

(b) Applicants seeking a reduction of the external setback shall submit all obtained consent/objection forms, returned unopened certified mailings, certified mail receipts, and a summary sheet of the results of the effort to obtain written consent or objection from all of the surface property owners within the external setback exception radius area. The summary sheet shall include at a minimum the following:

(i) A map illustrating the location of the proposed extractive industry development site and the external setback exception radius area.

(ii) Total number of properties within the external setback exception radius area.

(iii) Total number of property owners within the external setback exception radius area.

(iv) Total number of consenting properting owners within the external setback exception radius area.

(v) Total number of objecting property owners within the external setback exception radius area.

(vi) Total number of nonresponsive property owners within the external setback exception radius area.

(vii) Total number of returned unopened certified mailings.

(viii) Total number of certified mail receipts.

(ix) Total number of obtained consent/objection forms.

(c) Applicants shall use ethical methods to obtain written consent/objection forms. The Board of Zoning Appeals should reject an external setback exception variance request if it finds that there is evidence of coercion, deception, compensation, or similar ethical misconduct on behalf of the applicant seeking a reduction of the external setback.

(d) Pursuant to Section 1381.03(E), at least ten (10) days prior to the Board of Zoning Appeals hearing on the external setback exception variance approval, the applicant shall notify all owners of property within 625 feet of the public hearing by mail.

(4) Signage. A sign shall be prominently displayed at the perimeter gate(s) enclosing the development site. Such sign(s) shall be durable weatherproof material, maintained in good condition and, unless otherwise required by the City, shall have a surface area of not less than two (2) square feet nor more than four (4) square feet and shall be lettered with the following:

(a) Mine, quarry, or well name and number.

(b) Name of operator.

(c) The emergency 911 number.

(d) Telephone numbers of two (2) persons responsible for the extractive industry site who may be contacted in case of emergency.

(5) Water Impoundment. Freshwater impoundments are permitted on extractive industry development sites. Freshwater impoundments may be earthen impoundments or semi-portable axle-mounted above-ground storage tanks.

(a) Freshwater storage shall be prevented from putrefaction and/or becoming a mosquito breeding habitat.

(b) Freshwater earthen pits shall be securely enclosed by a six (6) foot tall black vinyl-coated chain link fence.

(6) Secondary containment. Secondary containment using existing best practices shall be required for all equipment and storage facilities; be capable of containing a release of no less than one hundred twenty-five percent (125%) of the total combined volume of all storage containers; and, have a freeboard of no less than eight (8) inches. In addition, for oil and gas extraction development, an earthen perimeter berm of not less than two (2) feet shall be developed around the entire development site and meet at a minimum the following standards:

(a) The earthen perimeter berm shall confine a containment volume of no less than one hundred twenty-five percent (125%) of the total combined volume of all liquids utilized in the preparation, drilling, and completion of the well.

(b) The areas confined within the secondary containment facilities, and within the earthen perimeter berm, including the walls of the secondary containment facilities and the earthen berm, shall all be covered by a synthetic impermeable liner. Joints and seams within said liner shall be chemically or thermally fused so that it serves as a single, continuous unit.

(c) Access roadways into the development site shall be configured and designed in such a way as to not compromise the containment integrity of the perimeter earthen berm.

(7) Waste Disposal.

(a) Portable closed steel storage tanks must be used for storing liquid hydrocarbons. Tanks must meet American Petroleum Institute (API) standards. All tanks must have a vent line, flame arrester, and pressure relief valve. No tank battery shall be within one hundred (100) feet of any combustible structure.

(b) Drilling mud, cuttings, liquid hydrocarbons, flowback, produced water, and all other field waste derived or resulting from or connected with extraction shall only be discharged into above-ground axle-mounted tanks (closed loop mud and closed loop fracking system).

(c) Waste materials shall be removed from the site and transported to an off-site disposal facility no less frequently than every thirty (30) days. Wastewater stored in on-site tanks shall be removed as necessary.

(d) All waste disposal shall be documented using manifest procedures. The manifests shall record the complete chain of custody from the retrieval at the development site to the ultimate disposal location, for all volumes/units of waste generated and removed from the development site. All such documentation shall be provided to the City of Morgantown and/or the Morgantown Utility Board upon their request.

(8) Gas emission or burning. As a temporary and necessary safety function of the extractive industry operation, venting or burning by open flame (e.g., flaring) is exempt from light and glare regulations as required in this Article and acceptable under the following conditions:

(a) No person shall allow, cause, or permit gases to be vented into the atmosphere or to be burned by open flame except as allowed by applicable state and federal laws, rules, and regulations.

(b) Such venting or open flame shall not be located closer than three hundred (300) feet from any building not used in development site operations. Every reasonable effort should be made to screen such venting or open flame in such a way as to minimize detrimental effects to adjacent property owners.

(c) In order to ensure community awareness and security, the following notifications must be provided by the operator before any temporary burning or flaring activity is to begin:

(i) At least ten (10) calendar days, public educational press release and advance notice sent to all primary local news media outlets.

(ii) At least five (5) calendar days, published notice in a local newspaper of general circulation.

(iii) At least 72 hours, written notification to the City Fire Chief and MECCA 9-1-1.

(d) Flaring or burning of gas or petroleum of any kind after an oil or gas well is in production is prohibited.

(9) Security. In addition to the standards provided in Section 1355.08(B)(13) above, camera systems shall be designed and located to meet the following requirements:

(a) Be equipped to capture clear video images (day and night) of all production equipment located on the site.

(b) Be equipped with panning technology to pan immediately to any motion detected at or near production equipment located on the site.

(10) Cleanup and Maintenance.

(a) With the exception of freshwater, any spill, leak, or malfunction resulting in five (5) gallons or more shall be reported within twenty-four (24) hours to the Morgantown Utility Board and the West Virginia Department of Environmental Protection. Regardless of the amount of fluid resulting from the spill, leak, or malfunction, the operator shall remove or cause to be removed all waste materials from any public or private property affected by such spill, leak, or malfunction. Clean-up operations must begin immediately.

(b) The twenty-four (24) hour reporting period provided in item (a) above shall apply to discharges occurring within a containment area of the development site. For any discharge which occurs outside of a containment area, the Morgantown Utility Board and the West Virginia Department of Environmental Protection shall be notified immediately.

(c) Rainfall onto the development site for which containment barriers are required shall be captured by the required containment barriers and be collected and disposed of as is required for spilled wastes, except the occurrence of rainfall shall not require report notification to the Morgantown Utility Board and/or the West Virginia Department of Environmental Protection. Rainfall may not be left to undermine the capability of secondary containment to contain a release of no less than one hundred twenty-five percent (125%) of the total combined volume of all storage containers.

(d) The development site and public space within one hundred (100) feet shall at all times be kept free of debris, pools of water or other liquids, contaminated soil, weeds, brush, trash, or other waste material.

(e) Oil and gas extraction development. After well drilling has been completed and the well is either producing or temporarily plugged for later production and delivery to market, the operator shall clean the drill site, remove derrick(s) and all appurtenant equipment thereto, complete interim restoration activities, and repair all property damage caused by such operations within ninety (90) days.

(11) Site Restoration. Within six (6) months following the abandonment of an extractive industry development site, including permanent well plugging, the operator shall be responsible for the restoration of the development site to its original condition as nearly as practicable. Abandonment shall be approved by the City Engineer after restoration of the development site has been accomplished in conformity with the following requirements at the discretion of the City Engineer:

(a) All production, derricks, tanks, towers, and other appurtenant surface equipment and installations shall be removed from the development site.

(b) All concrete foundations, piping, wood, guy anchors and other foreign materials regardless of depth, except surface casing, shall be removed from the development site, unless otherwise directed by the City.

(c) All holes and depressions shall be filled with clean, compactable soil.

(d) All waste, refuse or waste material shall be removed from the development site.

(D) Provisions and Exceptions to Light Industrial and Industrial Uses.

(1) Parking space requirements may be waived by the Board of Zoning Appeals where fifty percent (50%) or more of the area in a block was occupied by business or industrial structures at the time of passage of this article.

(2) One-half of an alley abutting the rear of a lot may be included in the rear yard, but such alley space shall not be included for loading and unloading berths.

(3) Chimneys, cooling towers, elevator bulkheads, fire towers, penthouses, tanks, water towers, transmission towers, derricks or essential mechanical appurtenances may be erected to any height not prohibited by other laws or ordinances.

(E) Supplementary Regulations.

(1) There shall be one principal entrance to the industrial site from any major thoroughfare bordering the tract, which shall be designed so that traffic at its intersection with the major thoroughfare may be controlled and so that there will be adequate storage space for traffic destined to enter the thoroughfare or to leave the industrial site.

(2) There shall be direct entrances or exits from parking areas or structures onto the adjoining major thoroughfare, but a service drive parallel to the main traffic-way may be provided for such access. Traffic on the service drive shall enter the main traffic-way via the principal entry.

(3) The owner or owners shall provide a plan for the installation of adequate facilities for the disposal of human and industrial wastes meeting the approval of the State Department of Health.

(4) The owner or owners of the site shall establish in the restrictions, which are a part of the plot for the subdivision, a perpetuating organization for the maintenance of the industrial site, such as roads and planting areas, the approval of building plans and other improvements, and the future maintenance of the site.

(Ord. 12-29. Passed 7-3-12.)

ARTICLE 1357
PUD, Planned Unit Development District

1357.01 General provisions.
1357.02 Requirements for Planned Unit Development.
1357.03 Procedure for approval of Planned Unit Development.
1357.04 Specific content of plans.
1357.05 Review considerations.
1357.06 Changes in the approved Planned Unit Development.

CROSS REFERENCES
Signs permitted - see P. & Z. 1369.06

1357.01 GENERAL PROVISIONS.

The purpose of the planned unit development is to encourage flexibility in the development of land in order to promote its most appropriate use; to improve the design, character and quality of new developments; to encourage a harmonious and appropriate mixture of uses and/or housing types; to facilitate the adequate and economic provision of streets, utilities and city services; to preserve critical natural environmental and scenic features of the site; to encourage and provide a mechanism for arranging improvements and sites so as to preserve desirable features; and to mitigate the problems which may be presented by specific site conditions. It is anticipated that Planned Unit Developments will offer one or more of the following advantages:

(A) Serve to implement the goals, objectives, and strategies of The Morgantown Comprehensive Plan specific to the district or neighborhood in which the PUD is to be located;

(B) Apply the design principles of new urbanism, neo-traditionalism, and other emerging smart growth principles, urban development patterns and best management practices;

(C) Promote development patterns that maximize compatibility of differing adjacent land uses to avoid the necessity of extensive buffering;

(D) Enhance the appearance of neighborhoods by conserving areas of special natural beauty, steep slopes, ecological importance, flood prone areas, and natural green spaces where appropriate, while understanding that land within urban areas is best suited for urban densities and development patterns;

(E) Counteract poor urban design and mitigate congestion on streets;

(F) Promote architecture that is compatible with the community vernacular, and/or the surroundings;

(G) Promote design principles that allow differing types of land uses to coexist while preserving property values and minimizing potential negative consequences;

(H) Promote appropriate urban densities that will help make alternative forms of transportation economically and socially feasible; and

(I) Promote and protect the environmental integrity of the site and its surroundings by providing suitable design responses to the specific environmental constraints of the site and surrounding area.

1357.02 REQUIREMENTS FOR PLANNED UNIT DEVELOPMENT.

A Planned Unit Development is an area under single ownership or control to be developed in conformance with an approved development plan, consisting of 1) a map showing the development area and all proposed improvements to the development area, 2) a text which sets forth the uses and the development standards to be met, and 3) exhibits setting forth any aspects of the development plan not fully described in the map and text. The map, exhibits, and text constitute a development plan. The uses and standards expressed in the development plan constitute the use and development regulations for the Planned Unit Development site in lieu of the regulations for the underlying district.

(A) The area designated in the Planned Unit Development map must be a tract of land at least two (2) acres in size and under single ownership or control, except in the area of the City bounded by Campus Drive / Stewart Street on the south, Eighth Street on the north, and the Monongahela River on the west. To the east, the area is bounded by Jones Avenue from Stewart Street to Highview Place, then continuing along Highview Place to its end, then continuing westward to University Avenue, following University Avenue to its intersection with Eighth Street. Inside this area, commonly known as Sunnyside, Planned Unit Developments may contain not less than one (1) acre of land under single ownership or control. The property contained within a Planned Unit Development should be under single ownership and control. However, multiple ownership is permissible provided that all owners are co-applicants for the Planned Unit Development designation. In cases of multiple ownership, covenants and agreements shall be executed that provide for the identification of one person or corporation responsible for representing the application and having the authority to act as agent for all owners for all aspects of the Planned Unit Development process. Such agreements shall accompany the application for Planned Unit Development designation.

(B) The Outline Plan shall indicate the land use, development standards, and other applicable specifications of the Zoning Ordinance of Morgantown, West Virginia, which shall govern the Planned Unit Development. If the Outline Plan is silent on a particular land use, development standard, or other specification of the Zoning Ordinance, the standard of the underlying district or the applicable regulations shall apply.

(C) The Planned Unit Development map shall show the location of all improvements. The location of Planned Unit Developments shall be designated on the Zone Map and adopted pursuant to rules and regulations governing amendments of the Zoning Ordinance.

(D) The Planned Unit Development must comply with all required improvements, construction standards, design standards, and all other engineering standards adopted and enforced by the City of Morgantown, and any other pertinent regulations, except where specifically varied through the provisions of this Section of the Zoning Ordinance.

(E) Designation and Conveyance or Ownership of Permanent Open Space.

(1) Definition. Permanent open space shall be categorized as one of two types:

(a) Improved Open Space is defined as parks, playgrounds, swimming pools, ball fields, plazas, landscaped green spaces, and other areas that are created or modified by man. At least thirty (30) percent of the total permanent open space in any given Planned Unit Development shall be of the Improved Open Space type.

(b) Natural Open Space is defined as areas of natural vegetation, water bodies, or other landforms that are to be left undisturbed. Creation of a graded and surfaced walking trail through areas of Natural Open Space shall constitute disturbance of the area in the amount of the length of the walking trail multiplied by its width. Neither definition of open space shall include schools, community centers or other similar areas in public ownership.

(2) Designation. Within all Planned Unit Developments, a minimum of ten (10) percent of the proposed Planned Unit Development area shall be designated as permanent open space. No plan for a single- or multi-family residential Planned Unit Development shall be approved unless such plan provides for permanent landscaped or natural open space.

(3) Proximity.

(a) In the case of mixed-use Planned Unit Developments, permanent open space shall be allocated to the property in proportion to the uses assigned to the Planned Unit Development and shall be located within reasonable proximity (within one-quarter of a mile) to those uses. Provided, however, the permanent open space need not be located in proximity to the use in the case of preservation of existing features.

(b) In the case of mixed-use Planned Unit Developments located within the boundaries of the Sunnyside neighborhood, permanent open space may be located within reasonable proximity (within one quarter of a mile) of the PUD with the approval of City Council. As an alternative, a payment in lieu of the open space provision may be made to the City for the purchase or provision of permanent open space on a separate parcel within one quarter of a mile of a Sunnyside PUD.

(4) Proportion. If the Outline Plan provides for the Planned Unit Development to be constructed in stages, open space must be provided for each stage of the Planned Unit Development in proportion to that stage.

(5) Conveyance. Permanent open space shall be conveyed in or owned by one of the following forms:

(a) To a municipal or public corporation; or

(b) To a nonprofit corporation or entity established for the purpose of benefiting the owners and tenants of the Planned Unit Development or, where appropriate and where approved by the Municipal Planning Commission and the City Council, adjoining property owners, or both. All conveyances hereunder shall be structures to insure that the grantee has the obligation and the right to affect maintenance and improvement of the common open space; and that such duty of maintenance and improvement is enforced by the owners and tenants of the Planned Unit Development and, where applicable, by adjoining property owners; or

(c) To owners other than those specified in Subsections (a) and (b) above, and subject to restrictive covenants describing and guaranteeing the open space and its maintenance and improvement, running with the land for the benefit of residents of the Planned Unit Development or adjoining property owners, or both; or

(d) Included in single-family residential lots under the individual control of lot owners.

(6) Uses permitted in a Planned Unit Development may be any use that is found in the Zoning Ordinance in any district, subject to the approval of the Municipal Planning Commission and City Council. However, the City reserves the right to require that a PUD consist of only residential uses when circumstances warrant. Examples of such circumstances may include, but are not limited to: significant infrastructure constraints that could cause practical difficulties in supporting nonresidential uses, the character and land use pattern of surrounding neighborhoods, and possible deleterious changes in traffic circulation patterns in the immediate area. A developer may also initiate a request to limit his or her PUD to residential uses.

(F) For purposes of determining overall project size, two or more parcels of land owned by the applicant that are wholly or partially separated by a public street or other right-of-way may be considered contiguous and thus may be counted in fulfilling the minimum acreage requirement, provided that the use and development of the property is incorporated into, and is an integral part of the project plans; and provided that there is no other property not owned by the applicant separating the parcels in question. Where there is uncertainty in determining a parcel's qualification to be included in the PUD, the Planning Commission shall resolve the issue and make a determination as to the project boundaries, after considering the advice of the Planning Director and the request by the applicant.

1357.03 PROCEDURE FOR APPROVAL OF PLANNED UNIT DEVELOPMENT.

(A) Introduction. Applications shall be accompanied by all plans and documents required by Section 1357.02. A three-step application process shall be used. The steps in the process are:

(1) Pre-application Conference;
(2) Outline Plan Approval; and
(3) Development Plan Approval.

(B) Pre-application Conference. Prior to filing a formal application for approval of a Planned Unit Development, the applicant shall schedule a pre-application conference with the Planning Director. The purposes of the pre-application conference shall be to:

(1) Allow the applicant to present a general concept and to discuss characteristics of the development concept in relation to adopted municipal plans and policies.
(2) Allow the Planning Director to inform the applicant of pertinent policies, standards and procedures for the Planned Unit Development.
(3) The pre-application conference is intended only for the above purposes; neither the developer nor the City of Morgantown is bound by any decision made during a pre-application conference.

(C) Procedure for Outline Plan Approval. Based upon the pre-application conference, the applicant shall develop and submit an Outline Plan for the proposed Planned Unit Development.

(1) The Outline Plan and application for the Planned Unit Development shall be submitted to the Planning Director who, after certifying the application package to be complete, shall initiate a review of the proposed development.
(2) The application and the results of the review shall then be forwarded to the Municipal Planning Commission for its consideration, public hearing and recommendations together with the Planning Department's report and such other documents as may be pertinent to the Planned Unit Development.
(3) The Municipal Planning Commission shall hold a special Ward Meeting in the Ward where the proposed project is located. If the project crosses Ward boundaries, the meeting shall be held in the Ward where the majority of the property is located. The hearing shall be conducted at least seven (7) days prior to the regularly scheduled Planning Commission meeting at which the formal public hearing will be held. The Planning Department will place an advertisement in the newspaper specifying the time and location of the Ward Meeting, at least five (5) days prior to meeting.
(4) Where there are environmentally sensitive features on the site or the Development Plan is expected to be complex, or there are other important planning implications involved, the Municipal Planning Commission may reserve the right to review the Development Plan. And, where the Municipal Planning Commission recommends denial of an Outline Plan and the City Council approves the plan, the Municipal Planning Commission shall review the Development Plan.

(5) Upon completion of its review, the Municipal Planning Commission shall forward the application to the City Council with (a) a favorable recommendation, (b) an unfavorable recommendation, or (c) no recommendation.

(D) Effect of Approval of Outline Plan:

(1) When an Outline Plan for a Planned Unit Development has been approved by the City Council, the Plan shall become effective and its location shall be shown on the Zone Map. The Zone Map shall be amended to designate the site as a Planned Unit Development (PUD).

(2) Upon such amendment of the Zone Map, the use and development of the site shall be governed by the Planned Unit Development Outline Plan, subject to approval of a Development Plan.

(3) No permit of any kind shall be issued until the Development Plan has been approved.

(4) Development Plan:

(a) Purpose of Development Plan Approval. The purpose of the Development Plan is to designate the controls for development of the Planned Unit Development. The Development Plan shall show the exact location of each building and improvement to be constructed and a designation of the specific internal use or range of uses for each building.

(b) Time Limit for Approval of Development Plan. The Development Plan shall be submitted to the Planning Department not more than eighteen (18) months following City Council approval of the Outline Plan. The Outline and Development Plans may be submitted as a single plan if all requirements of Section 1357.02 are satisfied. The Development Plan may be submitted and approved in stages, with each stage representing a portion of the Outline Plan, at the discretion of the Municipal Planning Commission. The time limit for submitting each stage for approval may be set forth in the Outline Plan, in which case that schedule shall control the timing of development, rather then the time period contained in this paragraph. The Municipal Planning Commission may extend the time for application for approval of Development Plan for good cause, consistent with the purposes of the Zoning Ordinance.

(c) Expiration of Time Limit. Periodically, the Planning Director shall report to the Municipal Planning Commission on Planned Unit Developments with time limits that have expired. The original applicants or current developers of the Planned Unit Development shall be notified by the Planning Director. The Municipal Planning Commission shall determine whether to consider extending the time or to initiate action to amend the Zone Map so as to rescind the Planned Unit Development designation.

(d) Relationship of Development and Outline Plan. The Development Plan shall conform to the Outline Plan as approved.

(e) Procedure for Approval of a Development Plan: The applicant must have the Development Plan approved prior to issuance of any building permit.

(i) Development Plan Submission. The Development Plan and supporting data shall be filed with the planning staff.

(ii) Review. The Planning Director shall review the Development Plan to include site plan review, in accordance with the requirements of the Zoning Ordinance.

(iii) Staff Approval. It shall generally be the responsibility of staff to review Development Plans unless the Municipal Planning Commission reviews the Development Plans, or where no Development Plan is required.

(iv) Municipal Planning Commission Review. If the Municipal Planning Commission has retained Development Plan approval authority, the Municipal Planning Commission shall hold a public hearing in accordance with its rules and regulations for amendments. The Commission may 1) approve, 2) deny or 3) approve with modifications.

(f) Expiration of Development Plan. The Development Plan shall expire 2 years after approval, unless grading and/or building permits have been obtained and are still current and valid on that date. This rule shall also apply to each stage of a Development Plan approved in stages. The applicant may request, in writing, an extension of time, and the approving authority may extend the time limit where deemed appropriate. Such extension may be considered at the time of Development Plan approval.

(g) Effect of Approval of Development Plan. No permit of any kind shall be issued for any purpose within a Planned Unit Development except in accordance with the approved Development Plan, and after acceptance by the City of Morgantown of all required guarantees for improvement.

1357.04 SPECIFIC CONTENT OF PLANS.

Planned Unit Development plans and supporting data shall include all documentation listed in this section of the Code unless certain documentation is deemed superfluous by the Planning Director due to the specific circumstances of the particular request.

(A) Pre-application Conference Requirements.

(1) A written letter of intent from the applicant describing the applicant's intention for developing the site.

(2) A scaled drawing of the site, in simple sketch form, showing the proposed location and extent of the land uses, major streets, and the approximate location of any existing easements, natural features, and topographic or geologic constraints.

(B) Outline Plan Requirements. A drawing of the proposed Planned Unit Development shall be prepared at scale not less than 1' = 50'-0", or as considered appropriated by the Planning Director, and shall show in concept major circulation; generalized location and dimensions of buildings, structures, and parking areas; open space areas, recreation facilities, and other details to indicate the character of the proposed development. The submission shall include:

(1) A site location map.
(2) Map data such as north point, scale and date of preparation.
(3) The name of the proposed development, with the words "Outline Plan" in the title block.
(4) Boundary lines and acreage of each land use component.
(5) Existing easements and rights-of-way, including location, width and purpose.
(6) Existing land use on abutting and adjacent properties.
(7) Other conditions on adjoining land: topography (at 2-foot contour intervals) including any embankments or retaining walls; use and location of major buildings, railroads, power lines, towers and other influences; name of any adjoining subdivision plat.
(8) Existing streets on and adjacent to the tract, including street name, right-of-way width, walks, curbs, gutters, culverts and drainage ways.
(9) Proposed public improvements: streets and other major improvements planned by the public for future construction on or adjacent to the tract.
(10) Existing utilities on the tract.
(11) Any land on the tract within FIRM Zone A; and/or A-E (the 100-year floodplain) and/or floodway.
(12) Other conditions on the tract, including water courses, wetlands, sinkholes, wooded areas, isolated trees six (6) inches or more in diameter, existing structures and other significant features.
(13) Existing vegetation to be preserved and the locations, nature, and purpose of proposed landscaping.
(14) A master plan for types, quantities and maximum square footage allotments for all signs proposed to be placed within the development, including illustrations of proposed sign types.

(C) Miscellaneous. The Planning Director shall inform the applicant of any additional documents or data requirements after the Pre-application Conference. The developer must submit 18 copies of any page of any portion of the plan that exceeds 11 inches by 17 inches in size. If fewer copies than required are submitted, the Planning Director shall deem the application to be incomplete and shall not schedule hearing dates until the situation is resolved.

(D) Written Statement of Character of the Planned Unit Development. An explanation of the character of the Planned Unit Development and the reasons why it has been planned to take advantage of the flexibility of these regulations. The written statement shall include:

(1) Objectives. A specific explanation of how the proposed Planned Unit Development meets the objectives of all adopted land use policies which affect the land in question.

(2) Ownership. A statement of present and proposed ownership of all land within the project including the beneficial owners of a land trust.

(3) Scheduling. Timing of proposed development indicating:

(a) Stages in which the project will be built, including the area, density, use, public facilities, and open space to be developed with each stage. Each stage shall be described and mapped; and

(b) Projected dates for beginning and completion of each stage of land development.

(4) Proposed Uses.

(a) Residential Uses: type, gross area, architectural concepts (narrative, sketch, or representative photo), number of units, bedroom breakdown, and proposed occupancy limits for each residential component;

(b) Nonresidential Uses (for mixed use PUDS): specific nonresidential uses, including gross floor areas (GFA), architectural concepts (narrative, sketch, or representative photo), and building heights.

(5) Facilities Plan. Preliminary concepts and feasibility reports for:

(a) Streets, roadways and bikeways

(b) Sidewalks and pedestrian pathways

(c) Water supply system

(d) Sanitary sewers

(e) Stormwater management

(f) Public utilities

(g) Streetscaping, furniture and lighting

(6) Traffic Analysis. The Planning Director or the Municipal Planning Commission, shall require a study of the traffic impact caused by the proposed Planned Unit Development and/or any measures proposed to mitigate that impact. Such study shall be conducted by a licensed traffic or transportation engineer.

(E) Development Plan Requirements. The application for Development Plan approval shall include, but not be limited to, the following documents:

(1) Such additional information as may have been required by the Outline Plan approval.

(2) An accurate map exhibit of the entire phase for which Development Plan approval is being requested, showing the following:

(a) Precise location of all buildings to be constructed, and a designation of the specific use or range of uses for each building. Single-family residential development on individual lots need not show precise locations of buildings on each lot, but plans shall show building setback lines and other design constraints.

(b) Design and precise location of all streets, sidewalks, curbs, drives, and parking areas, including construction details, street lighting, traffic control devices, signage, centerline elevations, pavement type, pavement design, curbs, gutters, culverts details and any other information required by the City Engineer.

(c) Location of all public utility lines and easements, both proposed and existing.

(d) A final detailed landscape plan. Tabulation on each separate subdivided use area, including land area, number of buildings, number of dwelling units per acre, type of unit, bedroom breakdown, and limits on occupancy.

(e) Stormwater management plans including stormwater calculations, location and size of storm lines (both existing and proposed), detention/retention facilities with construction details. Stormwater management plans are to conform to local, state and federal regulations.

(f) Sediment and erosion control plans per local, state and federal regulations.

(3) If lands to be subdivided are included in the Planned Unit Development, a subdivision plat meeting the requirements of a preliminary plat, as modified by the Outline Plan approval, is required where platting is to be proposed concurrent with the Development Plan review and approval process.

(4) Projected construction schedule.

(5) Agreements and covenants which govern the use, maintenance, and continued protection of the Planned Unit Development and its common spaces, shared facilities, and private roads.

(6) Guarantee of Performance for Completion of Improvements. A bond or other guarantee acceptable to the City of Morgantown shall be provided for all proposed public improvements and shall be executed at time of permit application or platting, whichever comes first. Improvements that must be guaranteed include facilities that shall become public, and may include other facilities or improvements as may be specified in the Outline or Development Plan approval. If the project is to be built in phases, the guarantee shall be posted prior to the commencement of work on each phase. The guarantee shall specify the time for completion of improvements, and shall be in an amount of one hundred twenty-five percent of the estimated verifiable cost of the improvements, as determined by the project contractor or engineer, and as approved by the City Engineer.

1357.05 REVIEW CONSIDERATIONS.

In their consideration of a Planned Unit Development Outline Plan, the Planning Director in his report to the Municipal Planning Commission, the Municipal Planning Commission in their recommendation to City Council, and the City Council in its decision, shall evaluate the project in light of as many of the following objectives as may be relevant to the specific proposal:

(A) The extent to which the Planned Unit Development meets the purposes of the Zoning Ordinance, the Comprehensive Plan, and any other adopted planning objectives of the City of Morgantown.

(B) The extent to which the proposed plan meets the requirements, standards, and stated purpose of the Planned Unit Development regulations.

(C) The extent to which the proposed plan departs from the zoning and subdivision regulations otherwise applicable to the subject property, including but not limited to, the density, dimension, bulk, use, required improvements, and construction and design standards and the reasons why such departures are or are not deemed to be in the public interest.

(D) The proposal will not be injurious to the public health, safety, and general welfare.

(E) The physical design of the Planned Unit Development and the extent to which it makes adequate provision for public services, provides adequate control over vehicular traffic and promotes alternative forms of transportation, provides for and protects designated permanent open space, and furthers the amenities of urban ambience, light and air, recreation and visual enjoyment.

(F) The relationship and compatibility of the proposed plan to the adjacent properties and neighborhood, and whether the proposed plan would substantially interfere with the use or diminish the value of adjacent properties and neighborhoods.

(G) The desirability of the proposed plan to the City of Morgantown's physical development, tax base and economic well-being. At the discretion of the Planning Commission and City Council, special consideration in the form of increased development flexibility may be given to projects that are intended to rehabilitate or replace dilapidated areas, brownfields, or other areas of general visual or economic blight. Such special consideration shall not be granted to projects intended for construction on lands that consist of 60 percent or more previously undeveloped lands.

(H) The proposal will not cause undue traffic congestion, and can be adequately served by existing or programmed public facilities and services.

(I) The proposal preserves significant ecological, natural, historical, and architectural resources to the extent possible.

(J) The proposal will enhance the appearance, image, function, and economic sustainability of the community at large.

(K) Projects which are designed to a more human scale, support multi-modal transportation options, preserve useful open space, provide significant amenities to residents, and incorporate architectural detailing, massing and scale that is consistent with historical community norms shall have a significant advantage in the review process over those that merely seek to maximize inappropriate forms of density, circumvent customary development standards, or promote a pattern of development that can be generally recognized as “urban sprawl,” as defined in the definition section of the zoning ordinance. Projects that fail to achieve these objectives will likely result in a recommendation for denial by the Planning Director and/or Planning Commission.

(L) The proposal makes reasonable accommodations in housing, recreational amenities, and pedestrian facilities for individuals with disabilities.

(M) The proposal dedicates and provides a percentage of the total number of dwelling units to be offered at sale or rental prices deemed affordable to individuals of low and moderate income, as defined by the U.S. Department of Housing and Urban Development. Generally, between 3 to 5 percent of all units should meet this goal.

(N) For PUD's containing only residential uses, clustering of units should be utilized (and may be required by the City) in order to preserve meaningful open space and/or recreational amenities for the residents. In addition, such projects shall be required to provide a mixture of different dwelling types and sizes. Examples of dwelling types include townhouses, row houses, patio homes, zero lot line houses, single-family detached housing, apartments, duplexes, condominiums, etc.

1357.06 CHANGES IN THE APPROVED PLANNED UNIT DEVELOPMENT.

(A) Changes Requiring Outline Plan Approval. Changes which alter the concept or intent of the Planned Unit Development including but not limited to:

(1) Significant increases in density;
(2) Significant changes in the proportion or allocation of land uses;
(3) Change in the list of approved uses;
(4) Changes in the locations of uses;
(5) Changes in functional uses of open space, where such change constitutes an intensification of use of the open space; and/or
(6) Changes in the final governing agreements where such changes conflict with the approved Outline Plan.

(B) Changes Requiring Development Plan Approval. These changes shall include the following:

(1) Changes in lot arrangement, or addition of buildable lots that change approved density of the development;
(2) Changes in site design requirements, such as location of required landscaping, signage, building height, architectural character, cube and/or footprint, or other such requirements of the Zoning Ordinance;
(3) Changes to the internal street system or off-street parking areas;
(4) Changes in drainage management structures;
(5) Changes in access to the development site, where such change amounts to an intensification in the traffic patterns of roadways of classification higher than local; and/or
(6) All other changes not expressly addressed under subsection (A) shall require new Development Plan approval.

ARTICLE 1359
ISOD, Interstate Sign Overlay District

1359.01 Purpose.
1359.02 General regulations.
1359.03 Digital off-premises and billboard sign regulations.
1359.04 Conditional use application.

CROSS REFERENCES
Signs permitted - see P. & Z. 1369.06

1359.01 PURPOSE.

The purpose of the Interstate Sign Overlay District is to provide an area within 500 feet of a Federal Interstate Highway right-of-way within which on-premise pole or pylon signs or billboard signs may be erected for the convenience of the motoring public. This overlay district may not be applied over any residentially zoned property.
(Ord. 13-08. Passed 3-5-13.)

1359.02 GENERAL REGULATIONS.

(a) Conditional use approval by the Board of Zoning Appeals shall be required for on-premise pole or pylon signs and billboard signs.

(b) No more than one pole or pylon sign or billboard sign may be located on a parcel.

(c) Spacing.

(1) Billboard signs shall not be located within 1,000 feet of any other billboard sign. This distance requirement shall include in its calculation any billboards located outside the corporate boundaries of the City.

(2) Billboard signs shall not be located within 200 feet of a residential zoning district. If illuminated by internal, external or digital/electronic means, said signs shall not be located within 300 feet of a residential zoning district.

(3) No such spacing limit shall apply for on-premise pole or pylon signs.

(d) Height. Maximum sign height for on-premise pole or pylon signs or billboard signs shall be determined by the Board of Zoning Appeals, after considering evidence supplied by the applicant that clearly demonstrates, to the satisfaction of the Board, that the requested height is necessary. The Board shall take into account the horizontal distance the sign will be from the travel lanes of the roadway, the difference in elevation between the property grade and the roadway grade, and the advice of the City Engineer and/or Planning Director. The Board may approve the height requested by the applicant, or any other height that it deems is warranted given the facts of the case.

(e) Area. The maximum area for on-premise pole or pylon signs shall not exceed 250 square feet; for billboard signs 450 square feet; or, whatever smaller area the Board of Zoning Appeals approves, considering the same criteria as for height. This shall be in addition to any other signs permitted by these regulations. For the purposes of this section, the surface display area of a pole or pylon sign or a billboard sign shall be measured to include the entire area within a regular geometric form or combinations thereof comprising all of the display area of the sign, including all of the elements of the matter displayed. Frames and structural members, excluding necessary supports or uprights, shall be included in computation of the surface display area. In the case of a sphere, spheroid, or similar shaped sign (e.g. a ball), the total surface display area shall be divided by two for determine the maximum surface display area permitted. The regulations regarding computation of sign area for double-sided and V-type signs in Article 1369 shall apply.

(f) Setback. No on-premise pole or pylon sign or billboard sign may be located within 15 feet of any parcel boundary line of the property on which the subject sign is located.

(g) Distance requirements provided in this section shall be measured radially from the leading edge of the sign face.

(h) No on-premise pole or pylon sign or billboard sign may be located on top of, cantilevered over or otherwise suspended above any building or structure.

(i) An on-premise pole or pylon sign or billboard sign having more than one surface display area which are tandem (side-by-side) or stacked (one above the other) are considered two billboards and are prohibited.

(j) Illumination. On-premise pole or pylon signs may only be internally illuminated. Billboard signs may be illuminated provided such illumination is consistent with the requirements for a digital billboard as set forth herein, or is concentrated on the surface of said sign and is located so as to avoid glare or reflection onto any portion of an adjacent street or highway, the path of oncoming vehicles or any adjacent premises.

(k) Appearance.

(1) Except for time and temperature signs or digital billboards as otherwise regulated herein, all on-premise pole or pylon signs and billboard signs must be static or stationary and may not contain any visible moving parts, alternating or moving messages or have the appearance of having moving parts or messages. Provided, each message or copy displayed on a mechanically changed billboard sign (e.g., tri-action, etc.) shall remain fixed for at least ten (10) seconds; must accomplish the change between messages within an interval of two (2) seconds or less; and must contain a default design that will freeze the sign in one position if a malfunction occurs.

(2) Under no circumstances may any type of on-premise pole or pylon sign or billboard sign contain a message or display that appears to flash, undulate, pulse, move, scroll, or portray explosions, fireworks, flashes of light, or blinking lights or otherwise appears to move toward or away from the view, expand or contract, bounce, rotate, spine twist or make other comparable movements.

(3) The frames, borders, and all structural members of a billboard sign shall be black, with no illumination and no writing or symbols other than the identification (name and/or logo) of the sign owner/operator.

(l) Permitting. Every on-premise pole or pylon sign and billboard sign requires a City building permit before installation or modification. Permits shall be reviewed and issued consistent with the terms of this section as well as all other applicable ordinances of the City as amended from time to time. Every applicant for an on-premise pole or pylon sign or billboard sign shall file with the building permit application a certificate of insurance naming the City as coinsured and certifying that the applicant and City are insured against bodily injury and for property damage arising out of the erection, maintenance, repair, and replacement of the sign. Each applicant, if the permit is granted, shall be required to maintain said insurance and keep a certificate of insurance currently effective on file with the City so long as the sign is in existence. The certificate shall provide that the City shall receive ten (10) days written notice in case of cancelation of the policy. Any on-premise pole or pylon sign or billboard sign in violation of the insurance requirements of this section shall be removed immediately and the cost of such removal shall be charged against the owner/operator of the sign.

(m) Other Applicable Requirements and Laws. An on-premise pole or pylon sign or billboard sign must otherwise comply with all other relevant regulations and ordinances of the City and comply with all applicable provisions of federal and state law.
(Ord. 13-08. Passed 3-5-13.)

1359.03 DIGITAL OFF-PREMISE AND BILLBOARD SIGN REGULATIONS.

The City recognizes that billboards are, by their nature, different in scope and purpose from other types of signage in the City. Billboards are significantly larger in size than other types of signage allowed in the City and their principal purpose is to dramatically attract the attention of the travelling public. The potential impact of a billboard on adjacent areas is significantly greater than other types of signage. Advancements in technology and efficiencies enable signs to change static message or copy electronically (e.g. utilizing an LED or digital type of sign). These newer technologies exacerbate the potential impact of a billboard in terms of adversely dominating the environment in which they operate due to light spillover and light pollution, unless regulated in a reasonable fashion. The intent of this section is to establish standards and regulations for billboards, including addressing those utilizing these newer technologies, in order to minimize the secondary effects that can accompany the unregulated display of these types of signs; preserve the character and repose of adjacent areas, with a principal focus on residential neighborhoods; protect property values in all areas of the City; and, reduce traffic and similar hazards caused by undue distractions.

(a) Locations. In addition to the spacing and setback standards provided in this section, digital or electronic billboard signs are prohibited on the same site as a National Register designated historic structure or within a National Register designated historic district. Digital or electronic billboard signs are prohibited within 500 feet of a National Register designated historic structure, except where a federal interstate highway separates the digital or electronic billboard sign from the National Register designated historic structure.

(b) Display.

(1) The display or message on a digital billboard sign may change no more frequently than once every ten (10) seconds. Any change in message or copy shall be completed instantaneously.

(2) The display, message, or copy must otherwise comply with subsection 1359.02(k) and the digital billboard sign must have a light sensing device to adjust brightness as ambient light conditions change in order to insure that the message meets the following brightness standard.
Maximum brightness levels for digital billboards shall not exceed 0.2 (two tenths) foot-candles over ambient light levels measured within 150 feet of the sign. Certification must be provided to the City demonstrating that the sign has been preset to automatically adjust the brightness to these levels or lower. Certified re-inspection and recalibration shall be annually required by the City, in its reasonable discretion, at the sign owner/operator's expense to ensure that the specified brightness levels are maintained at all times.

(3) Brightness of digital billboards shall be measured as follows:

A. At least 30 minutes following sunset, a foot-candle meter shall be used to obtain an ambient light reading for the location. This is done while the sign is off or displaying black copy. The reading shall be made with the meter aimed directly at the sign area at the pre-set location.

B. The sign shall then be turned on to full white copy to take another reading with the meter at the same location.

C. If the difference between the readings is 0.2 (two tenths) foot-candles or less, the brightness is properly adjusted.

(4) Consecutive messages on a single digital or electronic sign face (digital slots) are prohibited when the second message answers a textual question posed on the prior slot, continues or completes a sentence started on the prior slot, or continues or completes a story line started on the prior slot. Nothing in the subsection shall prohibit consecutive messages by the same advertiser or consecutive messages for the same product or service; provided, that the second of such advertisements does not answer a textual questions posed on the prior advertisement slot, continue or complete a sentence stared on the prior advertisement slot, or continue or complete a story line started on the prior advertisement slot. For example, consecutive advertisements by a single grocery store advertising the same or multiple products are permitted provided that such advertisements do not answer textual questions from one slot to the next slot, continue or complete a sentence from one slot to the next slot, or continue or complete a story line from one slot to the next slot.

(5) The sign shall have a default mechanism or setting that will cause the sign to turn off or show a "full black" image if a visible malfunction or failure occurs.

(6) The sign shall not be configured to resemble a warning or danger signal. The sign shall not resemble or simulate any lights or official signage used to control traffic.

(c) The Board of Zoning Appeals, in reviewing the conditional use application, may require, as a reasonable condition, that an approved digital billboard sign be turned off or display a "full black" image during nighttime hours to preserve the character and repose of adjacent residential areas.

(d) The owner/operator of the digital billboard sign shall maintain a secure electronic communication network that controls the display and display changes.

(e) Prior to the issuance of a permit for construction of a digital billboard sign, the owner/operator of the sign shall enter into an agreement with the City providing for public service announcements or a regular basis without charge. Such announcements shall be provided as specified in the agreement and shall include messages of significant public interest related to safety and traffic matters (e.g. AMBER Alerts, Cop Killer Alerts, severe weather, disaster, evacuation bulletins/notices, etc.).

(Ord. 13-08. Passed 3-5-13.)

1359.04 CONDITIONAL USE APPLICATION.

(a) As part of the conditional use application for on-premise pole or pylon signs and billboard signs, the applicant shall provide a certified land survey prepared by an engineer or surveyor licensed to practice in West Virginia that shows the following:

(1) The parcel boundaries for the property on which the proposed sign is to be located.

(2) The right-of-way boundary of the Federal Interstate Highway used to establish the applicable ISOD Overlay District.

(3) The exact location of the proposed sign.

(4) The distances between the subject Federal Interstate Highway right-of-way, the property on which the proposed sign is to be located, and the exact location of the proposed sign. If the parcel is entirely contained within the 500-foot ISOD Overlay District boundary, the survey shall so indicate. If only a portion of the parcel falls within the 500-foot ISOD Overlay District boundary, the survey must indicate which portions of the property fall within it, and which are outside of the boundary.

(5) The location of any existing or proposed buildings, structures, and other on-premise pole or pylon and billboard signs on the subject property.

(6) Floodplain boundaries, as may be required by the City Engineer.

(b) In addition to the survey, the applicant must submit the following:

(1) A scaled photo simulation of the proposed on-premise pole or pylon sign or billboard sign from no less than two (2) points of view, the locations of which must be agreed to by the Planning Director.

(2) The proposed height, square footage, and construction details of the proposed sign. Signs shall be designed by a licensed engineer and shall conform to the regulations of the West Virginia State Building Code and design standards provided herein.

(3) If the proposed sign is a billboard sign, a map must be submitting illustrating the following:

A. Any and all billboard signs within 1,500 feet, measured radially, of the proposed billboard sign location along with the distances between same.

B. The distance of the proposed billboard sign, measured radially, to the closest residential zoning district.

(Ord. 13-08. Passed 3-5-13.)

ARTICLE 1360
Airport Overlay District

1360.01 Application.
1360.02 Purpose and intent.
1360.03 Relation to other zoning districts.
1360.04 Definitions.
1360.05 Establishment of airport zones.
1360.06 Height restrictions.
1360.07 Variance from height restrictions.
1360.08 Use restrictions.
1360.09 Pre-existing non-conforming uses.
1360.10 Obstruction marking and lighting.
1360.11 Violations and penalties.
1360.12 Appeals.
1360.13 Conflicting regulations.
1360.14 Severability.

1360.01 APPLICATION.

(a) The regulations and standards contained within this Airport Overlay Districts shall apply to the:

(1) Erection of a new structure; and/or,

(2) Addition to or increase in the height of an existing structure; and/or,

(3) Establishment, erection, and/or maintenance of any use, structure, or object (natural or manmade), within the Airport Overlay District.

(b) The application of this Airport Overlay District shall be limited to the corporate limits of the City of Morgantown.
(Ord. 14-49. Passed 11–5-14.)

1360.02 PURPOSE AND INTENT.

The purpose and intent of this Airport Overlay District are to:

(a) Create an overlay district that considers safety issues around the Morgantown Municipal Airport (MGW).

(b) Regulate and restrict the heights of established uses, constructed structures, and objects of natural growth.

(c) Create a permitting process for certain uses, structures, and objects within said related zones. (Ord. 14-49. Passed 11-5-14.)

1360.03 RELATION TO OTHER ZONING DISTRICTS.

This Airport District Overlay shall not modify the boundaries of any underlying zoning district or any other overlay district. Where identified, the Airport Overlay District shall impose certain requirements on land use, construction and development in addition to those contained in the applicable underlying zoning district and/or applicable overlay zoning district for the same area. (Ord. 14-49. Passed 11-5-14.)

1360.04 DEFINITIONS.

The following words and phrases when used in Article 1360 shall have the meaning given to them in this section unless the context clearly indicates otherwise.

(a) AIRPORT - MORGANTOWN MUNICIPAL AIRPORT (MGW) - Any area of land or water which is used, or intended to be used, for the landing and takeoff of aircraft and any appurtenant areas which are used, or intended to be used, for airport buildings or air navigation facilities for rights-of-way, together with all airport buildings and facilities thereon.

(b) AIRPORT ELEVATION - The highest point of an airport's useable landing area measured in feet above sea level. The airport elevation of the Morgantown Municipal Airport (MGW) is 1,248 feet above mean sea level.

(c) AIRPORT HAZARD - Any structure or object, natural or manmade, or use of land which obstructs the airspace required for flight or aircraft in landing or taking off at an airport or is otherwise hazardous as defined in 14 CFR Part 77.

(d) AIRPORT HAZARD AREA - Any area of land or water upon which an airport hazard might be established if not prevented as provided for in this Airport Overlay District.

(e) AIRPORT LAYOUT PLAN (ALP) - An FAA approved plan that shows: 1) Boundaries and proposed additions to all areas owned or controlled by the sponsor for airport purposes; 2) The location and nature of existing and proposed airport facilities and structures; and, 3) The location on the airport of existing and proposed non-aviation areas and improvements thereon.

(f) AIRPORT NOISE IMPACT ZONE - A rectangular shape defined by utilizing the longest existing or planned runway at the airport. This zone is established by offsetting the runway centerline a distance half the length of the longest existing or planned runway in all directions, i.e. from the sides and from the ends of each runway.

(g) APPROACH SURFACE (ZONE) - An imaginary surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the primary surface. An approach surface is applied to each end of the runway based on the planned approach. The inner edge of the approach surface is the same width as the primary surface and expands uniformly depending on the planned approach. The approach surface zone, as shown on the Official Supplementary Airport Overlay District Zoning Map, is derived from the approach surface.

(h) CFR - Code of Federal Regulations.

(i) CONICAL SURFACE (ZONE) - An imaginary surface extending outward and upward from the periphery of the horizontal surface at a slope of twenty (20) feet horizontally to one (1) foot vertically for a horizontal distance of 4,000 feet. The conical surface zone, as shown on the Official Supplementary Airport Overlay District Zoning Map, is based on the conical surface.

(j) DECISION HEIGHT (DH) - Is a specified height above the ground in an instrument approach procedure at which the pilot must decide whether to initiate an immediate missed approach if the pilot does not see the required visual reference, or to continue the approach. Decision height is expressed in feet above ground level.

(k) EDUCATIONAL FACILITY RESTRICTION ZONE - An area extending along the centerline of any runway and measured from the end of the runway and extending for a distance of five (5) miles and having a width equal to one-half of the runway length.

(l) FAA - Federal Aviation Administration of the United States Department of Transportation.

(m) HEIGHT - For the purpose of determining the height limits in all zones set forth in this Airport Overlay District and shown on the Official Supplementary Airport Overlay District Zoning Map, the datum shall be mean sea level elevation unless otherwise specified.

(n) HORIZONTAL SURFACE (ZONE) - An imaginary plane 150 feet above the established airport elevation that is constructed by swinging arcs of various radii from the center of the end of the primary surface and then connecting the adjacent arc by tangent lines. The radius of each arc is based on the planned approach. The horizontal surface zone, as shown on the Official Supplementary Airport Overlay District Zoning Map, is derived from the horizontal surface.

(o) LARGER THAN UTILITY RUNWAY - A runway that is constructed for and intended to be used by propeller driven aircraft of greater than 12,500 pounds maximum gross weight and jet powered aircraft.

(p) MINIMUM DESCENT ALTITUDE (MDA) - Is the lowest altitude specified in an instrument approach procedure, expressed in feet above mean sea level, to which descent is authorized on final approach or during circle-to-land maneuvering until the pilot sees the required visual references for the heliport or runway of intended landing.

(q) MINIMUM OBSTRUCTION CLEARANCE ALTITUDE (MOCA) - Is the lowest published altitude in effect between radio fixes on VOR airways, off-airway routes, or route segments, which meets obstacle clearance requirements for the entire route segment and which ensures acceptable navigational signal coverage only within 25 statute (22 nautical) miles of a VOR.

(r) NONCONFORMING USE - Any pre-existing structure, object of natural growth, or use of land which is inconsistent with the provisions of this Airport Overlay District or an amendment thereto.

(s) NON-PRECISION INSTRUMENT RUNWAY - A runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in non-precision instrument approach procedure has been approved or planned.

(t) OBSTRUCTION - Any structure, growth, or other object, including a mobile object, which exceeds a limiting height set forth by this Airport Overlay District.

(u) PRECISION INSTRUMENT RUNWAY - A runway having an existing instrument approach procedure utilizing an Instrument Landing System (ILS) or a Precisions Approach Radar (PAR). It also means a runway for which a precision approach system is planned and is so indicated on an approved airport layout plan or any other planning document.

(v) PRIMARY SURFACE (ZONE) - An imaginary surface longitudinally centered on the runway, extending 200 feet beyond the end of paved runways or ending at each end of turf runways. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. The primary surface zone, as shown on the Official Supplementary Airport Overlay District Zoning Map, is derived from the primary surface.

(w) RUNWAY - A defined area of an airport prepared for landing and takeoff of aircraft along its length.

(x) RUNWAY PROTECTION ZONE (RPZ) - An area, trapezoidal in shape and centered about the extended runway centerline, designated to enhance the safety of aircraft operations and the safety and protection of people and property on the ground. The RPZ for Runway 18 begins 200 feet beyond the runway end. The inner width is 1,000 feet centered on the extended runway centerline extending to an outer width of 1,750 feet. The length of the Runway 18 RPZ is 2,500 feet. The RPZ for Runway 36 begins 200 feet beyond the runway end. The inner width is 1,000 feet centered on the extended runway centerline extending to an outer width of 1,510 feet. The length of the Runway 36 RPZ is 1,700 feet.

(y) STRUCTURE - An object, including a mobile object, constructed or installed by man, including but without limitation, buildings, towers, cranes, smokestacks, earth formation and overhead transmission lines.

(z) TRANSITIONAL SURFACE (ZONE) - An imaginary surface that extends outward and upward from the edge of the primary surface to the horizontal surface at a slope of seven (7) feet horizontally to one (1) foot vertically (7:1). The transitional surface zone, as shown on the Official Supplementary Airport Overlay District Zoning Map, is derived from the transitional surface.

(aa) TREE - Any object of natural growth.

(bb) UTILITY RUNWAY - A runway that is constructed for and intended to be used by propeller driven aircraft of 12,500 pounds maximum gross weight or less.

(cc) VISUAL RUNWAY - A runway intended solely for the operation of aircraft using visual approach procedures.

(Ord. 14-49. Passed 11-5-14.)

1360.05 ESTABLISHMENT OF AIRPORT ZONES.

There are hereby created and established certain zones within the Airport Overlay District, which are based on the FAA-approved Airport Layout Plan (ALP) for the Morgantown Municipal Airport (MGW). Said zones are defined in Section 1360.04 and, with exception of the Educational Facility Restriction Zone, illustrated on the Official Supplementary Airport Overlay District Zoning Map, hereby adopted as part of this Airport Overlay District, which include:

(a) Airport Noise Impact Zone.

(b) Approach Surface Zone.

(c) Conical Surface Zone.

(d) Educational Facility Restriction Zone.
(e) Horizontal Surface Zone.
(f) Primary Surface Zone.
(g) Runway Protection Zone.
(h) Transitional Surface Zone. (Ord. 14-49. Passed 11-5-14.)

1360.06 HEIGHT RESTRICTIONS.

(a) The owner of any proposed construction and/or alteration within this Airport Overlay District shall comply with the provisions of 14 CFR Part 77 Subpart B by filing a Notice of Construction or Alteration (FAA Form 7460-1, as amended or replaced) with the FAA. Construction and/or alteration includes the:

(1) Erection of a new structure; and/or,
(2) Addition to or increase in the height of an existing structure; and/or,
(3) Establishment, erection and/or maintenance of any use, structure, or object (natural or manmade).

(b) Prior to the issuance of any building permit within this Airport Overlay District, the applicant shall submit documentation to the City demonstrating compliance with the federal requirement for notification of the proposed construction or alteration, a valid aeronautical evaluation, and a copy of the FAA's determinations to said notification.

(c) If the FAA returns a determination of no penetration of protected airspace, the building permit request shall be considered in compliance with the intent of this Airport Overlay District. If the FAA returns a determination of a penetration of protected airspace, the permit shall be denied, and the applicant may seek a variance from such regulations as outlined in Section 1360.07.

(d) Exceptions. In the following circumstances, the filing of a Notice of Construction or Alteration with the FAA within the Airport Overlay District shall not be required:

(1) To make maintenance repairs to or to replace parts of existing structures which do not enlarge or increase the height of an existing structure.
(2) Within the Primary Surface, Approach Surface, and Transitional Surface Zones, when construction and/or alteration of a structure is below 1,248 feet above mean sea level.
(3) Within the Horizontal Surface and Conical Surface Zones, when the construction and/or alteration of a structure is below 1,398 feet above mean sea level.

(e) In addition to the height restrictions of this Airport Overlay District, no structure or obstruction shall be permitted within the corporate limits of the City of Morgantown that would cause a Minimum Obstruction Clearance Altitude, a Minimum Descent Altitude, or a decision height to be raised.
(Ord. 14-49. Passed 11-5-14.)

1360.07 VARIANCE FROM HEIGHT RESTRICTIONS.

(a) In addition to provisions set forth in Article 1381 "Variances" of the City's Planning and Zoning Code, any request for a variance to the height restrictions of this Airport Overlay District shall include documentation in compliance with 14 CFR Part 77 Subpart B.

(b) Applicants seeking variance relief to height restrictions of this Airport Overlay District must, as a part of the variance application, submit all documentation concerning the applicant's Notice of Construction or Alteration (FAA Form 7460-1, as amended or replaced) filed with the FAA, a valid aeronautical evaluation, and the FAA's determinations to said notification.

(c) The Board of Zoning Appeals' considerations of whether to grant a variance to the height restrictions of this Airport Overlay District must include the determinations made by the FAA as to the effect of the proposed construction and/or alteration on the operation of air navigation facilities and the safe, efficient use of navigable air space. In particular, the request for a variance shall consider which of the following categories the FAA has placed the proposed development in:

(1) No Objection - The subject construction and/or alteration is determined to not exceed obstruction standards and marking/lighting is not required to mitigate potential hazard. Under this determination a variance shall be granted, as it relates to relief from the height restrictions of this Airport Overlay District.

(2) Conditional Determination - The proposed construction and/or alteration is determined to create some level of encroachment into an airport hazard area which can be effectively mitigated. Under this determination, a variance shall be granted, as it relates to relief from height restrictions of this Airport Overlay District, contingent upon implementation of mitigating measures as described in Section 1360.10 - Obstruction Marking and Lighting and in consultation with the FAA.

(3) Objectionable - The proposed construction/alteration is determined to be a hazard and is thus objectionable. A variance, as it relates to relief from the height restrictions of this Airport Overlay District, shall be denied and the reasons for this determination shall be outlined to the applicant.

(d) Such requests for variances from height restrictions of this Airport Overlay District shall be granted where it is duly found that a literal application or enforcement of the regulations will result in unnecessary hardship and that relief granted will not be contrary to the public interest, will not create a hazard to air navigation, will do substantial justice, and will be in accordance with the intent of this Airport Overlay District.
(Ord. 14-49. Passed 11-5-14.)

1360.08 USE RESTRICTIONS.

(a) Notwithstanding any other provisions of this Airport Overlay District, no use shall be made of land or water within this Airport Overlay District in such a manner as to:

(1) Create electrical interference with navigational signals or radio communications between the airport and aircraft:

(2) Make it difficult for pilots to distinguish between airport lights and others;

(3) Impair visibility in the vicinity of the airport;

(4) Create wildlife hazards; or,

(5) Otherwise endanger or interfere with the landing, takeoff or maneuvering of aircraft utilizing the Morgantown Municipal Airport (MGW).

(b) Runway Protection Zone (RPZ).

(1) The following uses are permitted to enter the limits of the RPZ:

A. Agricultural Activity as defined in Section 1329.02 of the Planning and Zoning Code.

B. Irrigation channels, provided wildlife attractant conditions are not formed therefrom.

C. Airport service roads.

D. Underground facilities.

E. Unstaffed NAVAIDs and associated facilities.

(2) Prior to the granting of any approval or permit for new or modified development not included in Section 1360.08(B)(1), the City shall consult with the FAA Airports District Office to determine whether or not the land use and/or development proposed to enter the limits of the RPZ is acceptable based on a Land Use Compatibility and Alternatives Analysis. Table 1360.08.01 generally identifies development that typically requires analysis.

Table 1360.08.01: Development Typically Requiring Analysis

• Buildings and structures including, but not limited to: residences, schools, churches, hospitals or other medical care facilities, commercial/industrial buildings, etc.
• Recreational land uses including, but not limited to: golf courses, sports fields, amusement parks, other places of public assembly, etc.
• Transportation facilities including, but limited to: rail facilities, public roads/highways, vehicle parking facilities.
• Fuel storage facilities (above and below ground).
• Hazardous material storage (above and below ground).
• Wastewater treatment facilities.
• Above-ground utility infrastructure (i.e. electrical substations), including any type of solar panel installation.

(3) The land use compatibility and alternatives analysis shall identify and document the full range of alternatives that include:

A. Avoidance of introducing the land use issue within the RPZ.

B. Minimizing the impact of the land use in the RPZ (i.e., routing a new roadway through the controlled activity area, move farther away from the runway end, etc.).

C. Mitigating risk to people and property on the ground (i.e., tunneling, depressing and/or protecting a roadway through the RPZ, implement operational measures to mitigate any risks, etc.).

(4) Documentation of the alternatives should include:

A. A description of each alternative including a narrative discussion and exhibits or figures depicting the alternative.

B. Full cost estimates associated with each alternative regardless of potential funding sources.

C. A practicability assessment based on the feasibility of the alternative in terms of cost, constructability and other factors.

D. Identification of the preferred alternative that would meet the project purpose and need while minimizing risk associated with the location within the RPZ.

E. Identification of all Federal, State and local transportation agencies involved or interested in the issue.

F. Analysis of the specific portion(s) and percentages of the RPZ affected, drawing a clear distinction between the Central Portion of the RPZ versus the Controlled Activity Area, and clearly delineating the distance from the runway end and runway landing threshold.

G. Analysis of (and issues affecting) the City's control of the land within the RPZ.

H. Any other relevant factors for FAA consideration.

(5) Any new or modified development described in Table 1360.09.01 that would enter the limits of the Runway Protection Zone shall be categorized a Type III Site Plan - Major Development of Significant Impact. The land use compatibility and alternatives analysis and FAA's related response must be included with the Type III Site Plan application for it to be considered complete.

(c) Educational Facilities. No educational facility of a public or private K-12 school shall be permitted within the Educational Facility Restriction Zone. Exceptions approving construction of an educational facility of a public or private K-12 school within the Educational Facility Restriction Zone shall only be granted when the Planning Commission makes specific findings, as a part of a Type III Site Plan for a Development of Significant Impact, detailing how the public policy reasons for allowing the construction outweigh public health and safety concerns prohibiting such a facility.

(d) Landfills. In accordance with the Wendell H. Ford Aviation Investment and Reform Act for the 21st Center (Ford Act) (Pub. L. No. 106-181, April 5, 2000), codified at 49 U.S.C. §40101 et seq., the construction of a new Municipal Solid Waste Landfill (MSWLFs) within six miles of the Morgantown Municipal Airport (MGW) shall be prohibited unless a waiver is granted by the FAA.

(e) Airport Noise Impact Zone. RESERVED.

(Ord. 14-49. Passed 11-5-14.)

1360.09 PRE-EXISTING NON-CONFORMING USES.

The regulations prescribed by this Airport Overlay District shall not be construed to require the removal, lowering, or other change or alteration of any structure or tree not conforming to the regulations as of the effective date of this Airport Overlay District, or otherwise interfere with the continuance of a non-conforming use. No existing non-conforming use shall be structurally altered or permitted to grow higher, so as to increase the non-conformity, and a non-conforming use, once substantially abated as set forth under Article 1373 "Nonconforming Provisions" of the City's Planning and Zoning Code may only be reestablished consistent with the provisions herein.
(Ord. 14-49. Passed 11-5-14.)

1360.10 OBSTRUCTION MARKING AND LIGHTING.

Any permit or variance granted pursuant to the provisions of this Airport Overlay District may be conditioned according to the process described in Section 1360.07 to require the owner of the structure or object of natural growth in question to permit the municipality, at its own expense, or require the person requesting the permit or variance, to install, operate, and maintain such marking or lighting as deemed necessary to assure both ground and air safety. (Ord. 14-49. Passed 11-5-14.)

1360.11 VIOLATIONS AND PENALTIES.

See Article 1393 "Violations and Enforcement" of the City's Planning and Zoning Code. (Ord. 14-49. Passed 11-5-14.)

1360.12 APPEALS.

See Article 1383 "Administrative Appeals" of the City's Planning and Zoning Code.
(Ord. 14-49. Passed 11-5-14.)

1360.13 CONFLICTING REGULATIONS.

See Article 1327.07(B) of the City's Planning and Zoning Code.
(Ord. 14-49. Passed 11-5-14.)

1360.14 SEVERABILITY.

See Article 1327.07(C) of the City's Planning and Zoning Code.
(Ord. 14-49. Passed 11-5-14.)

ARTICLE 1361
Sunnyside Overlay Districts

1361.01 Purpose.
1361.02 Definitions.
1361.03 Design and performance standards common to all Sunnyside Overlay Districts.
1361.04 Design and performance standards specific to each Overlay District.

1361.01 PURPOSE.

The Sunnyside neighborhood, pursuant to recommendations contained within the Sunnyside Up Comprehensive Revitalization Plan (Fall 2004), will be divided into three (3) overlay districts: the Sunnyside Central (SCOD), Sunnyside South (SSOD), and Beechurst Corridor (BCOD) overlay districts. The design and performance standards herein shall supersede or supplement those provided in other parts of this Ordinance where conflicts exist.

1361.02 DEFINITIONS.

For purposes of this Article, the following definitions apply:

(A) Primary Street – Include Beechurst Avenue, University Avenue, First / Stewart Street and Third Street.

(B) Secondary Street – Any paved, two-lane street in the Sunnyside planning area not listed as a primary street.

(C) Transparency – A term describing the relative ability of an average person to see inside a building. Those facades with significant window openings are more transparent than those with fewer window openings. The term also takes into account issues such as tinting of window glass. A related concept is fenestration ratio, which is an exact measurement of the percentage of window opening to solid wall in any given facade.

(D) Build-to line – The distance that a building must be set back from a right-of-way line or property line.

(E) Articulation – The extent to which a building appears to be oriented vertically (taller than it is wide), or horizontally (wider than it is tall).

(F) Proportion – The extent to which windows appear to be oriented vertically (taller than they are wide), or horizontally (wider than they are tall).

(G) Drivit – An exterior insulation and finishing system commonly known as synthetic stucco. (Ord. 07-03. Passed 3-6-07.)

1361.03 DESIGN AND PERFORMANCE STANDARDS COMMON TO ALL SUNNYSIDE OVERLAY DISTRICTS.

The following design and performance standards are held in common and shall apply to the SCOD, SSOD, and BCOD overlay districts.

(A) Buildings shall be oriented with the front facing the lot's primary street, or the Monongahela River if the parcel has frontage on the river.

(B) Buildings should be designed to overlook streets and public open spaces so as to create a "self-policing" environment.

(C) Buildings shall not be oriented with the front facing parking or service areas.

(D) On primary streets, street trees shall be provided at a minimum of thirty-five (35) feet on center.

(E) Building facades that are adjacent to public streets and/or open spaces shall have a high degree of ground floor transparency (at least sixty (60) percent).

(F) The siting of buildings should avoid the creation of unusable open spaces and should respect and complement view corridors to and from the hillside and the riverfront.

(G) Building massing should be the tallest at street corners. In order to achieve this, buildings constructed on a corner of two primary streets should be at least five (5) stories in height, provided that all other requirements of the zoning ordinance are adhered to.

(H) Ground floor retail and service-type uses located within mixed-use buildings along primary streets shall not be included in height calculations.

(I) For buildings taller than four (4) stories or seventy-five (75) feet in height, any additional floors in excess of four (4) stories shall be recessed or set back at least twelve (12) feet from the build-to line.

(J) A minimum of seventy-five (75) percent of the length of a building face shall be constructed at the build-to line, if established herein, along a primary street. The remaining twenty-five (25) percent may be set back a maximum of ten (10) feet from the build-to line.

(K) Land between the front facade of a building and a public street shall be landscaped to integrate with the neighborhood's sidewalk system. In any area or setback between a building and sidewalk, one or a combination of the following shall be provided:

(1) Landscaping/planting beds consisting of shrubbery and /or trees, or

(2) Special paving areas designed as plaza space. No grass or sod areas shall be allowed in this space.

(L) On primary streets, sidewalks shall be a minimum of eight (8) feet in width.

(M) Front yard setbacks along secondary streets shall be a minimum of five (5) feet, and a maximum of fifteen (15) feet.

(N) Within areas of single family and two family dwellings, front yard setbacks of in-fill development shall not deviate by more than five (5) feet from the average front yard setbacks of the neighboring residences.

(O) Building Form and Scale:

(1) Total fenestration shall be at least fifty (50) percent for building facades facing primary streets and/or public open spaces. For the ground floor, the ratio shall be at least sixty (60) percent.

(2) All ground floor retail areas along primary streets and/or public open spaces shall have awnings over entrances and ground floor windows, extending out at least four (4) feet from the facade. Such awnings may be extended to cover public sidewalks, provided they are set back at least eighteen (18) inches from the curb line of the street.

(3) Overall building widths along primary streets may vary, but building facades shall be designed in ten (10) to twenty (20) foot increments, so as to achieve the appearance of a series of distinct, adjoining buildings.

(4) The articulation of buildings, and window proportions, shall be vertical for buildings constructed along primary streets.

(5) The minimum building height for a parcel on a primary street, shall be three (3) stories. On secondary streets, the minimum building height shall be two (2) stories.

(6) The majority of window openings shall be slightly recessed (4-8 inches) from the exterior building wall to create a distinct and uniform shadow line for the building's primary facade.

(7) Unless no feasible alternative exists, fire escapes shall not be constructed on or attached to the front facade of any building or structure. The City of Morgantown Fire Department shall be the determining authority as to whether a feasible alternative exists.

(P) Building Materials:

(1) Except for single and two family dwellings, the first two (2) floors of a building shall be constructed of natural materials. Natural materials include stone, brick, and wood siding, but do not include materials such as, or similar to, wood roof shingles, reflective glass, split faced concrete block, imitation stone, and imitation stucco or Drivit. Thirty-five (35) percent of the remaining building facade(s) on the public right-of-way or any facade(s) facing a single-family residence shall also be constructed of natural materials.

(2) Vinyl siding or other composite materials shall not exceed thirty-five (35) percent of a building face that abuts a right-of-way.

(3) In general, brick and a recessed window vocabulary should predominate along the northern end of Beechurst and along University Avenue. Materials should transition into a mixed palette of brick, metal and glass toward the southern end of Beechurst. The Riverfront should utilize more contemporary materials such as metal and glass.

(4) Building materials which promote energy efficiency and sustainability should constitute a minimum of thirty-five (35) percent of the total materials used to construct a building.

(Q) Street Hierarchies and Land Use:

(1) Except for single and two family dwellings, buildings constructed along primary streets shall have sixty (60) percent or more of their ground floor space dedicated to retail, restaurant, office or personal service uses. Residential uses shall be permitted on the ground floor in the remaining space, but shall not enfront the primary street.

(2) The minimum number of off-street parking spaces for multi-family dwellings shall be one-half a space (0.5) per occupant as determined by the West Virginia State Building Code and adopted and implemented by the City. The minimum number of off-street parking spaces for mixed-use and over-store dwellings shall be one-half a space (0.5) per occupant as determined by the West Virginia State Building Code and adopted and implemented by the City plus required spaces for commercial use(s).

(3) Surface parking lots between buildings shall be designed as interior landscaped courtyards where cars are screened from the right-of-way; surface lots shall not be constructed where two (2) public rights-of-way intersect.

(4) Parking structures abutting open spaces or fronting on primary streets shall be designed with building-like facades.

(5) Parking garages three (3) stories or higher shall provide ground floor retail or service uses in an amount not less than thirty-five (35) percent of the ground floor area, located along the frontage of the garage.

(6) Private parking areas shall be accessed from secondary streets and/or alleys. Access from primary streets shall only be utilized when other options are not available.

(7) To minimize curb cuts along primary and secondary streets, residential garages or car ports or driveways shall be located at the rear of the property and accessed from an alley, when available.

(8) Parking areas and properties containing multifamily or commercial buildings shall provide linkages of similar design and quality to adjacent off-site pedestrian amenities such as sidewalks, bike paths, etc.

(9) Parking areas containing ten (10) or more stalls shall be lighted to create safe, attractive nighttime environments. Such lighting shall not be designed or situated in such a manner as to cause spillover glare onto adjoining properties. Building entrances and significant architectural or landscape features should be illuminated with low-intensity, indirect lighting sources directed toward the feature.

(Ord. 07-03. Passed 3-6-07; Ord. 15-29. Passed 6-2-15.)

1361.04 DESIGN AND PERFORMANCE STANDARDS SPECIFIC TO EACH OVERLAY DISTRICT.

(A) Sunnyside South Overlay District:

(1) Buildings that contain non-residential uses on the ground floor may have a maximum height of eighty-eight (88) feet, provided all other requirements of the zoning ordinance are met.

(2) Buildings taller than fifty-five (55) feet shall not require a conditional use permit.

(3) Minimum rear setbacks shall be one-half (1/2) of that ordinarily required in the underlying zoning district.

(4) Maximum lot coverage may be ten (10) percentage points higher than ordinarily permitted in the underlying zoning district.

(5) Primary materials for buildings along the riverfront should be metal and glass. Secondary materials along the riverfront should be brick, pre-cast concrete and stone.

(B) Sunnyside Central Overlay District.

(1) Front porches shall be required on all single and two family dwelling units constructed within this district. Such porches shall be not less than fifty (50) percent of the width of the front building facade, and may be covered, but shall not be enclosed with other than mesh screening. Such covered, but unenclosed, porches may extend to within four (4) feet of the front property line. No other architectural element of the dwelling shall extend closer than the usual front setback required by the Zoning Ordinance.

(2) Reserved.

(C) Beechurst Corridor Overlay District.

(1) Vehicular access to development shall not be directly from Beechurst Avenue unless no other alternative is feasible.

(2) Parking shall not be constructed between the Beechurst Avenue right-of-way and the front of any building.

(3) Buildings shall be highly articulated and permit views to the river where feasible.

(4) The build-to line shall be fifteen (15) feet from the property line along Beechurst Avenue.

(Ord. 07-03. Passed 3-6-07.)

ARTICLE 1362
B-4NPOD, B-4 Neighborhood Preservation Overlay District

1362.01 Purpose.
1362.02 Lot provisions.
1362.03 Setbacks and encroachments.
1362.04 Building height.
1362.05 Parking and loading standards.

1362.01 PURPOSE.

The intent of the B-4 Neighborhood Preservation Overlay District (B-4NPOD) is to preserve and protect the unique and distinctive characteristics and valued features of established neighborhoods located within and around the B-4, General Business District, but outside the central downtown area, by reducing conflicts between the scale of new construction and existing development. The development standards established herein shall supersede or supplement those provided in Article 1349 and Article 1351 were conflicts exist.
(Ord. 07-18. Passed 6-5-07.)

1362.02 LOT PROVISIONS.

The maximum lot coverage within the B-4NPOD shall not exceed seventy (70) percent.
(Ord. 07-18. Passed 6-5-07.)

1362.03 SETBACKS AND ENCROACHMENTS.

The following setbacks shall be required for all principal structures within the B-4NPOD, except as otherwise provided in Section 1363.02(B), Yard, Building Setbacks and Open Space Exceptions:

(A) Minimum Front Setback:..... 10 feet.
(B) Maximum Front Setback:..... 15 feet.
(C) Minimum Side Setback:..... 5 feet.
(D) Minimum Rear Setback:..... 20 feet.

(Ord. 07-43. Passed 9-4-07.)

1362.04 BUILDING HEIGHT.

(A) The maximum height of a principal structure within the B-4NPOD shall not exceed fifty-five (55) feet or the 940-foot topographic elevation coordinate, whichever is less, except as provided in Section 1363.02(A), Height Exceptions. For the purpose of this section, the North American Datum 1983 State Plane West Virginia North FIPS 4701 Feet coordinate system shall be used in determining topographic elevation coordinates.

(B) The maximum height of an accessory structure within the B-4NPOD shall not exceed eighteen (18) feet. (Ord. 07-18. Passed 6-5-07.)

1362.05 PARKING AND LOADING STANDARDS.

(A) All uses within the B-4NPOD shall conform to the off-street parking and loading requirements in Article 1365, Parking, Loading and Internal Roadways.

(B) With the exception of single-family, two-family and townhouse dwellings, no parking spaces within the B-4NPOD shall be permitted between the front facade of a building and any street right-of-way.
(Ord. 07-18. Passed 6-5-07.)

CHAPTER NINE - Development Standards

Art. 1363. Height, Bulk, Area and Density Provisions.
Art. 1365. Parking, Loading and Internal Roadways.
Art. 1367. Landscaping and Screening.
Art. 1369. Signs.
Art. 1371. Lighting.
Art. 1373. Nonconforming Provisions.
Appendix A

ARTICLE 1363
Height, Bulk, Area and Density Provisions

1363.01 Height, bulk, area and density regulations.
1363.02 General exceptions to height, bulk, area, and density regulations.
1363.03 Safety and vision.
1363.04 Special requirements.

CROSS REFERENCES
Height, area and density defined - see P. & Z. 1329.02

1363.01 HEIGHT, BULK, AREA AND DENSITY REGULATIONS.

(A) Except as provided in this ordinance, no building or structure shall be erected, enlarged, altered, changed or otherwise modified, on a lot unless such building, structure or modification conforms to the height, bulk, area and density regulations of the zone in which it is located.

(B) The conditions, standards, requirements and notes set forth in each district and otherwise prescribed by this ordinance are established as the basic height, bulk, area and density regulations for the City.

1363.02 GENERAL EXCEPTIONS TO HEIGHT, BULK, AREA AND DENSITY REGULATIONS.

(A) Height Exceptions.

(1) Structures or parts that shall be exempt from the height limitations are: barns, silos, grain bins, windmills, chimneys, spires, flagpoles, skylights, derricks, conveyors, cooling towers, observation towers, power transmission towers and water tanks.

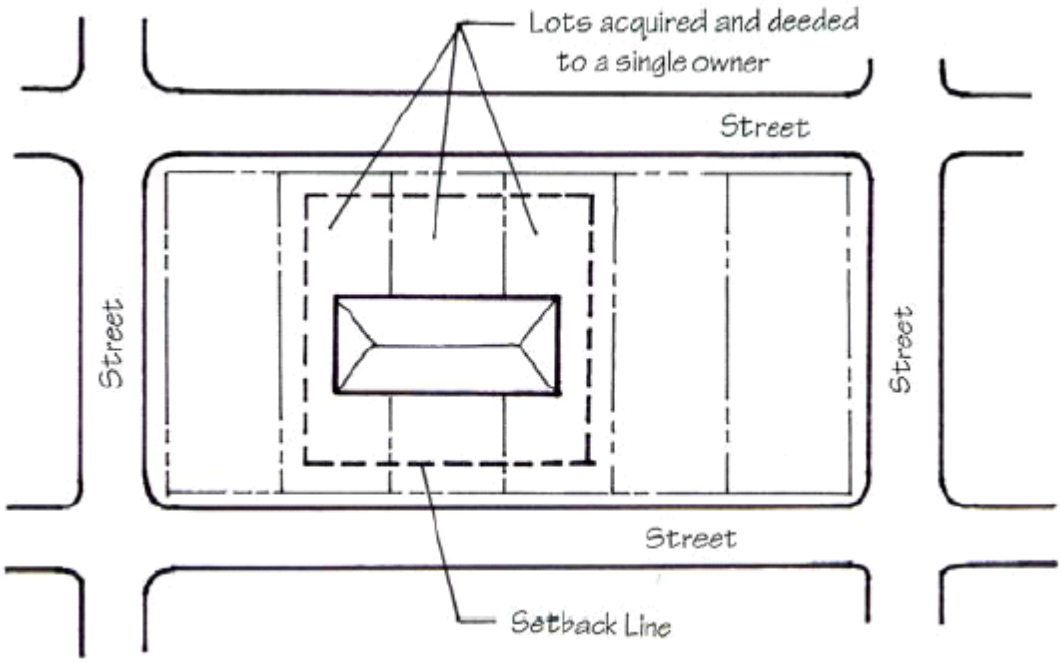
(B) Yard, Building Setbacks, and Open Space Exceptions.

(1) No yard, open space or lot area required for a building or structure shall, during its life, be occupied by or counted as open space for any other building or structure.

(2) The following structures or facilities shall be allowed to be constructed in any yard, when proper permits are obtained: Driveways, curbs, sidewalks, fences, walls, hedges (subject to the regulations of this section), flagpoles, non-permanent landscape features, planting boxes, recreational equipment, parking spaces, uncovered decks, patios and, only if adequately screened, composting or garbage disposal equipment.

(3) For adjoining lots under single ownership, setback requirements may be determined from the perimeter of the adjoining lots, ignoring interior lot lines, as shown in Graphic 1363.02.01, provided that only one main structure and its accessory structures shall be allowed within the perimeter of such adjoining lots and, the following notation is first placed on the recorded deed to each such adjoining lot: "For planning and zoning purposes, the lot described herein shall be considered as part and parcel of the adjacent lot(s) owned by [insert owner's name] pursuant to a deed (or deeds) recorded at Deed Record [#s] page [#s], in the Office of the Clerk of the County Commission of Monongalia County. The real estate described herein shall not be considered to be a separate parcel of real estate for land use, development, conveyance or transfer of ownership, without having first obtained the expressed approval of the Morgantown City Planning Commission. This restriction shall be a covenant running with the land."

Graphic 1363.02.01: Adjoining Lots Under Single Ownership



(C) Developed Blocks. If seventy-five percent (75%) or more of the lots in a block, on both sides of the street, are occupied by buildings, the following regulations shall apply:

(1) Residential Uses. The front setback shall vary by not more than 8 feet from the home(s) on either side of the lot. This requirement shall supercede the normal minimum and maximum front setbacks.

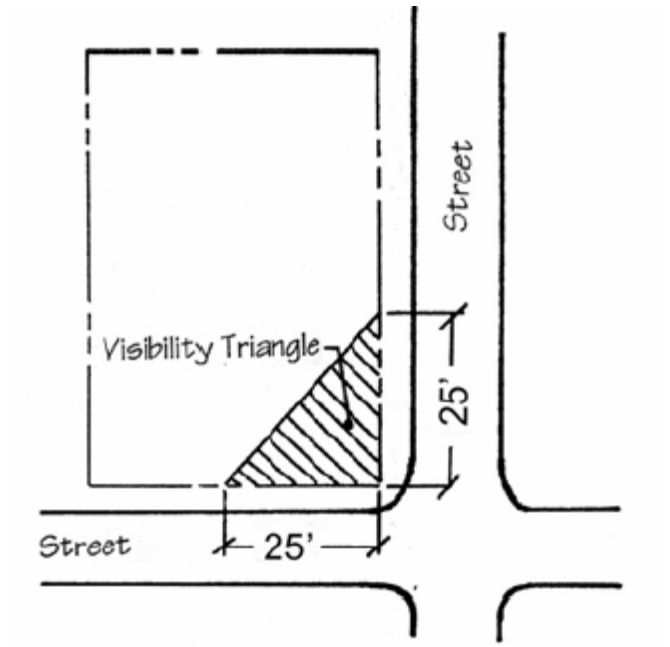
(2) Non-residential uses. Non-residential uses shall adhere to setback requirements corresponding to nonresidential districts.

(3) The Planning Director may choose to disregard houses that have extraordinarily unusual setbacks relative to the others in the same block.

1363.03 SAFETY AND VISION.

The following regulations provide for the maximum safety of persons using sidewalks and streets: on any corner lot, a wall, fence, sign, structure, display of merchandise or any plant growth which obstructs sight lines at elevations between two and one-half (2 -1/2) feet and eight (8) feet above the crown of the adjacent roadway shall not be placed or maintained within a clear vision triangle of the area of the lot twenty-five (25) feet along the property line from the street right-of-way at intersections.

Graphic 1363.03.01: Clear Vision Triangle



1363.04 SPECIAL REQUIREMENTS.

The following special requirements are established to clarify certain conditions pertaining to the use of lots and access points:

(A) Structures on a Lot. Only one principal building and its accessory structures may be located on a lot unless development is approved as a planned unit development, shopping center, office park, research and development center, townhouse dwellings, or multi-family dwellings as permitted in Table 1331.05.01 "Permitted Land Uses".

(B) Lot of Record. Any lot recorded or in single ownership at the time of adoption of these regulations shall be permitted to exist in its present dimension.

(C) Permanent Outdoor Display of Goods. For nonresidential uses in nonresidential zones, a permanent outdoor display of goods shall conform to the required building setback. No display shall be permitted in any public right-of-way.

(D) Temporary Outdoor Display of Goods. Temporary outdoor display of merchandise may encroach ten (10) feet on the required building setback. No display shall be permitted in any public right-of-way.

(Ord. 13-34. Passed 7-2-13.)

ARTICLE 1365
Parking, Loading and Internal Roadways

1365.01 Purpose.
1365.02 Scope.
1365.03 General parking regulations.
1365.04 Determining the number of spaces required.
1365.05 Drive-through stacking.
1365.06 Parking spaces accessible to the disabled.
1365.07 Off-site parking facilities.
1365.08 Parking and storage of certain vehicles.
1365.09 Parking development standards.
1365.10 Loading requirements.

CROSS REFERENCES
Traffic Code provisions - see TRAF. Chap. Seven

1365.01 PURPOSE.

The regulations of this section are designed to alleviate or prevent congestion of the public streets by establishing minimum requirements for on-site storage of motor vehicles, in accordance with the use for which the property is occupied.

1365.02 SCOPE.

(A) Off-street parking and loading facilities shall be provided and maintained in accordance with the provisions of this section for all buildings, structures or premises used in whole or in part for purposes permitted by this Code.

(B) When the intensity of use of any building, structure or premises shall be increased through the addition of dwelling units, floor area, beds, seating capacity, or other unit of measurement, parking and loading facilities as required herein shall be provided for such increase in intensity of use.

(C) For any non-conforming use which is hereafter damaged or partially destroyed, and which is lawfully reconstructed, re-established, or repaired, off-street parking and loading facilities equivalent to those maintained at the time of such damage or partial destruction shall be restored and continued in operation; provided, however, in no case shall it be necessary to restore or maintain parking or loading facilities in excess of those required by this Code for equivalent new uses.

(D) No building permit shall be issued, no use shall be established or changed, and no structure shall be erected, enlarged or reconstructed unless the applicant has presented satisfactory evidence via parking lot design, that the off-street parking and loading spaces herein are provided in the minimum amounts and maintained in the manner specified; provided, however:

(1) For the enlargement of a structure or for the expansion of a use of structure or land there shall be required only the number of additional off-street parking and loading spaces as would be required if such enlargement or expansion were a separate new structure or use; and

(2) For a change in the class or use of a structure or land, the number of additional off-street parking and loading spaces required shall be equal to the number required for the new use, less the number of spaces which would have been required for the previous use if it had been established in conformance with this section; but in no case shall the total number of spaces furnished be required to exceed the minimum required for the new use.

(E) Off-street parking or loading facilities in existence at the time of the effective date of this article shall not hereafter be reduced below, or if already less than, shall not be further reduced below the requirements for a similar new use under the provisions of this Code.

(F) Nothing in this Code shall be deemed to prevent the voluntary establishment of off-street parking or loading facilities to serve any existing use of land or buildings, provided that all regulations herein governing the location, design, and operation of such facilities are adhered to.

(G) Off-street parking and loading facilities provided to comply with the provisions of this Code shall not subsequently be reduced below the requirements of this Code.

1365.03 GENERAL PARKING REGULATIONS.

(A) Off-street parking and loading spaces shall be provided on the same lot as the use served, except as otherwise provided in this Code, and may be situated as one or more individual areas.

(B) Off-street parking facilities required herein shall be utilized solely for the parking of passenger automobiles or light trucks with not more than two axles, belonging to patrons, occupants or employees of specified uses. Said parking facilities shall not be used for the storage, display, sale, repair, dismantling or wrecking of any vehicle, equipment or material, unless such facilities are enclosed in a building and otherwise permitted in the district, and unless such display is conducted upon stalls that are otherwise considered surplus to the requirements herein.

1365.04 DETERMINING THE NUMBER OF SPACES REQUIRED.

(A) In determining the minimum required number of off-street parking or loading spaces, the following instructions shall be applicable in such computations:

(1) If the unit of measurement is any fraction of the unit specified in relation to the number of spaces to be provided, said fraction, if less than one half or less than 0.5, the fraction shall be disregarded, however if the fraction is more than one-half or more than 0.5, then the fraction shall be considered as being the next unit and shall be counted as requiring one space.

(2) In sports arenas, churches and other places of assembly in which patrons occupy benches, pews or other similar seating facilities, each twenty-two (22) inches of such seating shall be counted as one (1) seat for the purpose of determining requirements hereunder. In the special case of mosques or other facilities where religious services are offered without seating, the parking requirement shall be one (1) stall for each sixty (60) square feet of the main prayer hall or room, exclusive of stages or raised daises.

(B) Shared Parking Facilities.

(1) Shared parking facilities for two or more separate but adjacent buildings or mixed uses may be permitted as a conditional use provided that:

(a) The total number of spaces used is not less than the sum required for various buildings or uses if computed separately.

(b) That the lot is in the same zoning district as the principal use, or in a district that permits commercial parking lots as a principal or conditional use.

(c) Each use of the shared spaces shall function as if having been provided separately.

(2) The Board of Zoning Appeals, upon recommendation from the Planning Commission may allow a reduction of total parking requirement up to 25 percent if the applicant can satisfactorily demonstrate the parking spaces will be shared with another adjacent land use and the lack of overlap between the peak parking needs of the land uses justifies such a reduction.

(C) Shared Parking Facilities in the B-4 District.

(1) For purposes of this section, the following definitions shall apply:

(a) Daytime Use – A land use whose primary customer and employee traffic occurs during the morning and afternoon hours (before 6:00 p.m.), Monday through Friday. Such uses include, but are not limited to: conference facilities, professional offices, restaurants serving primarily lunch, retail uses that customarily close at or before 6:00 p.m., manufacturing uses, schools, and the like.

(b) Nighttime Use – A land use whose primary customer and employee traffic occurs during the evening (after 5:00 p.m.) and weekend hours. Such uses include, but are not limited to: hotels, restaurants whose majority of customers are served during dinner hours and on weekends, retail uses that are consistently open past 6:00 p.m., residential uses, entertainment uses (theaters, bowling alleys, private clubs and the like), dance schools, martial arts studios, arts and crafts instruction, auditoriums that are accessory to a school, and churches.

(c) Substantial Overlap – Where the hours of operation and/or peak traffic generation times of two different land uses overlap by six (6) or more hours in a given 24 hour period.

(2) Shared parking facilities for two or more uses, whose main traffic generation peak times do not substantially overlap, may be approved as a conditional use provided that:

(a) Shared parking may be off-site or on-site.

(b) Uses may share parking without providing the minimum number of required spaces for each use based on the following calculation:

(i) Compute the total number of stalls that would normally be required for all daytime uses, as defined herein.

(ii) Compute the total number of stalls that would normally be required for all nighttime uses, as defined herein.

(ii) The larger of the two numbers shall be considered to be the baseline parking requirement.

(iv) Add 25 percent of the required parking of the lesser number to the baseline number to achieve the total parking requirement for the shared uses.

(c) This reduction may, with the approval of the Board of Zoning Appeals, be in addition to the reductions allowed for proximity to public transit, motorcycle parking, and/or bicycle parking.

(d) No other reductions shall be permitted.

(3) Shared parking facilities for two or more uses, whose main traffic generation peak times substantially overlap, may be approved as a conditional use provided that:

(a) Shared parking may be off-site or on-site.

(b) A reduction not to exceed 15 percent of the combined minimum parking requirement for all uses.

(c) This reduction may, with the approval of the Board of Zoning Appeals, be in addition to the reductions allowed for proximity to public transit, motorcycle parking, and/or bicycle parking.

(d) No other reductions shall be permitted.

(D) Shared Parking Facilities – Performance.

(1) An approved shared parking facility must be owned by the owner of one or more of the uses. A legal agreement detailing the shared parking arrangement (if approved) shall be executed and filed with the City Planning Department and recorded in the County Clerk's office. In lieu of ownership, the parking lot may be leased by the owner of one of the uses, provided that the duration of any such lease and sublease subsequent be not less than 20 years.

(2) No changes shall be made to the approved shared parking facility which would reduce the parking provided for the uses, unless the owner of one or more of the uses makes other arrangements to provide parking in conformance with minimum parking requirements. No such changes shall be made without prior approval from the Board of Zoning Appeals.

(3) Any proposed change in the use of a structure or land utilizing an approved shared parking facility shall provide evidence satisfactory to the Board of Zoning Appeals that adequate parking is available to accommodate any such use change.

(4) The City of Morgantown reserves the right to deny or revoke a certificate of occupancy to any land use, in the following situations:

(a) If a land use utilizing a shared parking facility changes from a daytime use to a nighttime use (or vice-versa); or changes to a use that requires more parking than the previous use, and the resulting change in parking requirements cannot be satisfied in the shared parking facility.

(b) If a land use utilizing a shared parking facility loses the legal right, whether through voluntary or involuntary actions and circumstances, to continue using the shared parking facility; and such use cannot make arrangements to provide required parking elsewhere in conformance with minimum parking requirements. The exception to this shall be in the event of a public construction project that temporarily (one year or less) makes use of the shared facility impossible, or reduces effective use of the facility.

(5) Shared parking facilities shall provide signs on the premises indicating the availability of the facility for the patrons of the participating uses.

(6) Parking spaces to be shared must not be reserved for a specific person, or use, on a twenty-four hour basis. This shall not be construed so as to limit the development of parking for persons with disabilities.

(E) Required off-street loading and unloading spaces shall not be construed as being part of the required off-street parking spaces.

(F) No part of any alley or street or other public right-of-way shall be used to meet the minimum parking requirements of this code, unless otherwise provided for herein.

(G) For purposes of determining off-street parking requirements under this section, gross floor area shall mean the total horizontal areas of the one or several floors of the building or portion thereof devoted to a particular use, including accessory storage areas located within selling or working space such as counters, racks, or closets and any basement floor area devoted to retailing activities, to the production or processing of goods or to offices; provided, however, gross floor area shall not include that area devoted entirely and permanently to storage purposes, parking and loading facilities, or space used for restrooms, utilities, stairwells or elevator shafts.

(H) Number of employees indicates the number of employees on the largest shift, unless otherwise indicated.

(I) In all non-residential districts the maximum number of spaces provided shall not exceed 115 percent of the minimum parking requirement, except for research and development centers, where there shall be no maximum.

(J) Off-street parking shall be provided in accordance with Table 1365.04.01, Minimum Off-Street Parking Requirements.

(K) Every company car, truck, tractor or trailer normally stored at a business site shall be provided with an off-street parking space. Such space shall be in addition to the parking requirements listed in Table 1365.04.01.

(L) For uses not specified in this section, or in such instance when the requirement for an adequate number of spaces is unclear or not specified in another part of this section for Conditional Uses, Shopping Center Plan, etc., the number of parking spaces shall be determined by the Planning Director on the basis of similar requirements, the number of persons served or employed, and the capability of adequately serving the visiting public. Such determination may be appealed to the Board of Zoning Appeals.

(M) In case of conflict between the provisions of this section, the higher requirement shall govern.

(N) Any land use which requires a minimum of 50 parking spaces shall be required to provide a pedestrian circulation plan for the proposed site.

(O) In the B-1 districts, uses may provide less than the required number of off-street parking spaces, but in no case shall a use provide less than 75 percent of the minimum number of off-street parking spaces in accordance with Table 1365.04.01.

(P) In the B-4 district, minimum parking requirements may be reduced as a conditional use under one or more of the following provisions:

(1) By a factor of ten (10) percent if the land use is located within 500 feet, measured from the closest edge of the building, of a parcel containing a fixed public transit stop, whether a bus, trolley, or Personal Rapid Transit (PRT) station.

(2) By a factor of ten (10) percent if the land use is located within 500 feet, measured from the closest edge of the building, of a parcel containing 25-50 publicly owned and controlled parking spaces. If within 500 feet of a parcel containing more than 50 public parking stalls, the reduction may be a factor of fifteen (15) percent.

(3) By a factor of one (1) automobile parking space for each dedicated motorcycle parking space, up to a maximum reduction of three (3) automobile parking spaces. This reduction shall not be permitted for uses that are required to provide six (6) or fewer parking stalls. Nor shall this reduction be permitted for uses that primarily sell large, bulky merchandise not typically transported via motorcycle.

(4) By a factor of one (1) automobile parking space for every three (3) bicycle parking spaces provided, up to a maximum reduction of three (3) automobile parking spaces. This reduction shall not be permitted for uses that are required to provide six (6) or fewer parking stalls. Nor shall this reduction be permitted for uses that primarily sell large, bulky merchandise not typically transported via bicycle. Required bicycle storage may not be used to reduce minimum parking requirements. (Ord. 08-06. Passed 3-4-08.)

Table 1365.04.01: Minimum Off-Street Parking Requirements

Use	Minimum Off-Street Parking Requirement
Administrative Office	3 spaces per 1,000 sq. ft. of net floor area up to 20,000 sq. ft. plus 2 spaces per 1,000 sq. ft. of net floor area greater than 20,000 sq. ft.
Agricultural Activity	1 space per employee on the largest shift
Airport	1 space per employee on the largest shift plus 1 space per 3 seats for waiting passengers
Amphitheater	1 space per 4 persons at maximum capacity
Animal Grooming Service	1 space per 250 sq. ft. of GFA
Animal Shelter	1 space per employee plus 1 space per 7 animals
Apparel Shop	3 spaces per 1,000 sq. ft. of GFA
Appliance Repair Establishment	2 spaces per 1,000 ground floor area and 1 space per employee
Appliance Sales Establishment	2 spaces per 1,000 sq. ft. of GFA
Art Gallery	2 spaces per 1,000 sq. ft. of GFA
Artist Studio	1 space per studio
Assembly Hall	1 space per 4 persons at maximum capacity
Assisted Living Facility	1 space per employee plus 1 space for every 3 residents for visitor use.
Athletic Field	4 spaces per 1,000 sq. ft. of GFA
Automobile Repair Shop, Incidental	1 space per service bay and 1 space per employee
Automotive Paint Shop	1 space per service bay and 1 space per employee
Automotive Rentals	2 spaces per 1,000 sq. ft. of GFA
Automotive Sales	2 spaces per 1,000 sq. ft. of GFA of enclosed sales area plus 1 space per 2,500 sq. ft. of GFA of open sales area plus 2 spaces per service bay plus 1 space per employee (minimum 5 spaces required)

Use	Minimum Off-Street Parking Requirement
Automotive Supply	2.5 spaces per 1,000 sq. ft. of GFA and 1 space per employee
Automotive Tire Repair/Sales	2 spaces per 1,000 sq. ft. of GFA
Automotive/Boat Repair Shop	1 space per 200 sq. ft. of GFA and 1 space per employee
Bakery, Retail	3 spaces per 1,000 sq. ft. of GFA and 1 space per employee
Bakery, Wholesale	5 spaces per 1,000 sq. ft. of GFA of sales area and 1 space per employee
Barber Shop/Beauty Salon	1 space per 2 client chairs and 1 space per employee
Bed and Breakfast Inn	1 space per guest room plus 2 for the resident owner
Brew Pub	1 space per 4 persons at maximum occupancy
Building Materials Supplier	5 spaces per 1,000 sq. ft. of GFA of sales area and 1 space per employee
Bus Terminal	10 spaces per 1,000 sq. ft. of GFA of waiting area
Car Wash/Detailing	1 space per employee plus 1 drying and 2 stacking spaces per washing space (washing spaces shall not be counted toward the requirements)
Caretaker's Residence	1 space per residence
Cemetery	1 space per employee plus provision of space for parking along internal drives
Charitable, Fraternal or Social Organization	1 space for each 4 persons at maximum capacity
Churches, Places of Worship	1 space per 4 fixed seats plus 1 space per 60 square feet of the main assembly where no fixed seats are used.

Use	Minimum Off-Street Parking Requirement
Clinic, Medical	1 space per exam room and 1 space per employee (including doctors)
Club or Lodge	1 space per 4 persons at maximum capacity
Coin-operated Cleaning/Laundry Service	5 spaces per 1,000 sq. ft. of GFA
Community Center	3 spaces per 1,000 sq. ft. of GFA and 1 space per employee
Community Gardens	1 space per 0.25 acres of garden area
Composting Operation	1 space per employee plus 1 space per 1,000 sq. ft. of GFA
Conference Center	1 space per 3 employees plus 1 space per 3 persons to the maximum capacity of each banquet or meeting room
Convenience Store, Neighborhood	3 spaces per 1,000 sq. ft. of GFA of sales area and 1 space per employee
Dance or Social Club, Youth	1 space per 100 sq. ft. of GFA plus 1 spacer per employee
Day Care Facility, All Classes	1 space per 4 clients and 1 space per employee
Department Store <25,000 sq. ft. GLA 25,001-400,000 sq. ft. GLA 400,001-600,000 sq. ft. GLA >600,001 sq. ft. GLA	 3.28 spaces per 1,000 sq. ft. of GFA, plus 1 per employee 3.3 spaces per 1,000 sq. ft. of GFA 3.63 spaces per 1,000 sq. ft. of GFA 4 spaces per 1,000 sq. ft. of GFA
Distribution Center	1 space per employee plus one space per vehicle used in the operation of the distribution center
Dog Run	2 spaces per 0.25 acre
Dormitory	1 space per 2 beds
Drive-In Theatre/Outdoor	1 space per employee plus 1 space per audio station
Driving Range, Golf	1 space per 2 employees, plus 1 space for every 1.5 tees
Drug Store	2.5 spaces per 1,000 sq. ft. of GFA
Dry Cleaning and Laundry Pick-up	1 space per employee plus 1 space per 200 sq. ft. of GFA

Use	Minimum Off-Street Parking Requirement
Dry Cleaning and Laundry Service	3 spaces and 1 space per employee
Dwelling, Accessory	1 space per unit
Dwelling, Mixed Use	1 space per dwelling unit or 0.75 spaces per occupant as determined by the West Virginia State Building Code and adopted and implemented by the City, whichever is greater, plus required spaces for the commercial use(s)
Dwelling, Multi-family	1 bedroom dwelling unit - 1 space per unit 2 or more bedroom dwelling unit - 0.75 spaces per occupant as determined by the West Virginia State Building Code and adopted and implemented by the City.
Dwelling, Over-store	1 space per dwelling unit or 0.75 spaces per occupant as determined by the West Virginia State Building Code and adopted and implemented by the City, whichever is greater, plus required spaces for the commercial use(s).
Dwelling, Single family	2 spaces per dwelling unit
Dwelling, Townhouse	1 bedroom dwelling unit - 1.5 spaces per unit; 2 or more bedroom dwelling unit - 0.75 spaces per occupant as determined by the West Virginia Building Code and adopted and implemented by the City.
Dwelling, Two-family	1.5 spaces per unit
Electrical Repair Shop	2 spaces per 1,000 sq. ft. of GFA and 1 space per employee
Emergency Shelter	1 space per employee on the largest shift plus 1 space per 2 bedrooms
Equipment or Furniture Rental Establishment	3 spaces per 1,000 sq. ft. of GFA
Essential Services and Equipment	1 space per 4 employees
Extractive Industry	1 space per employee plus 1 space per vehicle used in the operation of the facility plus 5 customer/visitor spaces
Fairgrounds	2 spaces per 100 sq. ft. of total area
Farmer's Market	1 space per vendor plus 1 space per 200 sq. ft. of GFA
Financial Services Establishment	4 spaces per 1,000 sq. ft. of GFA plus 4 stacking spaces per drive-in lane, plus 1 per employee
Florist Shop	1 space per 400 sq. ft. of GFA plus 1 space per employee

Use	Minimum Off-Street Parking Requirement
Fraternity or Sorority House	1 spaces for each three (3) persons based upon the approved maximum building occupancy
Funeral Home	1 space per 25 sq. ft. of GFA
Furniture Sales (Antique, New or Used)	1.5 spaces per 1,000 sq. ft. of GFA
Garden Center	2.5 spaces per 1,000 sq. ft. of GFA
Gasoline Service Station (without convenience store)	3 spaces per 1,000 sq. ft. of enclosed floor area plus 1 space per 2 service bays
Gasoline Service Station with convenience store (Mini-mart)	1.5 spaces per fuel nozzle plus 3 spaces per 1,000 sq. ft. of enclosed floor area plus 1 space per 2 service bays
Golf course	1 space per 2 employees plus 2 spaces per hole
Government Facility	3 spaces per 1,000 sq. ft. of net floor area up to 20,000 sq. ft. plus 2 spaces per 1,000 sq. ft. of net floor area greater than 20,000 sq. ft.
Greenhouse, Non-Commercial	1 per employee
Greenhouse, Commercial	1 per 3 employees plus 1 per 125 sq. ft. of enclosed sales area
Grocery Store	4.5 spaces per 1,000 sq. ft. of GFA
Group Residential Facility	1 space per employee plus 1 space per 5 residents (or if residents are unable to drive; 1 space per 1,000 sq. ft. of gross living area)
Group Residential Home	1 space per employee plus 1 space per 5 residents (or if residents are unable to drive; 1 space per 1,000 sq. ft. of gross living area)
Guest House	1 space per guest house
Half-way House	1 space per 4 beds and 1 space per employee
Hardware Store	2 spaces per 1,000 sq. ft. of GFA
Health/Sport Club	5 spaces per 1,000 sq. ft. of GFA
Heavy Machinery Sales	2 spaces per 1,000 sq. ft. of GFA of enclosed sales area plus 1 space per 2,500 sq. ft. of GFA of open sales area plus 1 space per employee

Use	Minimum Off-Street Parking Requirement
Heliport or Helipad	1 space per employee plus 1 space per vehicle used in the operation plus sufficient space to accommodate the number of vehicles at the peak hour
Home Improvement Center	3 spaces per 1,000 sq. ft. of GFA
Home Occupation	Dwelling unit requirements
Hospital	1 space per 4 patients at design capacity plus 1 space per employee
Hotel/Hotel, Full-service	One space per room or suite plus 1 space per 3 employees plus 1 space per 3 persons to the maximum capacity of the largest banquet or meeting room
Hypermarket	3.3 spaces per 1,000 sq. ft. of GFA
Industrial Equipment Repair Establishment	1 space per 2 employees plus 2 spaces per 1,000 sq. ft. of floor area open to the public
Industrial Supplies Establishment	2 spaces per 1,000 sq. ft. of GFA and 1 space per employee
Industry, Heavy	1 space per employee plus 1 space per vehicle used in the operation of the industry plus 5 customer/visitor spaces
Industry, Light	1 space per employee plus 1 space per vehicle used in the operation of the industry plus 5 customer/visitor spaces
Instructional Studio	3 spaces per 1,000 sq. ft.
Junkyard	1 space per employee plus 1 space per vehicle used in the operation of the junkyard plus 3 customer/visitor spaces
Kennel, Commercial	3 spaces per 1,000 sq. ft. of GFA
Laboratories	3 spaces per 1,000 sq. ft. of floor area up to 20,000 sq. ft. plus 2 spaces per 1,000 sq. ft. of floor area greater than 20,000 sq. ft.
Laundromat	5 spaces per 1,000 sq. ft. of GFA
Liquor Store	3 spaces per 1,000 sq. ft. of GFA
Lodging or Rooming House	0.5 spaces per bed but not less than two spaces
Manufactured Housing Sales	1 space per 2,000 sq. ft. of GFA of sales area office
Manufacturing, Heavy	1 space per employee plus 1 space per vehicle used in the operation of the industry plus 5 customer/visitor spaces

Use	Minimum Off-Street Parking Requirement
Manufacturing, Light	1 space per employee plus 1 space per vehicle used in the operation of the industry plus 5 customer/visitor spaces
Marina, Commercial	1 space for each boat slip plus 8 boat-trailer spaces per boat launching ramp.
Marina, Private	1 space per boat slip plus 8 boat-trailer spaces per boat launching ramp
Marine Supplies Establishment	1 space per 2,000 sq. ft. of GFA of sales area
Motel	Same as Hotel
Motorcycle Sales Establishment	1.5 spaces per 1,000 sq. ft. of GFA of display area
Movie Theater, Large	1 space per 4 seats
Movie Theater, Small	1 space per 4 seats
Nursery, Plant	1 space per employee plus 1 space per 150 sq. ft. of GFA of the primary building
Nursing Home	1 space per 4 beds and 1 space per employee
Office Building	3 spaces per 1,000 sq. ft. of net floor area up to 20,000 sq. ft. plus 2 spaces per 1,000 sq. ft. of net floor area greater than 20,000 sq. ft.
Office Equipment Repair Establishment	1 space per 2 employees plus 2 spaces per 1,000 sq. ft. of floor area open to the public
Office, Medical	4 spaces per 1,000 sq. ft. of net floor area up to 20,000 sq. ft. plus 2 spaces per 1,000 sq. ft. of net floor area greater than 20,000 sq. ft.
Office Supplies Establishment	2.5 spaces per 1,000 sq. ft. of GFA
Oil Change Facility	3 spaces per 1,000 sq. ft. of enclosed floor area plus one space per service bay
Outdoor Flea Market	1 space per vendor plus 10 spaces per acre

Use	Minimum Off-Street Parking Requirement
Outdoor Storage	1 space per 2,000 sq. ft. of gross storage area
Park and Recreational Services	1 space per 1,000 sq. ft. of indoor area, or 5 spaces per acre of outdoor area
Passenger Station, Motor Bus, Railroad	1 space per 4 seats for waiting passengers
Pawnshop	1 space per employee plus 1 space per 300 sq. ft. of GFA
Penal/Correction Institution	1 space per employee plus 1 space per 20 inmates
Personal Services Establishment	1 space per 250 sq. ft. of GFA
Personal Storage Facility/Self-Storage Facility	3 spaces plus 1 space per 100 units, plus sufficient aisle widths to allow parking in front of storage unit without unduly impeding traffic circulation.
Professional Services Establishment	3 spaces per 1,000 sq. ft. of GFA plus 1 per employee
Recreation Facility, Commercial, Indoor	1 space per employee plus 1 space per 200 sq. ft. of GFA
Recreation Facility, Commercial, Outdoor	1 space per employee plus 4 spaces per acre
Recyclable Collection Center/Solid Waste Transfer Station	1 space per employee plus 5 spaces for drop-off customers
Recycling Center	1 space per employee plus 5 spaces for drop-off customers
Repair Shop, Small Engine and Motor	2 spaces per 1,000 sq. ft. of GFA
Research and Development Center *no maximum limit	3 spaces per 1,000 sq. ft. of net floor area up to 20,000 sq. ft. plus 2 spaces per 1,000 sq. ft. of net floor area greater than 20,000 sq. ft.
Restaurant	1 space per 100 sq. ft. of eating area plus 1 space per employee
Restaurant with Drive-In With Drive-Through If no indoor seating	1 space per 3 seats and 1 space per 2 employees plus 7-8 stacking spaces per window minimum 10 spaces

Use	Minimum Off-Street Parking Requirement
Restaurant, Private Club/Private Wine	1 space per 100 sq. ft. of eating area plus 1 space per employee
Restaurant, Carry-Out/Take-Out	1 space per 4 seats and 1 space per 2 employees
Restaurant, Drive-Through	1 space per 2 employees plus 7 stacking spaces per window
Restaurant, Family	1 space per 100 sq. ft. of eating area plus 1 space per employee
Restaurant, Fast-Food	1 space per 2.5 seats plus 1 space per 2 employees plus 7-8 stacking spaces per window
Retail Sales Establishment, not otherwise specified	3 spaces per 1,000 sq. ft. of GFA
Salvage Yard	1 space per employee plus 1 space per vehicle used in the operation plus 3 customer/visitor spaces
School (K-12), Private	(K-8) 1 space per classroom plus one space per employee (9-12) 1 space per 4 students plus one space per employee
Sexually Oriented Business	5 spaces per 1,000 sq. ft. of GFA
Shooting Range, Indoor	1 space per 2 employees plus 1 space per range
Shopping Center Less than 10,000 sq. ft. GLA 10,000-400,000 sq. ft. GLA 400,001-600,000 sq. ft. GLA more than 600,001 sq. ft. GLA	 2.5 spaces per 1000 sq. ft. of GFA 3.5 spaces per 1000 sq. ft. of GFA 4.5 spaces per 1000 sq. ft. of GFA 5.5 spaces per 1000 sq. ft. of GFA
Snack Bar/Snack Shop	1 space per 3 seats and 1 space per 2 employees
Sporting Goods Establishment	3 spaces per 1,000 sq. ft. of GFA
Tavern	1 space per 100 sq. ft. of GFA plus 1 space per employee
Taxicab Service Establishment	1 space per dispatcher and 1.5 spaces for each taxicab

Use	Minimum Off-Street Parking Requirement
Telecommunications Tower, All Classes	1 space for maintenance
Transient Amusement Enterprise	5 spaces per sq. ft. of GFA plus 1 space per 3 persons that outdoor facilities are designed for at maximum capacity
Terminal, Truck or Motor Freight	1 space per employee and 1 space per vehicle used in operation
University or College, Private	1 space per 5 students plus 1 space per employee
Upholstery/Interior Decorating Service	3 spaces per 1,000 sq. ft. of GFA
Video Gaming/Lottery Establishment	1 space per 100 sq. ft. of GFA
Warehousing and Distribution	1 space per employee plus one space per vehicle used in the operation of the warehouse
Wellness Center	1 space per 400 sq. ft. of GFA
Wholesale Establishment	1 space per employee plus 3 spaces per 1000 sq. ft. of sales floor open to the public
Wrecker Service	1 space per employee and 1 space per vehicle used in operation

GLA: Gross Leasable Floor Area GFA: Gross Floor Area Sq. ft.: Square feet

(Amended by Ord. 06-24, Passed 07-18-2006; Ord. 07-19. Passed 6-5-07; Ord. 10-26. Passed 7-6-10; Ord. 11-04. Passed 3-1-11; Ord. 12-30. Passed 7-3-12; Ord. 15-30. Passed 6-2-15.)

1365.05 DRIVE-THROUGH STACKING.

Drive-through establishments shall provide stacking space for queuing of vehicles awaiting use of drive-through windows. Each stacking space must be eighteen (18) feet long and each lane of stacking spaces must be at least nine (9) feet wide. Lane widths should be delineated with pavement markings. However, individual spaces within the lane need not be marked. The Schedule of Parking Standards table denotes the number of stacking spaces required for common drive-through uses. Any drive through use not listed shall be required to provide at least four (4) stacking spaces per drive-through window. Stacking spaces must be in addition to the required parking spaces and must not be located within a required driveway, internal circulation system, or parking aisle.

Table 1365.05.01: Stacking Space Requirements

	Minimum Number of Stacking Spaces Required			
Use	Before	At	After	Total
Bank or ATM (bay)	6	1	0	7
Restaurant	6	1	1	8
Car wash (self serve) (per bay)	3	1	2	6
Car wash (semi or automatic)	6	0	2	8
Other Uses*	3	1	1	5

*Planning Director may determine the specific number depending on lot size, use, site plan, etc.

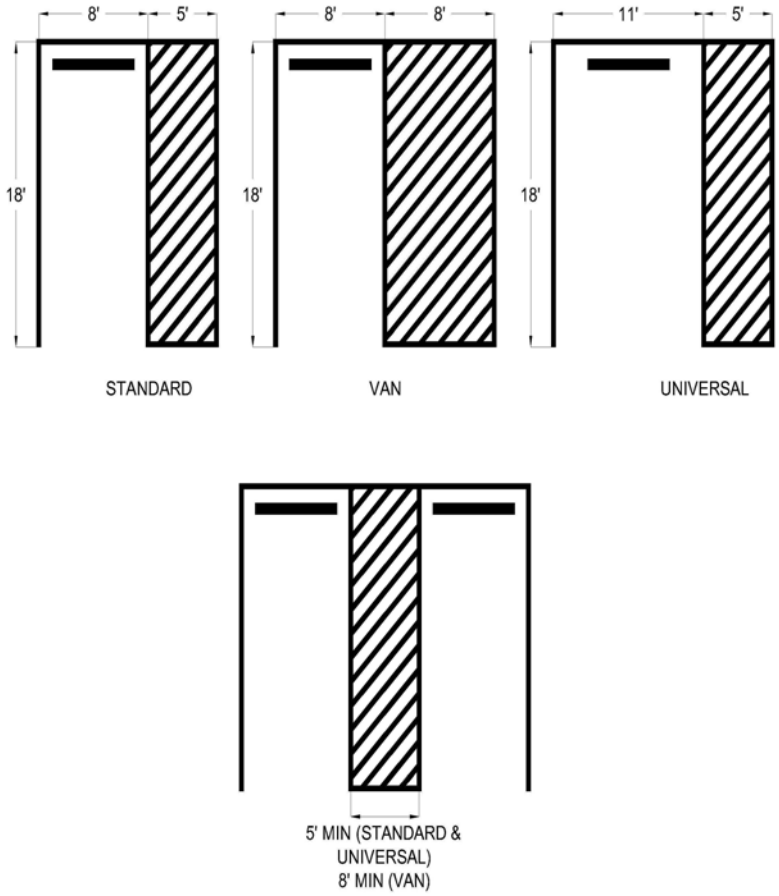
1365.06 PARKING SPACES ACCESSIBLE TO THE DISABLED.

The City of Morgantown encourages all development within the City which serves the public to comply with the accessibility standards of the Americans with Disabilities Act of 1990. The City requires conformance with the accessibility standards contained within the West Virginia State Building Code and the Morgantown City Code.

Table 1365.06.01: Required Parking Spaces Accessible to the Disabled per the West Virginia State Building Code

TOTAL NUMBER OF PARKING SPACES IN LOT	**MINIMUM NUMBER OF ACCESSIBLE SPACES REQUIRED**
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1,000	2% of total
1,001 and over	20, plus 1 for each 100 over 1,000
For every six or fraction of six accessible parking spaces, at least one shall be designed as a van-accessible or universal-accessible parking space. (See Graphic 1365.06.01: Accessible Parking Design).	

Graphic 1365.06.01 - Accessible Parking Design



(Ord. 09-26. Passed 7-7-09.)

1365.07 OFF-SITE PARKING FACILITIES.

(A) In Business, Industrial and Multi-Family Districts, the Board of Zoning Appeals may grant Conditional Use Approval to provide required spaces on a site that is:

(1) Within 300 feet of the principal use, and

(2) Within a district that permits commercial parking lots as a principal or conditional use.

(3) B-4 District - within 500 feet of the principal use, but not within a residential district or within the B-4 Neighborhood Preservation Overlay District (B-4NPOD).

(B) A site plan for such off-site parking facility shall be filed with the Board of Zoning Appeals as a required exhibit accompanying the Conditional Use application, and shall be made part of the conditions of any approval therefor. Said site plan shall demonstrate compliance with Parking requirements and Standards of this ordinance, shall be amended and re-approved to indicate any change or other modification of uses served, or number of parking spaces provided therefor, and shall indicate:

(1) Adjacent streets, alleys and lots.
(2) All individual primary uses to be served, including the location of the use and number of parking spaces for each such use.
(3) A layout drawn to scale of 1"=50' or larger of aisles and driveways, entrances, exits and turn-off lanes, parking spaces, setbacks, drainage facilities, and landscaping and buffer screening.
(4) Type of lighting and pavement proposed, and identification signs, including location, size and design thereof.

(C) Offsite parking facilities shall be encumbered by an easement or similar agreement duly executed and acknowledged, which specifies that the land upon which the off-site parking facility is located is encumbered by the parking use. Said instrument shall specify and bind the time period to the anticipated life of the building or use to which the parking facilities are accessory. Said instrument shall be filed in the applicable Building Permit files of the Department of Planning, and placed on public record in the Office of the Clerk of the County Commission of Monongalia County, WV.

(D) It is the responsibility of the business owner to maintain current and valid parking as required by this Ordinance. Evidence of such parking is required prior to approval and proof of current leases shall be made available at the request of the Planning Director. Each leased space shall have a sign noting the business for which the space is reserved. Signs shall be 12 inches wide by 18 inches tall and shall be mounted between three feet and five feet above the finish surface of the parking stall. The text on the sign shall state "This space is reserved for patrons of [name of the business] only, per City Code 1365.07(D)." All leased stalls shall be paved and striped. No unimproved stalls shall be used for commercial parking. Leasing of stalls shall not reduce the available parking below the minimum requirement for uses sharing the lot, except in conditions of shared parking as described in Section 1365.04(B) of the City Code.

(E) Offsite parking facilities shall be developed in accordance with the provisions of the Parking Development Standards section. Further, said facilities shall be developed under such conditions imposed by the Board of Zoning Appeals as to protect residential districts and maintain at a minimum the disturbance to nearby residential uses.

(F) If the pedestrian access between the off-site parking facility and the use(s) is to cross an arterial street, appropriate safety measures, as determined by the Planning Director and City Engineer, must be in place to ensure pedestrian and vehicular safety.
(Ord. 08-06. Passed 3-4-08.)

1365.08 PARKING AND STORAGE OF CERTAIN VEHICLES.

(A) Automotive Vehicles. Automotive vehicles or trailers of any type without current license plates and inspection sticker or in an inoperable condition so as to be deemed dead storage shall be prohibited in residential districts other than within completely enclosed buildings, and shall not be parked or stored in any zone district unless specifically authorized under the terms of this Ordinance.

(B) Commercial Vehicles on Private Property. The parking of a commercial vehicle in residential zone districts shall be prohibited, except that one commercial vehicle of not more than three (3) tons capacity may be parked on any lot on which there is located a principal building, provided, however, that such vehicle is parked in an enclosed garage, accessory building or rear yard and is used by an occupant of the premises. This requirement shall not be interpreted to prohibit commercial vehicles from temporary loading and unloading in any residential district.

1365.09 PARKING DEVELOPMENT STANDARDS.

All off-street parking areas for four or more automobiles shall be developed in accordance with the standards of this section, except in the case of one and two-family dwellings, agricultural and rural uses, and storage of vehicular merchandise not counting toward the minimum requirements as set forth in this Code.

(A) Dimensions.

(1) Each required off-street standard parking space shall be at least eight and one half (8.5) feet in width and at least eighteen (18) feet in depth, exclusive of access drives or aisles, ramps, columns, or office or work areas. Such space shall have adequate vertical clearance.

(2) Up to ten (10) percent of the total number of required parking spaces may be designed for compact cars; provided, compact spaces are limited to employees or residents only and the property owner/manager assigns and enforces such spaces accordingly. Compact spaces shall be grouped together and identified as "compact cars only" with pavement stenciling and/or signage. Compact spaces should be located furthest from building entrances to discourage use by noncompact vehicles. Each compact space shall be at least eight (8) feet in width and at least fifteen (15) feet in depth, exclusive of access drives or aisles, ramps, columns, or office or work areas. Such space shall have adequate vertical clearance.

(3) Except on lots occupied by one and two-family dwellings, each off-street parking space shall open directly upon an aisle or driveway at least twelve (12) feet wide or such additional width and design in accordance with Table 1365.09.01, so as to provide safe and efficient means of vehicular access to such parking space. Such aisle or driveway shall be unobstructed and allow for the passage of emergency vehicles at all times. This requirement may be waived by the Planning Director where such waiver will not cause a hazard.

(4) All required parking spaces and aisles shall be provided wholly within the property lines and shall not extend into any public right-of-way.

Table 1365.09.01: Dimensions

Parking Angle	Stall Type	Width of Stall (feet)	Depth of Stall Perpendicular to Aisle (feet)	One-Way Aisle Width (feet)	Two-Way Aisle Width (feet)
45^0	Standard	8.5	17.5	12.0	20.0
	Compact	8	16.0	12.0	20.0
60^0	Standard	8.5	19.0	16.0	20.0
	Compact	8	17.0	15.0	20.0
90^0	Standard	8.5	18.0	20.0	20.0
	Compact	8	15.0	20.0	20.0
Parallel	Standard	22.0	7.5	12.0	20.0
	Compact	19.0	7.5	10.0	20.0

(B) Layout and Design.

(1) All off-street parking or loading facilities shall be designed with appropriate means of vehicular access to a street or an alley in a manner which will least interfere with traffic movement.

(2) Driveway entrances or exits shall be no closer than 15 feet to an adjoining residential property line or 5 feet to an adjoining non-residential property line or designed in such a manner as to least interfere with traffic movement. No driveway across public property at the right-of-way line of the street shall exceed a width of 22 feet, unless a greater width is specifically approved by the City Engineer. No driveway shall be located closer than 30 feet of the nearest point of the intersection of two streets.

(3) Connections between parking lots or reservations of land for future such connections may be required at the discretion of the Planning Director.

(4) Required off-street parking spaces shall be so designed, arranged and regulated so that:

(a) Such parking areas are lined or designated to insure the most efficient use of the parking spaces.

(b) Individual spaces on lots with 5 percent average slope or greater are provided with anchored bumper guards or wheel guards. Under no circumstances shall parking spaces be provided on lots in excess of 10 percent slope.

(c) Parking spaces are unobstructed and have access to an aisle or driveway so that any automobile may be moved without moving another, and so that no maneuvering directly incidental to entering or leaving a parking space shall be on any public right-of-way or walkway, unless otherwise permitted at the direction of the Planning Director.

(d) With the exception of drive-through windows and related stacking lanes, all parking spaces and maneuvering aisles shall be physically separated from any wall of a building by a vertical curb, maintained planting strip, and/or other suitable barrier.

(5) Off-street parking spaces may be open to the sky or enclosed in a building. In any instance when a building is constructed or used for parking facilities on the lot, said building shall be treated as any major structure and subject to all requirements thereof.

(6) All parking lots abutting residential uses or districts, and all parking lots in any district containing more than four (4) spaces shall be subject to the landscaping and screening requirements for such parking lots as set forth in Article 1367, Landscaping and Screening.

(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 such illumination. (Ord. 06-01. Passed 1-3-06.)

(C) Surfacing and Drainage.

(1) All open off-street parking areas shall be surfaced with an all-weather, dust-free concrete or asphalt material, and shall be maintained in good condition and free of weeds, dirt, trash and debris; except that, a gravel surface may be used for a period not exceeding six months after the date of granting the Certificate of Occupancy where ground conditions are not immediately suitable for permanent surfacing as specified above.

(2) A gravel surface in the area of storage or handling may be used permanently in association with industries that handle liquids or chemicals which create a potential hazard if containment should be lost and where absorption into the ground through a loose surface material would eliminate or alleviate such hazard.

(3) Such parking areas shall be graded and properly drained in such a manner that there will be no free flow of water onto either adjacent property or public sidewalks. Further, any run-off generated by such improved areas shall be disposed of in accordance with the stormwater management ordinance and other City regulations.

(4) Other surface materials and designs may be utilized when specifically approved by the City Engineer, for purposes of reducing storm water runoff or other environmental and aesthetic considerations.
(Ord. 13-33. Passed 7-2-13.)

1365.10 LOADING REQUIREMENTS.

Uses and buildings with a gross floor area of 5,000 square feet or more shall provide off-street loading spaces in accordance with Table 1365.10.01 provided that loading spaces shall not be required for uses which do not receive or transmit goods or wares by truck delivery.

(A) Location. All required off-street loading berths shall be located on the same lot as the use to be served, and no portion of the vehicle shall project into a street or alley. No permitted or required loading berth shall be located within thirty (30) feet of the nearest point of intersection of any two streets, nor shall it be located in a required front yard or side yard adjoining a residential use or district.

(B) Each required off-street loading space shall be of a size not less than that required for an off-street parking space but scaled larger to delivery vehicles expected to be used, logically and conveniently located for bulk pickups and deliveries, and accessible to such vehicles when required off-street parking spaces are filled, provided that the off-street area required for the receipt or distribution by vehicles of materials or merchandise is held to be as follows:

(1) For local pick-up and delivery trucks: twelve (12) feet in width by thirty (30) feet in length with a forty-five (45) foot maneuvering apron, and a twelve (12) foot height clearance.

(2) For over-the-road tractor-trailers: fourteen (14) feet in width by sixty (60) feet in length with a sixty (60) foot maneuvering apron, and a fourteen (14) foot height clearance.

(C) Paving regulations for loading areas shall be in accordance with the paving regulations for parking areas as set forth in the development standards section. Drainage regulations shall be in accordance with the City's stormwater management ordinance and other City ordinances.

(D) Loading berths shall be screened by either building walls, a solid fence, densely planted shrubbery, or any combination thereof, none of which may be less than 6 feet in height at maturity, unless located at the rear of the building.

Table 1365.10.01: Required Loading Spaces

Use Description	**Floor Area in Square Feet**	**Number of Loading Spaces Required**
Type I: 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
Type II: Office Buildings, hotels and motels, retail sales, hospitals, institutions and similar uses	5,000 - 60,000	1
	60,001 - 100,000	2
	Each 20,000 above 100,000	1

(Ord. 07-57. Passed 11-6-07.)

ARTICLE 1367
Landscaping and Screening

1367.01 Purpose.
1367.02 Applicability.
1367.03 Enforcement.
1367.04 Content of landscape plan.
1367.05 Preservation of existing features.
1367.06 General landscaping requirements.
1367.07 Bufferyard landscaping requirements.
1367.08 Parking lot landscaping requirements.
1367.09 Modifications.
1367.10 Installation and maintenance.
1367.11 Approved street tree and shrub list.

CROSS REFERENCES
Landscaping defined - see P. & Z. 1329.02
Fences - see P. & Z. 1331.08(B)

1367.01 PURPOSE.

The purpose of this Section is to establish minimum standards for the provision, installation, and maintenance of landscape plantings in order to achieve a healthy, beautiful, and safe community.

1367.02 APPLICABILITY.

A. These landscape regulations shall apply to two-family, multi-family, commercial, office, industrial, and institutional development. Previously approved development need not comply unless new site development approval is being sought.

B. If a proposed addition or renovation to an existing structure equals or exceeds 50% of the assessed value of the structure, the site must be brought into compliance with the landscaping requirements of this section; provided, that where it is clearly demonstrated that compliance with this section will reduce the minimum number of required parking spaces for the use, compliance with this section shall be required only to the degree that the minimum parking requirement can still be met.

1367.03 ENFORCEMENT.

Wherever site plan review is required by this Zoning Ordinance, a landscape plan shall be a required part of such site plan. No permanent certificate of occupancy shall be issued without completion of all landscaping shown on the landscape plan required herein. A temporary certificate of occupancy may be issued for the building for a period of one year when weather conditions do not permit landscape installation. Failure to implement the approved landscape plan, including preservation of existing features, or to maintain the landscaping as long as incompatibility of adjoining uses exists, shall be a violation of this Zoning Ordinance subject to the penalties outlined in Article 1393.

1367.04 CONTENT OF LANDSCAPE PLAN.

Where required, a landscape plan shall conform to the following requirements: All landscape plans submitted for approval as a component of a required site plan shall show the entire zoning lot to scale and shall contain the following information:

(A) The location and dimensions of all existing and proposed structures, parking lots and drives, roadways and right-of-way, sidewalks, bicycle paths, ground signs, refuse disposal areas, freestanding electrical equipment, recreation facilities, utility lines and easements, freestanding structural features, and other landscape improvements, such as earth berms, walls, fences, screens, sculptures, fountains, street furniture, lights, and courts or paved areas;

(B) The name, address and phone number of the owner, developer, and plan preparer, the date the plan was prepared, scale, and north arrow;

(C) The location, quantity, size, and common name of all proposed planting materials;

(D) The location, size, and common name of existing trees over 8" diameter at breast height, areas of dense trees or shrubs, and other natural features, indicating which are to be preserved and which are to be removed;

(E) Existing and proposed grading of the site, including proposed berming;

(F) Specification of the type and boundaries of all proposed vegetative ground cover;

(G) Design of fences and other significant accessory structures;

(H) Planting and installation details as necessary to ensure conformance with all required standards; and;

(I) Details indicating specific grading measures or other protective devices where trees are to be preserved in areas of cut and fill.

1367.05 PRESERVATION OF EXISTING FEATURES.

(A) Trees and shrubs already existing on land subject to the provisions of this section should be preserved wherever feasible. Criteria for judging the feasibility of retaining existing vegetation include:

(1) The practicability of arranging site plan components around existing features. In general, plans for groups of structures should be designed so as to preserve tree masses, individual tree specimens, and small stands of trees or shrubs;

(2) The condition of the vegetation with respect to continued vitality;

(3) The practical and economic possibility of designing the location and grades of proposed structures and paving to preserve existing vegetation;

(4) The desirability or lack thereof of a particular tree or species by reason of its appearance; historic or ecological significance; botanical characteristics; and the function the vegetation would fulfill as a site plan component;
(5) Interference with utility services or encroachment into the traffic visibility triangle; and,
(6) The possibility of preserving the vegetation while meeting the development needs through pruning rather than removal.

(B) Existing trees that are preserved will contribute to the required landscaping. For each tree that is preserved, which is greater than 8-inch caliper, and is found on the approved list, the amount of new trees to be installed shall be reduced by two trees.

(C) Substantial barriers shall be specified on the Landscape Plan and shall be placed at or beyond the drip line of trees to be protected. These barriers shall remain in place during heavy construction on the site, and no vehicle, machinery, tools, chemicals, construction materials, or temporary soil deposits may be permitted within the barriers, nor may any notice or other object be nailed or stapled to protected trees.

1367.06 GENERAL LANDSCAPING REQUIREMENTS.

(A) All land areas that are not covered with buildings and pavement or used for agricultural purposes shall be appropriately landscaped in accordance with the requirements of this section. Landscaping shall be provided in the areas specified and of the minimum intensity, specified below.

(B) The scale and nature of landscape materials shall be appropriate to the size of the structures and the available space. Materials shall be located to avoid interference with overhead and underground utilities and utility easements or vehicular or pedestrian movement and visibility. Growth characteristics should be carefully considered.

(C) Trees shall be planted to maintain a minimum of ten (10) to fifteen (15) feet clearance between the tree trunk and structures, building overhangs, walls, fences, and other trees.

(D) Plantings should be arranged to promote energy conservation wherever practicable; e.g. use of tall deciduous trees on the south and west sides of buildings to provide shade from the summer sun and planting evergreens on the north of buildings to dissipate the effect of winter winds.

(E) All trash dumpsters, trash pads, loading areas consisting of two or more loading spaces, loading docks, building service and outside storage areas shall be screened from land in a residential zone and must be screened if visible from a public street. Such screening may be achieved by using a minimum six feet high, completely opaque fence or wall, a six feet high berm, or a six foot high evergreen screen. Height of screen shall be measured from the grade of the nearest street.

(F) Grass and other vegetative ground cover shall be used for all open space, including parking lot islands, except for:

(1) Decorative mulch planting beds containing trees and/or shrubs.

(2) Inert stabilization in areas subject to severe runoff, erosion, or ponding.

(G) Where stone or other inert materials are to be used for ground cover, they shall be specifically identified on the landscape plan. Any area not so designated shall be required to have grass or vegetative ground cover.

(H) All landscaping shall conform to the regulations established for visibility triangles to maintain safe sight distances and intersections and points of access as designated in Section 1363.03, Safety and Vision.

(I) All landscaped areas at the front line of off-street parking spaces shall be protected from encroachment or intrusion of vehicles.

(J) In no case may a tree or shrub be planted within a drainage, sewer or utility easement.

1367.07 BUFFERYARD LANDSCAPING REQUIREMENTS.

(A) New non-residential buildings that abut a residential property (zoned or used) or new multi-family residential buildings that abut a single or two-family residential property (zoned or used) shall provide a landscape buffer ten (10) feet wide planted with five (5) medium to large trees and ten (10) to fifteen (15) shrubs per 100 linear feet of transitional yard between the new non-residential and residential uses or new multi-family and single or two-family uses. This requirement may supersede the minimum setback requirement for the district.

(B) Developed lots or lots with unexpired building permits at the time of adoption of this ordinance are exempt from this requirement.

Graphic 1367.07.01: Transitional Yard Landscaping

(C) Undeveloped properties, expansions of more than 40 percent of existing floor area, and rezoned property are subject to the provisions of this section.
(Ord. 06-37. Passed 11-8-06.)

1367.08 PARKING LOT LANDSCAPING REQUIREMENTS.

The following landscape requirements applied to parking lots are intended to screen parking areas from the street, prevent large expanses of unbroken paving, and provide shade to cool paved areas during the hot summer months.

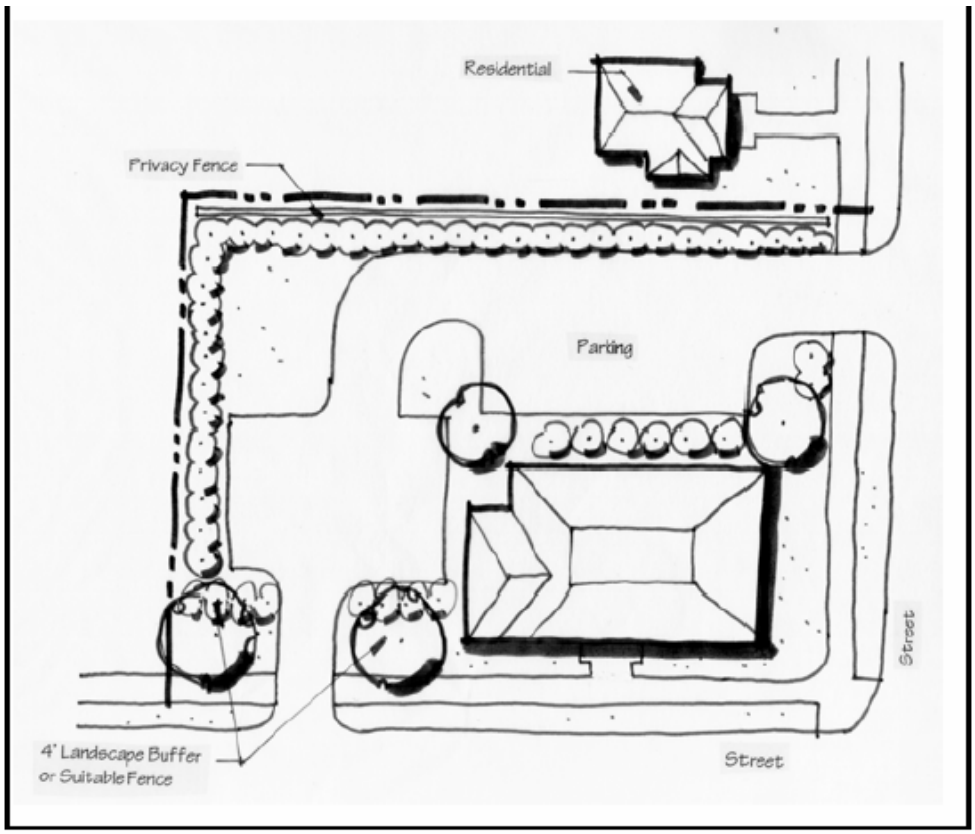
(A) General Provisions.

(1) Parking lots with (four) 4 stalls or less are exempt from the requirements of this section. If only (four) 4 stalls are required per this Ordinance and the applicant chooses to provide more parking, then the requirements of this section shall apply.

(2) All remaining unpaved areas of the parking lot shall be grassed or planted in ground cover, unless otherwise specified.

(B) Development with No Parking Between Building Line and Street.

Graphic 1367.08.01: Development with No Parking Between Building Line and Street



If there is no parking anywhere between the established building line, projected from corner of building to property lines:

(1) A four (4) foot perimeter buffer shall be provided, along the sides and rear yard of the property, that contains at least one two inch (2") caliper tree every twenty (20) feet and at least three (3) shrubs of at least three (3) gallons in size clustered between each two (2) trees.

(2) If the proposed parking lot contains twenty (20) stalls or more, an additional five (5) percent of the parking lot area shall be reserved for interior landscaping. Planting beds running adjacent to and parallel with the building, perimeter landscaping and buffer requirements shall not count towards this requirement.

(C) Development with Parking Located Between Building and Street. If any parking is located between the street and the building line, the following shall apply:

(1) A ten-foot wide buffer shall be provided for the length of any parking area abutting the street. The buffer area shall contain at least one (1) two inch (2") caliper trees for every twenty (20) feet and at least three (3) shrubs of at least three (3) gallons in size clustered between each two (2) trees.

(2) A six (6) foot side and rear yard buffer shall be provided that shall contain at least one two inch (2") caliper tree for every twenty (20) feet and three (3) shrubs of at least three (3) gallons in size clustered between each two (2) trees. (Ord. 06-01. Passed 1-3-06.)

(D) Design Standards for Interior Landscaping.

(1) All interior landscaping required by this ordinance shall be in addition to any perimeter buffers required in Sections 1367.07 and 1367.08.

(2) All rows of parking spaces, when a lot contains 20 or more parking stalls, shall provide a terminal island with concrete curbs and at least 130 square feet of area to protect parked vehicles, provide visibility, confine moving traffic to aisles and driveways, and provide space for landscaping. These islands may count toward fulfilling the 5 percent internal landscaping requirement.

(3) Landscaped islands with concrete curbs and at least 130 square feet of area shall be provided every ten spaces or less within a row of spaces for multi-family residential sites and every 15 spaces or less within a row of spaces for commercial developments. Planting islands should be evenly spaced throughout the parking lot to consistently shade paved areas. Islands shall be utilized where needed to control vehicular circulation and define major drives. These islands may count toward fulfilling the 5 percent internal landscaping requirement. To prevent cars from parking too close to trees or damaging shrubs, an extended curb or wheel stop must be provided. Planting islands parallel to parking spaces must be a minimum of five feet wide to allow car doors to swing open. (Ord. 09-28. Passed 7-7-09.)

1367.09 MODIFICATIONS.

(A) Under conditions where a strict interpretation of requirements may be either physically impossible or create practical difficulties, an alternative compliance procedure may be used to maintain the spirit—rather than the letter—of the law. The proposed solution must equal or exceed standard landscaping requirements. Requests to the Planning Director for use of alternative landscaping schemes may be justified only when one or more of the following conditions apply:

(1) The sites involve space limitations or unusually shaped parcels;

(2) Topography, soil, vegetation, or other site conditions are such that full compliance is impossible or impractical;

(3) Due to a change of use of an existing site, the required bufferyard is larger than can be provided;

(4) Existing utility lines or easements complicate the placement of required plant materials.

(5) The applicant must provide a justification statement that describes which of the requirements established by the Landscaping Ordinance will be met with modifications, which project conditions justify using alternatives, and how the proposed measures equal or exceed normal compliance

(B) Where compliance is required as a result of change in use or expansion of an existing building and compliance with this section will necessitate removal of existing pavement, the Planning Director may approve a reduction of minimum planting areas, provided that proposed plantings, screens, and other landscape features are substantially equivalent to the minimum requirements in terms of landscaping.

(C) After initial approval of the landscape plan the Planning Director may approve any substitute landscape proposal that he/she deems to be equivalent to the approved landscape.

(D) Occasionally, plant substitutions for species specified on approved landscape plans are required due to seasonal planting problems and a lack of plant availability. Minor revisions to planting plans can be approved by the Planning Director if there is no reduction in the quantity of plant material, no significant change in size or location of plant materials, and if the substitute plants are of the same general category and have the same general design characteristics as the plants originally approved. Proposed materials must also be compatible with the microclimate of the site to ensure healthy plant growth.

1367.10 INSTALLATION AND MAINTENANCE.

(A) Plant materials shall conform to the requirements described in the latest edition of the American Standard for Nursery Stock, which is published by the American Association of Nurserymen. Plants shall be nursery grown.

(B) Plants shall conform to the measurements specified below:

(1) Caliper measurements shall be taken six inches above grade for trees under four inches in diameter and 12 inches above grade for trees four inches or larger in diameter.

(2) Minimum size for shade trees shall be 2 inches in caliper.

(3) Minimum size for ornamental trees shall be 1.5 inches in caliper.

(4) Minimum size for evergreen trees shall be 4 feet above grade.

(C) After cultivation, all plant materials shall be mulched with a two to three inch layer of shredded bark, peat moss, or another suitable material over the entire area of the bed.

(D) The owner of the premises shall be responsible for the maintenance, repair, and replacement of all landscaping materials on the premises at the owner's expense. All landscape areas shall be kept free of refuse and debris. Fences, walls, and other barriers shall be maintained in good repair. It is the responsibility of each private property owner to remove any dead, diseased, or dangerous trees or shrubs, or parts thereof, which overhang or interfere with line of sight, traffic control devices, public sidewalks, rights-ofway, or property owned by the City. The City shall have the authority to order the removal of any such trees or shrubs.

1367.11 APPROVED STREET TREE AND SHRUB LIST.

(A) Table 1367.11.01 "Approved Street Tree and Shrub List" identifies the approved species that may be used to meet street tree and landscaping requirements set forth herein. Plant materials proposed other than those listed in Table 1367.11.01 may be approved by the Planning Director.

Table 1367.11.01: Approved Street Tree and Shrub List

Approved Trees	
Genus/Species	Common Name
Medium to Large Trees - suitable for urban environments, but not under wires	
Acer rubrum & cys.	Red Maple Cultivars
Betula spp.	Birch
Celtis occidentalis	Hackberry
Cladrastis lutea	Yellowwood
Corylus colurna	Turkish Hazelnut

Fagus spp. cvs.	Beech
Fraxinus americana	White Ash
Fraxinus pennsylvanica	Green Ash
Ginkgo biloba	Ginko Species - Male
Gleditsia triacanthos var. inermis	Thornless Honeylocust
Liriodendron tulipifera	Tulip Tree
Nyssa sylvatica	Black Gum
Platanus acerfolia	London Planetree
Quercus alba	White Oak
Quercus bicolor	Swamp White Oak
Quercus muehlenbergii	Chinkapin Oak
Quercus palustris	Pin Oak
Quercus phellos	Willow Oak
Quercus rubra	Red Oak
Quercus shumardii	Shumard Oak
Taxodium distichum	Bald Cypress
Tila cordata & cvs.	Littleaf Linden
Zelkova Serrata	Zelkova
Small Trees - suitable for planting under low overhead utility wires or restricted spaces	
Alnus glutinosa	European Alder
Amelanchier spp.	Serviceberry
Carpinus spp.	Hornbeam
Chionanthus virginicus	Fringetree
Cornus spp.	Dogwood
Cotinus obovatus	American Smoke Tree
Crataegus spp.	Hawthorn
Halesia carolina	Silverbell

Ostrya virginiana	American Hophornbeam
Oxydendrum arboretum	Sourwood
Prunus spp. cvs.	Ornamental Cherry
Stewartia ovata	Mountain Stewartia
Syringa reticulate	Japanese Tree Lilac
Evergreen Trees	
Cuppressocyparis leylandii	Leyland Cypress
Cryptomeria japonica	Japanese Cedar
Picea abies	Norway Spruce
Picea omorika	Serbian Spruce
Picea pungens	Colorado Blue Spruce
Pinus sylvestris	Scots Pine
Pinus strobus	Eastern White Pine
Pseudotsuga menziesii	Douglas Fir
Trees to Avoid	
Acer negundo	Boxelder
Acer saccharinum	Silver Maple
Ailanthus altissima	Tree of Heaven
Eleagnus umbellata	Autumn Olive
Koelruteria paniculata	Goldenrain Tree
Pryus calleryana ‘Bradford’	Bradford Pear
Phellodendron amurense	Amur Cork Tree
Shrubs	
Aronia arbutifolia ‘Brilliantissima’	Red Chokeberry
Chaenomeles Species	Oriental Quince
Cotoneaster spp	Cotoneaster Species
Cryptomeria	
Forsythia x intermedia	Showy Border Forsythia

Hydrangea quercifolia	Oakleaf Hydrangea
Ilex glabra	Inkberry
Ilex M. ‘Blue Princess’	Blue Princess Holly
Ilex verticillata	Winterberry Holly
Juniperus chinensis	Chinese Juniper
Kolkwitzia amabalis	Beauty Bush
Myrica pennsylvanica	Northern Bayberry
Syringa patula ‘Miss Kim’	Miss Kim Lilac
Syringa meyeri ‘Paliban’	Dwarf Korean Lilac
Viburnum spp.	Viburnum Species

(Ord. 09-28. Passed 7-7-09.)

ARTICLE 1369
Signs

1369.01 Purpose.
1369.02 Applicability.
1369.03 Effect.
1369.04 Rules of interpretation.
1369.05 Signs exempt from regulations.
1369.06 Permitted signs; location, size, number.
1369.07 Conditions for permitted signs.
1369.08 Lighting and design standards.
1369.09 Size restrictions on permitted signs.
1369.10 Prohibited signs and devices.
1369.11 Design and construction standards.
1369.12 Signs not to create traffic hazard.
1369.13 Lighting.
1369.14 Signs in a public right-of-way.
1369.15 Sign permits.

CROSS REFERENCES

Sign definitions - see P. & Z. 1329.02
Unauthorized traffic signs - see TRAF. 313.06
Nonconforming signs - see P. & Z. 1373.05

1369.01 PURPOSE.

(A) The purposes of these sign regulations are:

(1) To encourage the effective use of signs as a means of communication in the City; to maintain and enhance the pleasing look of the City, which attracts to the City continued economic investment; to preserve Morgantown as a community that is attractive to business, to residents and to visitors;

(2) To improve pedestrian and traffic safety;

(3) To minimize the possible adverse effects of signs on nearby public and private property;

(4) And to implement relevant provisions of the comprehensive plan, as updated periodically.

(B) In that context, the City continuously invests in parks, trails, landscaping, quality public facilities and other features and amenities that enhance the attractiveness of the community; a major purpose of this ordinance is to ensure that signs in the community are compatible with the high quality image that the City seeks and in which the City continuously invests.

1369.02 APPLICABILITY.

A sign may be erected, placed, established, painted, created or maintained in the City only in conformance with the standards, procedures, exemptions and other requirements of this ordinance and other applicable City codes. Signs exempt from regulation under Section 1369.05, Signs Exempt from Regulations, shall not otherwise be subject to this Ordinance.

1369.03 EFFECT.

The effect of this Ordinance, as more specifically set forth herein, is:

(1) To establish a permit system to allow a variety of types of signs in commercial and industrial zones, and a limited variety of signs in other zones, subject to the standards and the permit procedures of this Ordinance;

(2) To allow certain signs that are small, unobtrusive and incidental to the principal use of the respective lots on which they are located, subject to the substantive requirements of this Ordinance, but without a requirement for permits;

(3) To provide for temporary signs in limited circumstances;

(4) To prohibit all signs not expressly permitted by this Ordinance; and

(5) To provide for the enforcement of the provisions of this Ordinance.

1369.04 RULES OF INTERPRETATION.

(A) Area Computation of Individual Signs. The area of a sign face (which is also the sign area of a wall sign or other sign with only one face) shall be computed by means of the smallest rectangle that will encompass the extreme limits of the writing, representation, emblem or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed, but not including any supporting framework, base, bracing or decorative fence or wall when such fence or wall otherwise meets the regulations of this Ordinance and is clearly incidental to the display itself.

(B) Area Computation of Multi-faced Signs. Where the sign faces of a double-faced sign are parallel or the interior angle formed by the faces is 60 degrees or less, only one display face shall be measured in computing sign area. If the two faces of a double-faced sign are of unequal area, the area of the sign shall be the area of the larger face. In all other cases, the areas of all faces of a multifaced sign shall be added together to compute the area of the sign. Sign area of multifaced signs is calculated based on the principle that all sign elements that can be seen at one time or from one vantage point should be considered in measuring that side of the sign.

(C) Sign Height Computation. The height of a sign shall be computed as the distance from the base of the sign at normal grade to the top of the highest attached component of the sign. Normal grade shall be construed to be the newly established grade after construction, exclusive of any filling, berming, mounding or excavating solely for the purpose of locating the sign. In cases where the normal grade is below grade at street level, sign height shall be computed on the assumption that the elevation of the normal grade at the base of the sign is equal to the elevation of the nearest point of the crown of a public or private street.

1369.05 SIGNS EXEMPT FROM REGULATIONS.

The following signs shall be exempt from regulation under this Ordinance:

(A) Any official or public notice or warning required by a valid and applicable federal, state or local law, regulation or ordinance, by a public utility company or by order of a court of competent jurisdiction; or signs erected by any public entity that is statutorily exempt from local zoning.

(B) Traffic signs on private property, such as Stop, Yield and similar signs, which meet the standards contained within the federal Manual on Uniform Traffic Control Devices and contain no commercial message;

(C) Signs hanging or standing inside a building, not attached to a window or door, visible from a public street.

(D) Any sign inside an athletic field or other enclosed outdoor space;

(E) Works of art with no commercial message;

(F) Holiday decorations with no commercial message displayed between November 15 and January 15.

(G) On-premise real estate signs indicating for sale, for lease, etc.

(H) Lettering attached to the window or door of a business that only describes hours of operation, street address, or other non-commercial copy/logos.

(I) Yard sale signs.

(J) Signs attached to or painted onto service vehicles.

(K) Signs on fuel pumps that cannot generally be read from off the premises.

(L) Political signs.

(M) Signs erected by any entity legally exempt from municipal zoning.

1369.06 PERMITTED SIGNS; LOCATION, SIZE, NUMBER.

Signs shall be permitted in accordance with Table 1369.06.01 and the supplemental regulations following Table 1369.06.01 and subject to the height limits shown in Table 1369.09.01. The character "√" in the row for a sign and in the column for a particular group of zoning districts shall indicate that the sign type is permitted in that district in accordance with the provisions of this section. The symbol "--" in any cell indicates that the sign type listed is not allowed in that district under any circumstances. The references in the "Supplemental Regulations" column refer to permit requirements, which shall apply to that sign in accordance with its terms.

Table 1369.06.01: Permitted Signs

SIGN TYPE	R-1, R-1A, R-2, R-3	B-1, B-2, B-5, PUD	I-1	B-4	OI, PRO	ISOD	Required Permits
Ground							
Directory	√	√	√	√	√	--	BP, FP, SP
Directional	√	√	√	√	√	--	BP, FP, SP
Menu Board	--	√	--	√	--	--	BP, FP, SP
Monument	√	√	√	√	√	--	BP, FP, SP
Post and Panel	--	√	√	√	√	--	BP, FP, SP
Pole or Pylon Sign	--	--	--	--	--	√	BP, FP, SP
Billboard Sign	--	--	--	--	--	√	BP, FP, SP
Sandwich Board	√	√	--	√	√	--	BP, FP, SP
Building							
Construction	√	√	√	√	√	--	SP, FP
Directory	√	√	√	√	√	--	BP, FP, SP
Electronic, scrolling message	--	√	√	--	--–	--	BP, FP, SP
Marquee	--	√	--	√	--	--	BP, SP
Suspended	--	√	--	√	√	--	BP, SP
Temporary	√	√	√	√	√	--	FP, SP
Wall	√	√	√	√	√	--	BP, SP
Other							
Off Premise Sign	--	--	--	--	--	√	BP, FP, SP
Public Event Banner	√	√	√	√	√	--	BP, SP*

BP – building permit; required for signs costing more than $250 which includes labor and materials
FP - floodplain permit
SP - sign permit
* The manner of attachment may determine whether or not a BP is required.

(Ord. 13-11. Passed 3-6-13.)

1369.07 CONDITIONS FOR PERMITTED SIGNS.

(A) Construction Sign. Construction signs shall be allowed, provided that:

(1) Only one construction sign is permitted per acre of development.

(2) Construction signs shall be removed prior to receiving a certificate of occupancy for the building.

(3) Construction signs shall be allowed for nonresidential, institutional or multi-family residential buildings, provided that:

(a) Such signs shall not exceed 48 inches in height;

(b) Such signs shall not exceed 12 square feet in area per side;

(c) Setbacks shall be adequate to protect the clear sight triangle, in accordance with the zoning ordinance.

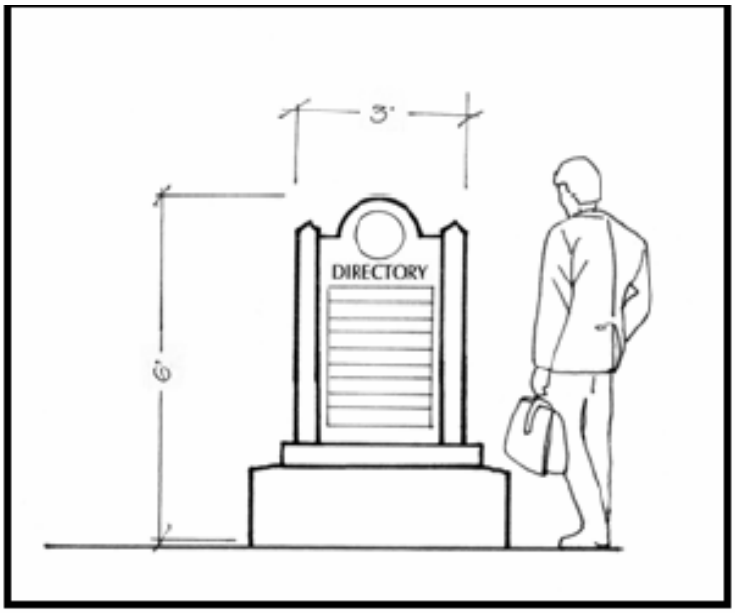
(B) Directory Sign. Directory signs shall be allowed where a particular site includes more than one tenant, provided that:

(1) Logo/name directory signs in shopping centers may be located near entrances to parking areas, but not less than 20 feet from any public right-of-way, and at principal intersections within the site, where such intersections are not less than 20 feet from any public right-of-way. There may be one directory sign per entrance, which shall be in accordance with (B) (3) below if more than one tenant. Such signs shall not exceed 18 square feet in area and 6 feet in height. Such signs may contain logos or business names with arrows or other directional information but shall not contain any commercial message. Such sign shall not be illuminated. In addition to such directory signs, any shopping center may have one detailed directory sign as described below.

(2) All other signs for individual tenants must be wall signs, suspended signs, or sandwich board signs.

(3) All directory signs shall be of the monument style.

Graphic 1369.07.01: Directory Sign



(C) Marquee Sign. In addition to permitted wall signs, marquee signs with changeable copy shall be allowed at movie or performance theaters. Such changeable copy signs may cover no more than one square foot of sign area for each linear foot of theater building frontage. Like poster boxes, such signs shall be subject to total wall sign area limits. Other non-changeable copy signs may be attached to or mounted on top of a marquee.

(D) Menu Board Sign. Menu boards shall be allowed only as an accessory use to a restaurant permitted to have a drive-thru window under the Zoning Ordinance, provided that:

(1) Such signs shall not exceed 32 square feet in area and six feet in height;
(2) Such signs shall not be legible from a public right-of-way or adjacent property;
(3) There shall be no more than one such sign per property;
(4) The color of such signs shall be neutral or earth tone or have architectural ties to the main building;
(5) Such signs may have changeable copy; and
(6) Such signs may be internally or directly illuminated.

(E) Monument Sign.

(1) Monument signs shall be allowed, provided that:
    (a) Such signs shall not exceed 72 inches in height;
    (b) Such signs shall not exceed 32 square feet in area per side;
    (c) Setbacks shall be adequate to protect the clear sight triangle, in accordance with the zoning ordinance.
(2) Both sides of a two-sided monument sign shall be identical in design and content;
(3) For a single-occupant property, there shall be only one monument sign per principal entrance to the project, provided that no two ground signs on the same parcel shall be within 100 feet of each other;
(4) For multi-tenant buildings, the only monument sign allowed on the property shall be a directory sign. All other signs for tenants shall be wall signs or sandwich board signs; and
(5) Outparcels in shopping centers shall not be allowed principal ground signs.

(F) Post and Panel Sign.

(1) Post and panel signs shall be allowed, provided that:
    (a) Such signs shall not exceed 6 feet in height;
    (b) Such signs shall not exceed 32 square feet in area per side; and,
    (c) Setbacks shall be adequate to protect the clear sight triangle, in accordance with the Zoning Ordinance.
(2) Both sides of a two-sided post and panel sign shall be identical in design and content;
(3) For a single-occupant property, there shall be only one post and panel sign per principal entrance to the project, provided that no two ground signs on the same parcel shall be within 100 feet of each other;

(4) For multi-tenant buildings the only post and panel sign allowed on the property shall be a directory sign. All other signs for tenants shall be wall signs or sandwich board signs; and
(5) Outparcels in shopping centers shall not be allowed post and panel signs.

(G) Suspended Sign.
(1) Such signs may be allowed in addition to wall signs provided that such signs may not exceed 6 square feet of total area which shall not count toward the total maximum sign area allowed;
(2) Such signs shall not be separately illuminated;
(3) Such signs shall contain only the address, suite number, logo or name of the occupant or business served by the entrance;
(4) Only one such sign may be erected by any one tenant;
(5) Such sign may protrude into the right of way only if the building is within two (2) feet of the sidewalk;
(6) A suspended sign can be located under a canopy, provided that such sign shall not exceed two square feet in area;
(7) Such sign must maintain a clearance of 9 feet above the sidewalk: and,
(8) Such signs must comply with all applicable local and state regulations.

(H) Temporary Sign. Signs for temporary uses, special events or the opening of businesses, as expressly permitted under the Zoning Ordinance, provided that:
(1) Such signs shall be located only on private property;
(2) Sign permits shall be limited to a duration of 30 days or, for a temporary use, for the period of time stated on the temporary use permit;
(3) No more than three temporary sign permits shall be issued within any 12-month period for the same business in the same location and only one sign may be included on each permit;
(4) Except as permitted by a temporary use permit, temporary signs shall be attached to and parallel with a wall of the building on which wall signs are permitted and shall not exceed 32 square feet in surface area;
(5) Such signs must be made of cloth or vinyl;
(6) Where a temporary use permit specifically authorizes the use of a temporary ground sign, such sign shall not exceed 42 inches in height and 16 square feet in area per side; and
(7) Special events, such as those associated with civic, philanthropic, educational purposes, rodeos, and carnivals shall be allowed a temporary sign, regardless of whether a temporary use permit is required and whether the use is specifically permitted under the Zoning Ordinance, provided that:
(a) Up to two ground signs shall be allowed per property per event;
(b) Such sign shall be located only on private property;
(c) Such sign, if a monument sign, shall be limited to 20 square feet each; and,
(d) Such sign shall be erected no sooner than ten days preceding the event and shall be removed no later than one day following the event.

(I) Wall Sign, Nonresidential.

(1) The total area of all wall signs on a building shall not exceed 0.6 square feet of wall sign area per linear foot of tenant building frontage in the B-5, B-2 and I-1 districts, and 0.4 feet in area in the B-1 and B-4 districts, for each linear foot of building frontage, and the fact that signs may be permitted on more than one wall of the building shall not increase this maximum. All wall signs shall be in accordance with the provisions in Section 1369.09.

(2) Signs on awnings attached to buildings shall be considered wall signs for the purpose of this Ordinance.

(3) No wall sign shall project above the highest point of the building wall on the same side of the building as the sign; this shall include marquee signs and any other signs not affixed directly to such wall.

(4) On a multi-occupancy building, each occupant with an outside entrance serving the general public may have a separate wall sign. Corner tenants with a door or window on their side walls and tenants with a separate outside entrance serving the general public where such entrance is in a different exterior wall from any other entrance for which such tenant shall be allowed one additional wall sign;

(5) Conditions above shall not apply to changeable copy signs for a theater, which shall be subject to the requirements for marquee signs; and,

(6) In addition to other permitted signs, a theater may install one back-lighted or internally illuminated "poster box," provided that:

(a) Such boxes shall not exceed 36 by 54 inches each in area;

(b) The top of such boxes shall not be more than ten feet above ground;

(c) Such boxes shall be permanently mounted to a wall; and,

(d) The number of boxes shall not exceed 1 per screen in the theater. (Ord. 06-01. Passed 1-3-06.)

(J) Sandwich Board Sign.

(1) A single sandwich board sign shall be permitted to be placed on a private sidewalk or on a public sidewalk, for each business that is adjacent to such a sidewalk, provided that Section 905.02 of the City Code is adhered to;

(2) Such sign shall not be higher than 4 feet and 2 feet wide;

(3) Artwork, lettering and color of such sign should be consistent with the shopfront's architectural character; and,

(4) Such sign must not present a risk to public safety; must be removed from the street outside trading hours; and, must be removed in adverse weather conditions. (Ord. 06-37. Passed 11-8-06.)

(K) Directional Sign.

(1) Such sign may contain only instructions guiding traffic and excludes logos and commercial copy;

(2) Such sign must be made of wood or masonry with painted or vinyl appliqued letters;

(3) Such sign may not be internally illuminated;
(4) Such sign may be painted in color, but not exceeding one primary and one trim color; and,
(5) The maximum area of any directional sign shall be four (4) square feet.

(L) Electronic, Scrolling Message Sign.
(1) Such signs are permitted only in the B-5 and I-1 districts, and only if designed as a wall or monument sign.
(2) If such sign is a monument sign, tenants may not have any other monument signs on the property.
(3) If such sign is a wall sign, the sign shall count toward the area allotment.
(4) The advertisement of off-premise businesses or services shall not be allowed.
(5) Such signs must comply with all other applicable local and state regulations.

(M) Off-premise Sign.
(1) Such sign advertising the location of a church or other religious institution may be allowed in any zoning district provided it is 10 square feet in size or less, and
(2) Located on private property with the written consent of the property owner.
(3) Such signs may be permitted in the sign overlay district.

1369.08 LIGHTING AND DESIGN STANDARDS.
(A) Permitted signs in the B-2, I-1 and B-5 districts may be:
(1) Internally illuminated
(2) Sign faces may be vinyl, plastic or other semi-translucent material or any material listed below in subsection (B) (3).

(B) Permitted signs in the B-1, B-4, PRO, OI and residential districts shall comply with the following:
(1) Sign faces shall be opaque;
(2) Signs may not be internally illuminated, except for neon signs; and,
(3) Signs shall be made of wood; sculpted "sign foam"; ornamental metals such as bronze, brass, copper, etc.; painted aluminum panels, stone or masonry (with concrete blocks being covered with stucco); and have painted or vinyl letters attached to windows and doors.

(C) Permitted signs in the B-1 and B-4 districts shall be restricted to the name and logo of the business establishment. No other copy shall be permitted.

1369.09 SIZE RESTRICTIONS ON PERMITTED SIGNS.

(A) Signs for business uses in residentially zoned districts, including bed and breakfast establishments:

(1) Shall have 0.15 square feet of sign area per linear foot of lot frontage on the primary street,

(2) Home occupations may not have any signs.

(B) Signs for multifamily residential uses in all districts:

(1) Shall only advertise project names,

(2) Shall be permitted 6 square feet of sign area, plus 0.1 square feet per dwelling unit, up to a maximum of 24 square feet,

(C) Signs for business uses in the O-I and B-1 districts:

(1) Shall have 0.4 square feet of wall sign area per linear foot of building frontage for single tenant buildings.

(2) Shall have 0.5 square feet of wall sign area per lineal foot of building frontage for multiple tenant buildings.

(3) For all other permitted signs (monument, directory, sandwich board, etc.) there may be an additional 0.3 square feet of sign area for each linear foot of building frontage. This may be divided up among other types of permissible signs, within the limits on the number of such signs set forth.

(D) Signs for businesses in the B-5 and I-1 districts.

(1) In the B-5 district signs shall have 0.6 square feet of wall sign area per linear foot of tenant building frontage.

(2) In the I-1 district signs shall have 0.6 square feet of wall sign area per linear foot of tenant building frontage.

(E) Signs for businesses in the PRO district.

(1) Shall not exceed 20 square feet.

Table 1369.09.01: Freestanding Sign Height Limits (inches)

Sign Type	Residential Districts	Commercial Districts	Industrial Districts	OI & PRO District	ISOD District
Construction	48	48	48	48	
Directory, Logo/Name Directory, Detailed	48 60	48 60	48 60	48 60	
Menu Board	--	60	--	--	
Political	48	48	48	48	
Principal Ground	48	48	48	48	
Pole/Pylon/ Billboard					*
Monument	72	72	72	72	

* To be determined by the Board of Zoning Appeals
(Ord. 13-12. Passed 3-5-13.)

1369.10 PROHIBITED SIGNS AND DEVICES.

All signs not expressly permitted under this Ordinance or exempt from regulation hereunder in accordance with the previous section are prohibited. Such signs include, but are not limited to:

(A) Any sign that copies or imitates an official sign or purports to have official status;
(B) Beacons;
(C) Windblown devices;
(D) Pennants, streamers, strings of light bulbs except for holiday decorations;
(E) Animated signs;
(F) Signs with moving or flashing lights, except as noted in the electronic scrolling message sign section. Neon signs may be used anywhere signs are permitted, except in residential districts, and provided they are one of the permitted types (wall, monument, etc.);
(G) Any sign attached to an accessory structure if such sign is legible from the public right-of-way or from other property;
(H) Any other attention-attracting device, except for those conforming to the dimensional, design, lighting and other standards applicable to a sign in the same location;
(I) Any sign that obstructs or substantially interferes with any window, door, fire escape, stairway, ladder, or opening intended to provide light, air, ingress, or egress to any building;

(J) Any sign attached to gas pumps or gas pump islands that can be read or understood from a public street by most persons of normal vision;
(K) Off-premise and billboard signs of any kind except those allowed under this section;
(L) Pylon signs, except those allowed under this section;
(M) Signs mounted on or above the roofline of any building, except in the B-4 districts, where they may be permitted as a conditional use and shall count towards the total sign allotment of the site; and
(N) Portable signs; and,
(O) Any sign located in a public right-of-way except as provided for in Section 1369.14. (Ord. 13-13. Passed 3-5-13.)

1369.11 DESIGN AND CONSTRUCTION STANDARDS.

(A) Construction Standards. All signs shall be designed, constructed and maintained in accordance with the following standards:

(1) All signs shall comply with applicable provisions of the West Virginia State Building Code and local floodplain management ordinance.
(2) Electric signs that have internal wiring or lighting equipment, and external lighting equipment that directs light on signs, shall not be erected or installed until an electrical permit has been obtained from the Code Enforcement Department. All such signs and equipment shall bear the seal of approval of an electrical testing laboratory that is nationally recognized as having the facilities for testing and requires proper installation in accordance with the National Electrical Code. All wiring to electric signs or to freestanding equipment that lights a sign shall be installed underground.
(3) Except for permitted banners, flags, temporary signs and window signs conforming in all respects with the requirements of this Ordinance, all signs shall be constructed of permanent materials and shall be attached to the ground, a building or another structure by direct attachment to a wall, frame or structure.

(B) Maintenance Standards. All signs shall be maintained in good structural condition, in compliance with all building and electrical codes, and in conformance with this Ordinance. Specifically:

A sign shall not stand with bent or broken sign facing, with broken supports, with loose appendages or struts, or more than 15 degrees from vertical for a period of more than ten days.

1369.12 SIGNS NOT TO CREATE TRAFFIC HAZARD.

Clear Vision Triangle. No sign shall be erected in the clear vision triangle as defined by this Ordinance. Any such signs shall be removed at the direction of the Planning Director. If not removed by owners or occupants of the property within ten days of notice, the Director may cause the property owner to be cited for a violation of the Zoning Ordinance.

1369.13 LIGHTING.

In/Near Residential Areas. Unless otherwise expressly prohibited by this Ordinance or other ordinances of the City, any sign may be externally illuminated, provided that any lighting directed toward the sign is shielded so as to illuminate only the face of the sign.

1369.14 SIGNS IN A PUBLIC RIGHT-OF-WAY.

(A) Permanent Signs. Permanent signs shall be limited to:

(1) Signs erected by a public agency or utility; and

(2) Awning signs or suspended signs projecting over a public right-of-way in the B-4 districts; provided, however, that no awning shall extend out 3 feet from the building or extend closer than 12 inches to the curb, whichever is less.

(B) Other Signs in Public Right-of-Way. Any other sign placed in the public right-of-way in violation of this Ordinance shall be deemed a public nuisance and may be seized by the enforcement official or other representative of the City.

(C) Signs in the B-4 districts.

(1) Signs may not be placed upon the ground within, attached to any object within, or projected into the airspace of a public right-of-way except in the B-4 districts, where sandwich board signs and suspended signs may be used.

(2) In such cases, it is the responsibility of the property owner to insure that the signs are properly maintained and that they do not present a risk to the public safety.

1369.15 SIGN PERMITS.

(A) Permits Required for Sign. Sign permits are required prior to the erection of any sign, as provided in Table 1369.06.01. In addition to sign permits, building permits and floodplain permits may also be required prior to issuance of a sign permit.

(B) Application Requirements.

(1) An application for a sign permit may be filed only by the owner of the property on which the sign is to be erected, or by an agent, lessee, or contract purchaser specifically authorized by the owner to file such application. In addition, a Building Permit shall be required prior to the erection of any sign.

(2) An application for a sign permit shall be filed with the Planning Department on a form prescribed by the Department, along with the fee as prescribed by the City Council.

(3) The Planning Department shall determine whether the application is complete. If the Department determines that the application is not complete, then it shall notify the applicant of any deficiencies and shall take no further steps to process the application until the applicant remedies the deficiencies.

(C) Approval Procedure.

(1) For all signs in the B-4 districts requiring a permit and that are larger than 6 square feet, consultation with the Downtown Design Review Committee shall be necessary. All smaller signs shall be approved following the procedure set forth below, in subsection (C)(2).

(2) Signs identified on Table 1369.06.01 as requiring a permit shall be erected, installed or created only in accordance with a duly issued and valid sign permit from the Planning Director. Such permit shall be issued only in accordance with the following requirements and procedures:

(a) An application for construction, creation or installation of a new sign or for modification of an existing sign shall be accompanied by detailed drawing to show the dimensions, design, structure, and location of each particular sign. One application and permit may include multiple signs on the same site.

(b) No permit shall be issued for any new sign on any parcel of land upon which is situated an illegal sign. Examples of illegal signs include those that were erected or modified without a sign permit, or those that were not removed from the premises upon cessation of the business or enterprise that the sign is related to.

(c) Within five working days of receiving an application for a sign permit, the Planning Director shall review it for completeness. If the Planning Director finds that it is complete, the application shall then be processed. If the Planning Director finds that it is incomplete, the Planning Director shall inform the applicant of the specific ways in which the application is deficient.

(i) Within 20 working days of submission of a complete application for a sign permit, the Planning Director shall either:

(ii) Issue the sign permit, if the sign conforms in every respect with the requirements of this Ordinance; or

(iii) Deny the sign permit if the sign fails in any respect to conform with the requirements of this Ordinance. In case of a rejection, the Planning Director shall specify the sections of this Ordinance with which the sign is inconsistent.

(D) Lapse of Sign Permit. A sign permit shall lapse automatically if the business license for the premises lapses, is revoked or not renewed. A sign permit shall also lapse if the business is discontinued for a period of 90 days or more.

(E) Permits for Temporary Signs. Temporary signs on private property shall be allowed only in accordance with the provisions of Section 1369.07 and only upon the issuance of a Temporary Sign Permit, which shall be subject to the following terms:

(1) A temporary sign permit shall allow the use of a temporary sign for a specified 30-day period.

(2) Only one temporary sign permit shall be issued to the same business license holder on the same site for the same business.

(F) Removal of Signs upon Discontinuation of Use. Whenever the use of a building or premises by a specified business or other establishment is discontinued by the owner or occupant for a period of 90 days, the sign permits for all signs pertaining to that business or establishment that were installed by the occupant or owner shall be deemed to have lapsed, and the signs shall be removed, as well as all signs which do not conform to the standards of this Ordinance. (Ord. 14-35. Passed 9-2-14.)

ARTICLE 1371
Lighting

1371.01 Purpose.
1371.02 Applicability.
1371.03 General provisions and standards.
1371.04 Installation and maintenance.
1371.05 Exemptions.

CROSS REFERENCES
Lighting of signs - see P. & Z. 1369.13

1371.01 PURPOSE.

It is the goal of this section to provide guidance to developers in implementing minimum requirements for lighting for all non-residential projects and multi-family developments. The City recognizes that inappropriate and poorly designed or installed outdoor lighting causes unsafe and unpleasant conditions, limits residents' ability to enjoy the nighttime sky, and results in unnecessary use of electric power. Conversely, the City also recognizes that some outdoor lighting is appropriate and necessary in areas such as civic, commercial and industrial centers. To ensure appropriate lighting while minimizing its undesirable side effects, the following regulations are established.

1371.02 APPLICABILITY.

Lighting facilities shall be required for all off-street parking areas and off-street loading areas and for all driveways providing ingress and egress thereto for all non-residential and multi-family developments. In the approval of any development plan, the Planning Director or Planning Commission shall have the authority to require lighting to be incorporated for other uses or locations where in their reasonable discretion such lighting is warranted.

1371.03 GENERAL PROVISIONS AND STANDARDS.

(A) All exterior lights and illuminated signs shall be designed, located, installed and directed in such a manner as to prevent glare from encroaching onto adjoining properties or public rights-of-way.

(B) Uplighting of any architectural feature of a building or of a sign is permitted, but such lighting may consist only of low wattage fixtures (designed for bulbs not exceeding 75 watts) trained directly onto the surface intended to be illuminated. Internally lit signs are acceptable in certain zoning districts provided that they meet the requirements of this ordinance.

(C) All non-essential lighting will be required to be turned off after business hours, leaving only the necessary lighting for security. Non-essential lighting applies to display, aesthetic, parking and sign lighting.

(D) When outdoor lighting installation or replacement is part of a development proposal for which site plan approval is required under these regulations, the Planning Commission shall review and approve the lighting installation as part of its site plan approval.

(E) The applicant shall submit sufficient information, in the form of an overall exterior lighting plan, to enable the Planning Director or Planning Commission or Board of Zoning Appeals, as the case may be, to determine that the applicable provisions will be satisfied.

(F) When an outdoor lighting installation is being modified, extended, expanded or added to, the entire outdoor lighting installation shall be subject to the requirements of this section.

(G) Where practicable, electrical service to outdoor lighting fixtures shall be underground.

(H) Temporary holiday lighting during the months of November, December and January shall be exempt from the provisions of this section, provided that such lighting does not create dangerous glare on adjacent streets or properties.

(I) The Planning Commission or Board of Zoning Appeals may modify or waive the requirements of this section if it determines that in so doing, it will not jeopardize the intent of these regulations.

1371.04 INSTALLATION AND MAINTENANCE.

(A) Electrical feeds to lighting standards shall be run underground, not overhead.

(B) Lighting fixtures shall be maintained by the property owner so as to always meet the requirements of this ordinance.

1371.05 EXEMPTIONS.

The following uses shall be exempt from the provisions of this ordinance:

(A) Roadway and airport lighting and lighting activated by motion sensor devices.

(B) Temporary circus, fair, carnival, or civic uses.

(C) Construction or emergency lighting, provided such lighting is temporary and is discontinued immediately upon completion of the construction work or abatement of the emergency necessitating said lighting.

(D) Temporary lighting.

ARTICLE 1373
Nonconforming Provisions

1373.01 Nonconforming uses.
1373.02 Nonconforming structures.
1373.03 Nonconforming parcels.
1373.04 Burden of establishing status.
1373.05 Nonconforming signs.

CROSS REFERENCES
Nonconforming uses - see W. Va. Code 8A-7-10
Nonconforming signs - see P. & Z. 1369.15

1373.01 NONCONFORMING USES.

The uses that were both in existence and in compliance with all land use and other laws on the date of passage of these regulations, and, further, that do not conform to the use regulations set forth in this ordinance, shall be deemed to be legal, pre-existing nonconforming uses that may be continued subject to the following provisions:

(A) No legal, pre-existing nonconforming use may be enlarged, moved or otherwise changed, except that such use may be changed to a permitted use.

(B) A legal, pre-existing nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use, provided that no structural alterations are made within the building in order to allow the use to expand, except those that may be required by the Building Inspections Department. However, no such expansion shall be permitted in any parts of such building that were not so arranged or designed or any land outside such building.

(C) When a legal, pre-existing nonconforming use is superseded by a permitted use, the nonconforming use may not thereafter be resumed.

(D) When a legal, pre-existing nonconforming use is discontinued or abandoned for twelve (12) consecutive months, the land, structure, or land and structure in combination, may thereafter only be put to a permitted use and the nonconforming use may not thereafter be resumed.

Any legal, pre-existing nonconforming use shall continue until or unless modified or terminated as herein provided. Such use may be sold, inherited, or otherwise transferred, provided the use, land and structure (if any) remain the same.

1373.02 NONCONFORMING STRUCTURES.

Structures that were in existence and in compliance with all land use and other laws prior to the date of passage of these regulations, but do not conform to the use regulations set forth in this ordinance after its adoption, shall be deemed to be legal, pre-existing nonconforming uses that may be continued subject to the following provisions:

(A) No legal, pre-existing structure may be enlarged, moved or otherwise changed in such a manner that increases the extent of its non-conformity, unless a variance from the terms of the ordinance is obtained from the Board of Zoning Appeals.

(B) When a legal, pre-existing structure is discontinued or abandoned for twelve (12) consecutive months, the structure may thereafter only be used if brought into compliance with this ordinance; however, the nonconforming use within the structure may not thereafter be resumed.

(C) When a nonconforming use exists within a structure, status applies to the structure, and removal or destruction of the structure shall eliminate the nonconforming status of the land.

(D) Normal maintenance and repair of a building or other structure containing a nonconforming use may be performed, including any alterations that would have the effect of bringing the building or other structure into further compliance with the West Virginia Building Code; provided there is no physical change to the building or structure (e.g. design, size, location, etc.) and such maintenance or repair does not extend or intensify the nonconforming use, unless, otherwise authorized by this chapter. If alterations are performed on the building with the specific purpose of bringing the building into further compliance with the West Virginia Building Code, and if such alterations are ordered by the City of Morgantown Code Enforcement Department, and if such alterations necessitate the temporary cessation or abandonment of a current land use, then the Board of Zoning Appeals may extend the 12-month abandonment clause for a reasonable period of time to effectuate said changes.

(E) Any legal, pre-existing nonconforming structure damaged by fire, flood, explosion or other casualty may be reconstructed and used as before, if such reconstruction is undertaken within twelve (12) months of such casualty, and if the restored structure has no greater coverage and contains no greater content (measured in cubic feet) than before such casualty.

(F) Any legal, pre-existing nonconforming dwelling that is deficient in ground floor area and that is removed from a parcel may not be relocated on the parcel or be replaced by any other dwelling which is not in compliance with the requirements of this ordinance.

1373.03 NONCONFORMING PARCELS.

Parcels that were both in existence and in compliance with all land use and other laws on the date of passage of this ordinance, but, that do not conform to the regulations set forth in this ordinance, shall be deemed to be legal, pre-existing nonconforming parcels that may be occupied or used subject to the following provisions:

(A) The use is a permitted use or a legal, pre-existing nonconforming use.

(B) The legal, pre-existing nonconforming parcel may not be further developed until compliance with the ordinance is demonstrated or until a variance from the terms of the ordinance is obtained from the Board.

1373.04 BURDEN OF ESTABLISHING STATUS.

The burden of establishing legal, pre-existing nonconforming use status rests on: the property owner or party seeking to continue the nonconforming use or occupancy; any person applying for a Building Permit or, any other person asserting such status. Such persons shall provide sufficient proof in a form acceptable to the Planning Director of the following:

(A) The date of construction of the building or structure or the date the use was established;

(B) The continuous operation of the nonconforming use; and,

(C) Such other proof as may be deemed necessary by the Planning Director.

1373.05 NONCONFORMING SIGNS.

It is the policy of the City to encourage and, to the maximum extent practicable, require that all signs within the City be brought into compliance with the requirements of this Ordinance.

(A) Nonconforming Signs Protected. A sign which was lawfully erected prior to the effective date of this ordinance but which does not conform in one or more respects with the requirements of this Ordinance may remain in use, subject to the requirements of this Section and other applicable requirements of City Ordinances.

(B) Limitations on Nonconforming Signs.

(1) Temporary Signs. Any nonconforming temporary sign shall be removed on or before 365 days after the effective date of this Ordinance or shall be considered in violation of this Ordinance.

(2) Abandonment. Any sign, including its frame and support structures, related to a use or business that ceases to exist or operate for a continuous period of 90 days shall be considered nonconforming and shall not be reused for sign purposes unless and until it is in full conformity with the provisions of this Ordinance, subject to issuance of a new sign permit. This requirement shall apply whether the property owner has been specifically informed of the 90 day lapse, or not.

(3) Routine Repairs and Maintenance. Repairs and maintenance of nonconforming signs, such as repainting and electrical repairs, shall be permitted, provided that repainting shall not include a change of copy or color.

(4) Change of Copy. No change of copy shall be permitted (except on a changeable copy sign) without bringing the sign into full conformance with this Ordinance.

(5) Required Removal. Where an amendment to a previously approved development plan is proposed, approval of such plan shall be contingent upon removal of all nonconforming signs on the site. For example, if an existing retail establishment proposes a building addition or parking expansion, then any nonconforming signs on the property must be brought into compliance as a condition of approval of the amended site plan.

Appendix A - Development Standards for Zoning Districts

This Appendix is intended to serve as a resource to illustrate certain standards across all zoning districts set forth in preceding Articles. There may be additional provisions that control standards illustrated below: i.e., overlay districts, specific use types, etc. Standards enumerated in the Articles above shall control in the event there is any conflict or inconsistency in the information illustrated below.

				Height of Principal Building			**Setbacks**				**Density**	
Zoning District	**Min. Lot Area**	**Min. Lot Frontage**	**Min. Lot Depth**	**Max.**	**Min.**	**Max. Lot Coverage**	**Min. Front**	**Max. Front**	**Min. Side**	**Min. Rear**	**Floor Area Ratio**	**Lot Area Per Unit**
R-1	7,200 sf	70 ft.	--	2.5 stories/35 ft. (whichever is greater)	-	40%	25 ft.	30 ft.	10 ft.	25 ft.	-	-
R-1A	3,500 sf	30 ft.	-	2.5 stories/35 ft. (whichever is greater)	-	50%	8 ft.	20 ft.	5 ft.	20 ft.	-	-
R-2	5.000 sf	40 ft.	-	2.5 stories/35 ft. (whichever is greater)	-	50%	10 ft.	20 ft.	5 ft.	20 ft.	-	-
R-3	4,000 sf	40 ft.	-	4 stories/55 ft. (whichever is greater) 55 ft. - 80 ft. by conditional use	-	60%	10 ft.	20 ft.	5 ft.	20 ft.	-	-
PRO	7,000 sf	60 ft.	-	2.5 stories/35 ft. (whichever is greater)	-	40%	10 ft.	15 ft.	15 ft.	40 ft.	See Article 1341.05	
C-1	6,000 sf	60 ft.	100 ft.	72 ft.	-	60%	15 ft.	25 ft.	30 ft.	40 ft.	-	-
B-1	3,000 sf	30 ft.	100 ft.	40 ft. 35 ft. for small-scale shopping centers	2 stories	70%	5 ft.	12 ft.	3 ft.	20 ft.	See Article 1345.05	
B-2	6,000 sf	60 ft.	100 ft.	72 ft.	-	60%	15 ft.	30 ft.	5 ft.	40 ft.	-	-
B-4	1,500 sf	30 ft.	50 ft.	120 ft.	2 stories	90%	See Article 1349.04				7.0	300 sf
B-5	0.5 acres	60 ft.	100 ft.	75 ft.	25 ft.	60%	20 ft.	-	30 ft.	30 ft.	-	-
I-1	2 acres	60 ft.	100 ft.	65 ft.	-	40%	50 ft.	-	30 ft.	30 ft.	-	-

(Ord. 08-07. Passed 3-4-08.)

CHAPTER ELEVEN - Administration of Zoning Ordinance

Art. 1375. General Administration and Enforcement.
Art. 1377. Amendments to the Text and Map of the Zoning Ordinance.
Art. 1379. Conditional Uses.
Art. 1381. Zoning Variances.
Art. 1383. Administrative Appeals.
Art. 1385. Site Plan Review.
Art. 1387. Planning Commission.
Art. 1389. Board of Zoning Appeals.
Art. 1391. Permit, Certificate and Approval Revocation.
Art. 1393. Violations and Enforcement.

ARTICLE 1375
General Administration and Enforcement

1375.01 Responsibility for administration and enforcement.
1375.02 General provisions.
1375.03 Zoning reviews.
1375.04 Fees.
1375.05 Administrative interpretations.

CROSS REFERENCES
Statutory provisions - see W. Va. Code Art. 8A-10

1375.01 RESPONSIBILITY FOR ADMINISTRATION AND ENFORCEMENT.
It shall be the duty of the Planning Director, or his or her designee, to:

(A) Perform zoning reviews of building permit applications as necessary to determine compliance with the provisions of this ordinance.

(B) Maintain permanent and current records of all applications for all reclassification, variances, special permits, amendments, and other zoning related records required by this ordinance and of the hearings and actions thereon.

(C) Conduct investigations as necessary to determine compliance with or violation of this ordinance.

(D) Participate in the abatement of violations of this ordinance and aid in the prosecution of such violations.
(E) Maintain in current status the official zoning maps.
(F) Provide information on zoning upon request by citizens and public agencies.

1375.02 GENERAL PROVISIONS.

(A) No commission, board, agency, officer, or employee of the City shall issue, grant, or approve any permit, license, certificate, or any other authorization for any construction, reconstruction, alteration, enlargement, or relocation of any building or structure, or for any use of land or building, that would not be in compliance with the provisions of this ordinance.

(B) In administering the provisions of this ordinance, the standard rule of rounding numbers to the nearest whole shall apply. When the unit of measurement results in a fraction less than one-half (0.5), the fraction shall be disregarded; fractions of one-half (0.5) or more shall be rounded up to the next whole number.

1375.03 ZONING REVIEWS.

(A) No Building Permit pertaining to the construction, enlargement, moving, remodeling, reconstruction of a structure or change of use shall be issued unless approval of the site plan has been granted by the Planning Director or the Planning Commission. The Planning Director shall permit approvals only in conformance with the provisions of this ordinance except when he receives a written order from the Planning Commission, Board of Zoning Appeals, or a court of law in the form of an administrative review, variance, or judgment as provided in this ordinance.

When required, a change of land use permit must be acquired prior to issuance of a certificate of compliance with the zoning ordinance.

(B) For projects that are reviewed administratively, the Planning Director shall make every reasonable effort to review the application and report to the applicant by the end of 30 working days following the day on which a completed application is received. See Site Plan Review Article 1385.

1375.04 FEES.

(A) Fee Requirement and Payment. The Schedule of Fees for zoning applications shall be maintained on file with the Planning Department. The appropriate fee shall be paid by the applicant when the application is submitted for review. An application shall not be considered complete until the appropriate fee is paid in full to the Planning Department. The Planning Department may waive fees in unusual or extreme circumstances, with permission from the City Manager.

Approvals shall not be granted nor zoning certificates of compliance issued until the appropriate fee is paid to the Planning Department.

(B) Applications and petitions filed pursuant to the provisions of this ordinance shall be accompanied by the filing fees hereinafter specified.

For each petition for an appeal from the decision of the Planning Director to the Board, a fee of Thirty-five Dollars ($35.00) to be paid to and collected by the Finance Department, a receipt for which shall accompany the petition.

For each application for approval by the Board of Zoning Appeals of a Conditional Use, a fee of Seventy-five Dollars ($75.00) to be paid to and collected by the Finance Department, the receipt for which shall accompany the petition.

For each petition for Amendment to the Zoning Map, a fee of Seventy-five dollars ($75.00) to be paid to and collected by the Finance Department, the receipt for which shall accompany the petition.

For each application for approval by the Board of Zoning Appeals of a variance, a fee of Seventy-five dollars ($75.00) to be paid to and collected by the Finance Department, the receipt for which shall accompany the petition.

(C) No part of any filing fee paid pursuant to this section shall be returnable to the applicant or petitioner.

1375.05 ADMINISTRATIVE INTERPRETATIONS.

(A) Authority. The Planning Director, subject to the procedures, standards, and limitations of this article, may render written interpretations, including use interpretations, of the provisions of this Zoning Ordinance and of any rule or regulations issued pursuant to it. The Planning Director may forward requests for interpretations to the Board of Zoning Appeals, where, in the opinion of the Planning Director, the proposed use is not sufficiently similar to a use expressly listed as a permitted or conditional use on the Permitted Land Use Table 1331.05.01 to allow staff interpretation.

(B) Purpose. The interpretation authority established by this section is intended to recognize that the provisions of this Zoning Ordinance, though detailed and extensive, cannot, as a practical matter, address every specific situation to which they may have to be applied. In particular, certain categories of uses are listed as either Conditional or Permitted uses, but certain specific proposed uses may not clearly fall within the common meaning of any of the listed uses. Many such situations can be readily addressed by an interpretation of the specific provisions of this Zoning Ordinance in light of the general and specific purposes for which those provisions have been enacted. Because the interpretation authority established is an administrative rather than a legislative authority, an interpretation shall not have the effect of adding to or changing the essential content of this Zoning Ordinance, but is intended only to allow authoritative application of that content to specific cases.

(C) Parties Entitled to Seek Interpretations. Applications for interpretations may be filed by any person having a legal or equitable interest in property that gives rise to the need for an interpretation, provided that interpretations shall not be sought by any person based solely on hypothetical circumstances or where the interpretation would have no effect other than as an advisory opinion.

(D) Procedure.

(1) Application. Applications for interpretations of this Zoning Ordinance shall be filed on a form provided by the Planning Department and shall contain information describing the nature of the requested information.

(2) Action on Application. The Planning Director shall inform the applicant in writing of his or her interpretation, stating any specific precedent, the reasons, and the analysis upon which the determination is based.

(E) Standards for Use Interpretations. The following standards shall govern the Planning Director and the Board of Zoning Appeals (on appeals from the Planning Director) in issuing use interpretations:

(1) Any listed use defined in Article 1329, Definitions, shall be interpreted as therein defined;

(2) No use interpretation shall authorize any use in any district unless evidence is presented demonstrating that it will comply with the general district regulations established for that particular district.

(3) No use interpretation shall authorize any use in a particular district unless such use is substantially similar to other uses specifically listed as permitted or conditional in such district and is more similar to such uses than to other uses listed as permitted or conditional in another zoning district.

(4) If the proposed use is most similar to a use allowed only as a conditional use in the district in which it is proposed to be located, then any use interpretation authorizing such use shall be subject to the issuance of a conditional use permit pursuant to Article 1379 of this Zoning Ordinance.

(5) No use interpretation shall allow the establishment of any use that would be inconsistent with the statement of purpose of the district in question, unless such use meets the standards of Subsections (E)(3) and (4) hereof.

(F) Effect of Favorable Use Interpretations. Use interpretations shall only authorize a use in a specific district and shall not allow the development, construction, reconstruction, alteration, or moving of any building or structure. Use interpretations shall merely authorize the preparation, filing, and processing of applications for any permits and approvals that may be required by the codes and ordinances of the City, including, but not limited to, a Building Permit, a Certificate of Occupancy, Subdivision Approval, and Site Plan Approval.

(G) Limitations on Favorable Use Interpretations.

(1) A use interpretation finding a particular use to be Permitted, or allowed as a conditional use in a particular district, shall be deemed to authorize only the particular use for which it is issued, and such interpretation shall not be deemed to authorize any allegedly similar use for which a separate use interpretation has not been issued.

(2) Once a use interpretation is made for a particular use in a particular district, that use shall be permitted as a conditional use for the entire district and shall be available for other property owners in that district through the conditional use process.

(H) Appeals from Planning Director Decisions. The Board of Zoning Appeals shall, pursuant to Article 1383 of this Zoning Ordinance, hear and decide appeals from any administrative interpretations by the Planning Director acting pursuant to the authority and duties under this section.

ARTICLE 1377
Amendments to the Text and Map of the Zoning Ordinance

1377.01 General provisions.
1377.02 Authority and procedures.
1377.03 Application procedures.
1377.04 Comprehensive Plan amendment.

CROSS REFERENCES
Statutory provisions - see W. Va. Code 8A-7-8 et seq.

1377.01 GENERAL PROVISIONS.

(A) Proposed amendments to this ordinance may be presented by the Planning Commission to Council requesting an amendment, supplement, repeal or change of the regulations of the Zoning Ordinance. Prior to submission to Council of a Planning Commission petition or a report on a proposed ordinance, the Planning Commission shall hold a public hearing. After the public hearing, the Planning Commission shall make its report on the proposed ordinance to Council. Thereafter, Council shall proceed to take such action on the proposed ordinance as it deems proper.

(B) The City Council may, from time to time, amend, supplement, or change the rules and regulations and districts fixed by the Zoning Ordinance.

(C) Before amending the Zoning Ordinance or Zoning Map, City Council with the advice of the Planning Commission, must find that the amendment is consistent with the Comprehensive Plan. If the amendment is inconsistent, then City Council with the advice of the Planning Commission, must find that there have been major changes of an economic, physical or social nature within the area involved which were not anticipated when the Comprehensive Plan was adopted and those changes have substantially altered the basic characteristics of the area.

(D) Zoning Map amendments (i.e., rezonings) often become issues of significant contention between applicants and residents living adjacent to and in the vicinity of the property to be rezoned. Too often this results in difficult and argumentative public hearings before the Municipal Planning Commission and City Council. In most cases, opposition to a rezoning request is based on legitimate concerns over the well-being and preservation of a neighborhood, but sometimes opposition results from a simple lack of communication and understanding between the applicant and the neighborhood residents. The City, therefore, strongly advises any person that is considering applying for a zoning map amendment (i.e., rezoning) to discuss the proposal with residents living within 200 feet of the property to be rezoned and with the leadership of any organized neighborhood organizations that represent the area before making application to the Planning Department. The Department can assist by providing contact information for individuals who should be consulted.

1377.02 AUTHORITY AND PROCEDURES.

Whenever public necessity or the public health, safety, and general welfare require, City Council may, by Ordinance and after receipt of recommendation thereon from the Planning Commission and subject to the procedures below, amend, supplement, change, or repeal the regulations, restrictions, and boundaries or classifications of property.

1377.03 APPLICATION PROCEDURES.

(A) Amendment to the Zoning Map.

(1) A request for rezoning of property shall be filed on prescribed forms with the Planning Department. The request, or application, shall include a list of the property owners' names and addresses located within 200 feet of the affected area, including the subject property, as of record in the office of the Monongalia County Assessor. The applicant must also submit the tax map and parcel numbers for the list of properties along with a stamped and addressed envelope for each of the names and addresses of property owners in the affected area. If the list includes a lot within a subdivision, the applicant must submit the name of the president of the subdivision's homeowners' association along with a stamped and addressed envelope for the individual.

(2) The Planning Department will conduct a formal review of the completed application.

(3) The Planning Department will publish a legal advertisement describing the request for rezoning in a local newspaper of general circulation at least 15 days prior to the scheduled public hearing before the Planning Commission. The prepared envelopes notifying the property owners located within 200 feet of the affected property and the homeowners association president of an affected subdivision and submitted by the applicant will be mailed no later than 10 days prior to the meeting.

(4) The Planning Director shall cause official zoning notification signs to be placed in a prominent location on the property not later than 10 days prior to the meeting.

(5) The Planning Commission will hold a duly scheduled public hearing on the rezoning request, prepare a report, and make a recommendation to Council.

(6) City Council will hear the case according to its rules and procedures.

(7) If the request for rezoning is approved by Council, the applicant shall receive approval and will be formally notified by mail by the Planning Department. The Planning Department shall amend the zoning map to reflect the approved rezoning.

(8) If the request for rezoning is denied by Council, the applicant is formally notified in writing by the Planning Department of the denial and the right to appeal the decision to Monongalia County Circuit Court.

(9) Any person who feels aggrieved by an approval or denial of a rezoning may appeal the decision to the Circuit Court of Monongalia County.

(B) Amendment to the Zoning Ordinance Text.

(1) A request for an amendment, or change, to the text of the Zoning Ordinance shall be filed on prescribed forms with the Planning Department. The Planning Director shall furnish the applicant a copy of a sample or previously approved text amendment, composed in the format required by the City Attorney for text amendments, so that the applicant will have a model by which to compose his or her proposed amendment.

(2) The Planning Department will conduct a formal review of the completed application.

(3) The Planning Department will publish a legal advertisement describing the request for a text amendment in a local newspaper of general circulation at least 15 days prior to the scheduled public hearing before the Planning Commission.

(4) The Planning Commission shall hold a duly scheduled public hearing on the text amendment request, prepare a report, and make a recommendation to Council.

(5) City Council will hear the case according to its rules and procedures.

(6) If the request for the text amendment is approved by Council, the applicant receives approval and is formally notified by mail by the Planning Department. The Planning Department shall amend the Zoning Ordinance text to reflect the approved amendment.

(7) If the request for the text amendment is denied by Council, the applicant is formally notified in writing by the Planning Department of the denial and the right to appeal the decision to the Circuit Court of Monongalia County

(8) If the request for the text amendment is denied by Council, the applicant shall not re-submit the same request for a period of one (1) year unless the Planning Director determines that there have been significant changes in conditions in the area proximate to the parcel in question.

1377.04 COMPREHENSIVE PLAN AMENDMENT.

Amendments, supplements or changes of the rules and regulations of the Zoning Ordinance shall be considered as amendments to the Comprehensive Plan.

ARTICLE 1379
Conditional Uses

1379.01 General provisions.
1379.02 Application for conditional use approval.
1379.03 Standards for approval.
1379.04 Conditional approval.
1379.05 Expiration.
1379.06 Miscellaneous guidelines.

CROSS REFERENCES

Use, conditional defined - see P. & Z. 1329.02
Table of conditional uses - see Table 1331.05.01

1379.01 GENERAL PROVISIONS.

(A) Purpose. It is the purpose of this article to recognize that there may be cases where community and Comprehensive Plan goals are met by a flexible and individual regulation of land uses within a zoning district. The establishment of a conditional use permit procedure provides Morgantown with such flexibility to provide for certain uses which shall be permitted only if adequate conditions exist or can be imposed that will make such uses compatible with the purposes of this ordinance and the Comprehensive Plan. The conditional use permit procedure shall provide for some measure of individualized judgment and the imposing of conditions on certain uses, in order to make them compatible with uses in the surrounding area. It is further intended that the conditional use permit, through a site plan review process, shall provide a method whereby it can be determined whether or not a use would cause any damage, hazard, nuisance, or other detriment to persons or property in the vicinity.

(B) Standards and Requirements. All such uses are declared to possess characteristics of such unique and special form that each specific use must be considered as an individual case. Consideration by the Board of Zoning Appeals shall be based on adopted standards and requirements. These considerations shall be both general, applying to all conditional uses, and specific, applying to individual types of conditional uses. The standards and requirements stipulated in this article shall be made a condition of approval. In addition, the Board of Zoning Appeals may impose additional, reasonable conditions to fit the particular use and site under review.

(C) Limits of Authorization. A conditional use permit shall be deemed to authorize only the particular use specified in the permit. (Ord. 06-01. Passed 1-3-06.)

(D) Review. If a conditional use permit is required for any new use, the Planning Director and Board of Zoning Appeals will review the site plan in order to determine if the conditional use permit is warranted. If a conditional use permit meets the thresholds for a Development of Significant Impact (DSI) as set forth in Section 1385.05, the reviewing authority will then be the Planning Commission and Board of Zoning Appeals. (Ord. 15-35. Passed 6-2-15.)

1379.02 APPLICATION FOR CONDITIONAL USE APPROVAL.

(A) The applicant shall file a formal and complete application for a conditional use permit with the Planning Department. The application shall include:

(1) A preliminary site plan which demonstrates the overall site layout and building locations, parking areas and circulation, access and egress locations, setbacks and buffer areas, lighting, landscaping, signage and the location and extent of existing development on adjacent parcels.

(2) Preliminary building plans and elevations illustrating proposed building construction and alteration, including an indication of exterior materials, textures and colors.

(3) A list of the property owners' names and addresses located within 200 feet of the affected area, as of record in the office of the Monongalia County Assessor. The subject property also shall be included in the affected area. The applicant must also submit the tax map and parcel numbers for the list of properties along with a stamped and addressed envelope for each of the names and addresses of property owners in the affected area. If the list includes a lot within a subdivision, the applicant must submit the name of the president of the subdivision's homeowners' association along with a stamped and addressed envelope for the individual.

(4) Any other information deemed helpful by the applicant or necessary by the Board of Zoning Appeals to explain the nature of the proposed use and its consistency with the standards established by this article for conditional use permits.

(B) The Planning Director will conduct a formal review of the complete application. As part of the formal review process, the Planning Director will notify appropriate agencies and request summaries of agency reviews

(C) The Planning Director shall publish a legal advertisement describing the request for a conditional use permit in a local newspaper of general circulation at least 15 days prior to the scheduled public hearing before the Board of Zoning Appeals. The prepared envelopes notifying the property owners located within 200 feet of the affected property and the president of the homeowners association of an affected subdivision and submitted by the applicant will be mailed not later than 10 days prior to the hearing.

(D) The Board of Zoning Appeals shall hold a duly scheduled public hearing to review the complete site plan and application for the conditional use permit request.

(E) If the conditional use permit is granted by the Board, the applicant receives approval and is formally notified in writing by the Planning Department.

(F) If the conditional use is denied by the Board, the applicant is formally notified in writing of the denial and the right to appeal the decision to the Circuit Court of Monongalia County within thirty (30) days.

1379.03 STANDARDS FOR APPROVAL.

(A) The Board of Zoning Appeals may approve an application for a conditional use permit, subject to such reasonable conditions and restrictions as are directly related to and incidental to the proposed conditional use permit, if it finds that the following general standards have been met:

(1) The proposed use is compatible with the goals of the adopted comprehensive plan.

(2) The proposed use shall be compatible with the appropriate and orderly development of the district, taking into consideration the location and size of the use, the nature and intensity of the operations involved in or conducted in connection with such use, the size of the site in relation to the use, the assembly of persons in connection with the use, and the location of the site with respect to streets giving access to the site.

(3) The proposed site development shall be such that the use will not hinder nor discourage the appropriate development and use of adjacent land and buildings, taking into consideration the location, nature and height of buildings, the location, nature and height of walls and fences, and the nature and extent of landscaping on the site.

(4) Neighborhood character and surrounding property values shall be reasonably safeguarded.

(5) Operations in connection with the use shall not be offensive, dangerous, destructive of property values and basic environmental characteristics, or detrimental to the public interest of the community. They shall not be more objectionable to nearby properties by reason of fumes, noise, vibration, flashing of or glare from lights, and similar nuisance conditions than the operations of any permitted use not requiring a conditional use permit in the district.

(6) The character and appearance of the proposed use, buildings, structures, and/or outdoor signs should be in general harmony or better, with the character and appearance of the surrounding neighborhood.

(B) Other Conditions and Restrictions. The Board shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed conditional use permit.

1379.04 CONDITIONAL APPROVAL.

A conditional use approval may be denied or revoked where the applicant fails to comply with specific conditions made a part of the approval by the Board, or fails to comply with a reasonable request of the Board or the Planning Director for furnishing specific information related to the proposed use. Failure to comply with the conditions of approval shall constitute a violation of the Zoning Ordinance.

1379.05 EXPIRATION.

In the case where a Conditional Use Permit has not been used within twelve (12) months after the granting thereof, then without further action it shall be null and void. This may be extended to eighteen (18) months upon prior written request of the Board. The word "used" shall mean that the approved Conditional Use Permit has been activated as evidenced by permits, construction, or required licenses.

1379.06 MISCELLANEOUS GUIDELINES.

If there are other valid reasons for denying a conditional use application, the denial may be sustained even if the proposed conditional use constitutes the highest and best use, which can be made of the subject property. The Board may not deny a permit solely for the purpose of limiting the number of similar uses in an area. However, the Board may require that reasonable minimum distances be maintained between similar uses as a condition of approval.

ARTICLE 1381
Zoning Variances

1381.01 Variances from ordinance.
1381.02 Application for variance.
1381.03 Standards for variance approval.
1381.04 Conditional approval.
1381.05 Expiration.
1381.06 Relationship to subject property.

CROSS REFERENCES
Statutory provisions - see W. Va. Code 8A-7-11

1381.01 VARIANCES FROM ORDINANCE.

The regulations set forth or identified in this chapter are provided to establish procedures, criteria and conditions which shall be met before the Board of Zoning Appeals may approve variances from the terms of this ordinance.

1381.02 APPLICATION FOR VARIANCE.

A person desiring a variance from the terms of the Zoning Ordinance shall submit a written application for variance approval with the Planning Director. An application for variance approval shall:

(A) Be made on the forms available at the Planning Department office and signed by the owner of the property subject to the variance request ("subject property") or by a person who has-been authorized to sign the form by the owner. If the form is signed by a person other than the owner, the person must submit written documentation of his/her authority to sign the form (e.g., a letter from the owner which states that the person has been authorized to sign the form);

(B) Describe the specific use or standard for which the variance is sought;

(C) Be accompanied by a copy of an area map which shows the location of the subject property, the locations of related public and utility facilities (e.g., schools, sewer, etc.), the relationship of the subject property to the adopted transportation plan for the area;

(D) Be accompanied by a copy of a site plan, drawn to an appropriate scale, which shows:

(1) The subject property;

(2) The location of all existing and proposed buildings, structures and improvements to be made to the subject property, including drainage and erosion control facilities and features;

(3) Accurate dimensions of the parcel, buildings, parking areas and ingress/egress driveways;
(4) Names and addresses of all property owners within 200 feet of the subject property, as is on record at the Monongalia County Assessors Office;
(5) Location, right-of-way and pavement width of all streets adjacent to the subject property; and,

(E) Be accompanied by any other information reasonably required by the Planning Director; and,
(F) Be accompanied by the fee established by the City.

1381.03 STANDARDS FOR VARIANCE APPROVAL.

Applications for variance approval shall be considered in accordance with the following procedures.

(A) After receiving a complete application, the Planning Director shall schedule and announce the date and time of the Board of Zoning Appeal's hearing on the application. At the time the hearing is scheduled, the Planning Director shall provide the applicant with written notice of the hearing date and time.
(B) Prior to the Board of Zoning Appeals hearing on the application, the Planning Director shall review the application for compliance with the Zoning Ordinance. Following such review and prior to the hearing, the Planning Director shall prepare and provide the Board of Zoning Appeals and the applicant with the Planning Director's written comments and recommendation on the application, including the Planning Director's opinion as to any effect the proposed variance might have upon the integrity of the Zoning Ordinance.
(C) The Board of Zoning Appeals, and its representatives, at its discretion, may visit the subject property at any reasonable time during the review process.
(D) Notice of the Board of Zoning Appeals hearing on the application for variance approval shall be published in a local newspaper of general circulation at least fifteen (15) days prior to the hearing.
(E) At least ten (10) days prior to the Board of Zoning Appeals hearing on the application for variance approval, the applicant, in the manner prescribed in the Board of Zoning Appeals Rules of Procedure, shall notify all interested parties of the public hearing by mail.
(F) At least ten (10) days prior to the Board of Zoning Appeals hearing on the application for variance approval, the applicant shall post and maintain a sign on the subject property notifying those passing the property that a request for variance approval for the property has been made. The sign shall be provided to the applicant by the Planning Director.
(G) The Board of Zoning Appeals shall conduct a public hearing on the application for variance approval, and may approve the application, approve the application with conditions, or deny the application.
(H) The Board of Zoning Appeals shall make written findings of fact and conclusions of law in support of its decision. The Planning Director shall promptly provide the applicant with a copy of the Board's written findings and conclusions.

(I) If the Board of Zoning Appeals approves the application for variance approval, the City may issue the applicant a Building Permit subject to the conditions of variance approval and the provisions of this ordinance and any other applicable law.

(J) If the request for a variance is denied by the Board of Zoning Appeals, the applicant shall not re-submit the same request for a period of one (1) year unless the Planning Director determines that there have been significant changes in conditions in the area proximate to the parcel in question.

(K) Variances from the use of a parcel or building, and variances from the type of sign permitted on any given parcel, shall not be permitted under any circumstances.

1381.04 CONDITIONAL APPROVAL.

The Board shall have the authority to impose specific conditions as part of its approval in order to protect the public health, and for reasons of safety, comfort and convenience (e.g., to ensure compatibility with surroundings). A variance approval may be denied or revoked where the applicant fails to comply with specific conditions made a part of the approval by the Board, or fails to comply with a reasonable request of the Board or the Planning Director for furnishing specific information related to the proposed variance. Failure to comply with the conditions of approval shall constitute a violation of the Zoning Ordinance.

1381.05 EXPIRATION.

In the case where a variance has not been used within twelve (12) months after the granting thereof, then without further action it shall be null and void. This may be extended to eighteen (18) months upon prior written request of the Board. The word “used” shall mean that the approved variance has been activated as evidenced by permits, construction, or required licenses.

1381.06 RELATIONSHIP TO SUBJECT PROPERTY.

Variance approval applies to the subject property and may be transferred with ownership of the subject property subject to the provisions and conditions prescribed by or made pursuant to the Zoning Ordinance.

ARTICLE 1383
Administrative Appeals

1383.01 Authority.
1383.02 Initiation.
1383.03 Processing.
1383.04 Public hearing.
1383.05 Decisions.
1383.06 Appeal of decisions.

CROSS REFERENCES
Appeal process - see W. Va. Code Art. 8A-9

1383.01 AUTHORITY.
The Board of Zoning Appeals shall hear and determine appeals from any order, requirement, decision or determination made by an administrative official, board, or staff member charged with the enforcement of this Zoning Ordinance.

1383.02 INITIATION.
An appeal may be filed with the Board of Zoning Appeals by any person aggrieved by the order, requirement, decision or determination described in Section 1383.01. An appeal filed with the Board must specify the grounds of the appeal, be filed in the form established by rules of the Board, and be filed within 30 days of the original order, requirement, decision or determination.

1383.03 PROCESSING.
(A) An appeal shall be filed with the Planning staff, who shall forward such appeal to the Board of Zoning Appeals .

(B) Within 10 days of receipt of the appeal by the Board, the Board shall set a date and time for the public hearing and give notice. The public hearing shall be held within 45 days of receipt of the appeal by the Board.

(C) At least 15 days prior to the date set for the public hearing, the Board shall publish a notice of the date, time and place of the hearing on the appeal as a Class I legal advertisement in compliance with the provisions of West Virginia Code Chapter 59, Article 3, and written notice shall be given to interested parties.

1383.04 PUBLIC HEARING.
A public hearing shall be conducted by the Board of Zoning Appeals in conformance with the West Virginia Code and the Morgantown City Board of Zoning Appeals Rules of Procedure. The party making the appeal shall be required to pay any fee established by City Council.

1383.05 DECISIONS.

The Board of Zoning Appeals shall hear testimony and evidence concerning appeals, and prepare findings of fact and conclusions of law and shall render a final decision on all appeals. A written copy of such decision, as described in the Rules of Procedure, shall be available in the Planning Department within five (5) days after making such decision.

Any appeal determined by the Board of Zoning Appeals shall be particular to that case and site, and shall not be applied to the entire Ordinance, except as noted in Section 1375.05, Administrative Interpretations.

1383.06 APPEAL OF DECISIONS.

Every decision or order of the Board of Zoning Appeals shall be subject to review by certiorari. Any person or persons jointly or severally aggrieved by any decision or order of the Board of Zoning Appeals may present to the Circuit Court of Monongalia County a petition duly verified, setting forth that such decision or order is illegal in whole or in part, and specifying the grounds of the alleged illegality. The petition must be presented to the Court within thirty days after the date of the decision or the order of the Board of Zoning Appeals complained of. In the event that an appeal is filed to the Circuit Court, the City, upon receiving notice of such appeal from the Court, shall send written notification of said appeal to the same property owners that were originally notified during initial consideration of the case.

ARTICLE 1385
Site Plan Review

1385.01 Site plan review required.
1385.02 Application.
1385.03 Design and improvements requirements.
1385.04 Site plan review.
1385.05 Review thresholds.
1385.06 Type I: Administrative review of simple site plans.
1385.07 Type II: Administrative review of detailed site plans.
1385.08 Type III: Planning Commission review of developments of significant impact.
1385.09 Type IV: BZA review of conditional use permits.
1385.10 Other required submittals.
1385.11 Resubmittal of plans.
1385.12 Rejection statement.
1385.13 Deviation from the approved site plan and additions to existing structures.
1385.14 Record drawings and certificate of completion and compliance.
1385.15 Expiration deadlines.

1385.01 SITE PLAN REVIEW REQUIRED.

No land within the jurisdiction of the City of Morgantown shall be developed or altered for the purpose of constructing buildings or establishing uses without first having received site plan approval from either the Planning Department staff, or the Morgantown Planning Commission or the Morgantown Board of Zoning Appeals. It shall be the duty of the Planning Director, or his/her designee, in conjunction with other appropriate departments and agencies, to perform complete and thorough review of all plans submitted to the Planning Department. (Ord. 15-31. Passed 6-2-15.)

1385.02 APPLICATION.

(A) All applications for site plan review shall be made on application forms prescribed by the Planning Department and follow established submittal deadlines.

(B) Major development projects often become issues of significant contention between applicants and residents living adjacent to and in the vicinity of the property to be rezoned. Too often this results in difficult and argumentative public hearings before the Municipal Planning Commission and City Council. In most cases, opposition to a rezoning request is based on legitimate concerns over the well-being and preservation of a neighborhood, but sometimes opposition results from a simple lack of communication and understanding between the applicant and the neighborhood residents. The City, therefore, strongly advises any person that is considering applying for a Development of Significant Impact (DSI) to discuss the proposal with residents living within 200 feet of the property to be rezoned and with the leadership of any organized neighborhood organizations that represent the area before making application to the Planning Department. The Department can assist by providing contact information for individuals who should be consulted.

(C) All site plans for development in the B-4 District also shall be submitted to the Downtown Design Review Committee for review and recommendations prior to any formal public hearing or final approval.
(Ord. 15-31. Passed 6-2-15.)

1385.03 DESIGN AND IMPROVEMENTS REQUIREMENTS.

(A) Requirements, standards and specifications for engineering design for construction of improvements for site plans shall be equal to or greater than the minimum requirements, standards, and specifications established for design and improvements by the City Engineer. In addition to the plan sheets specified below, the applicant shall submit a complete drainage report, including calculations and justifications. The City Engineer may approve and/or require other engineering designs or practices when deemed necessary.

(B) The proper management of storm water runoff is essential in the land development process. The City has adopted a separate storm water management ordinance that considers criteria related to total disturbed area, total/modified impervious area, sedimentation and erosion control and other criteria. Development plans are reviewed for, and must demonstrate compliance with this article.
(Ord. 15-31. Passed 6-2-15.)

1385.04 SITE PLAN REVIEW.

There are four types of site plan reviews which have different application requirements and approval procedures. Types 2, 3 and 4 shall be reviewed by an internal technical review team, whose membership shall include the City Manager or his designee, the Chief Code Enforcement Officer, the City Engineer, a representative from the Morgantown Utility Board, and the City's Fire Department. The types of review are:

Type I Administrative Review, by the Planning Director, of Simple Site Plans
Type II Administrative Review, by the Planning Director, of Detailed Site Plans
Type III Planning Commission Review of Developments of Significant Impact
Type IV Board of Zoning Appeals Review of Conditional Uses
(Ord. 15-31. Passed 6-2-15.)

1385.05 REVIEW THRESHOLDS.

In order to determine what type of review a project receives, the following standards have been established and noted for specific land uses in the land use table of this article.

(A) Type I Site Plan Review: Single-family and two-family residential primary and secondary structures that do not constitute a Development of Significant Impact.
(B) Type II Site Plan Review: Non-residential, multi-family structures, and temporary uses that do not constitute a Development of Significant Impact.
(C) Type III Site Plan Review: The following thresholds constitute Developments of Significant Impact.

Land Use Category/District	**Development of Significant Impact**
Residential	A development that is 12 or more dwelling units
Non-Residential	A development that is either 15,000 square feet or more of gross floor area or a site of 2 acres or more of net acreage
Mixed-Use	A development that exceeds any of the following: 15,000 square feet or more of gross floor area of non-residential use(s); or, 12 or more dwelling units; or, 2 acres or more of net acreage
Industrial	All industrial development, regardless of gross floor area or net acreage of the site
Development in the B-4 District:	
All Land Use Categories	New construction of a principal structure, regardless of land use category or net acreage of the site
Residential	A development that is 12 or more dwelling units
Non-Residential	A development that is either 10,000 square feet or more of gross floor area or a site of one-half (1/2) acre or more of net acreage
Mixed-use	A development that exceeds any of the following: 10,000 square feet or more of gross floor area of non-residential use(s); or, 12 or more dwelling units; or, one-half (1/2) acre or more of net acreage
Industrial	All industrial development, regardless of gross floor area or net acreage of the site

(d) Type IV Site Plan Review: All applications for a Conditional Use Permit.
(Ord. 15-31. Passed 6-2-15.)

1385.06 TYPE I: ADMINISTRATIVE REVIEW OF SIMPLE SITE PLANS.

(A) All applications for permits for single family residential and two-family residential primary and secondary structures shall be accompanied by the following:

(1) A site plan drawn to scale, that includes the following for the use of the Planning Director:

(a) The actual dimensions, size, square footage, and shape of the lot to be built upon;

(b) The exact sizes and locations on the lot of existing structures, if any;

(c) The location(s), square footage(s), and dimensions of all proposed principal, accessory, and/or temporary structure(s) and/or alteration(s);

(d) The location of the lot with respect to adjacent rights-of-way and easements;

(e) The existing and proposed uses of the structure(s) and land;

(f) The location and dimensions of off-street parking and means of ingress and egress for such space;

(g) Height of all structures;

(h) Setbacks;

(i) Grading plan;

(j) Stormwater management plan;

(k) Erosion and sediment control plan; and,

(l) Signature of applicant.

(Ord. 15-31. Passed 6-2-15.)

1385.07 TYPE II: ADMINISTRATIVE REVIEW OF DETAILED SITE PLANS.

(A) All applications for permits for non-residential, multi-family structures, and temporary uses that do not constitute a Development of Significant Impact (DSI), shall be accompanied by the following:

(1) A site plan (3 copies), drawn to scale, that includes the following for the use of the Planning Director:

(a) The actual dimensions, size, square footage, and shape of the lot to be built upon as shown on an actual survey by a registered design professional licensed by the State of West Virginia and as authorized by West Virginia State law, said survey to be provided by the applicant;

(b) The exact sizes and locations on the lot of existing structures, if any;

(c) The location(s), square footage(s), and dimensions of all proposed principal, accessory, and/or temporary structure(s) and/or alteration(s);

(d) The location of the lot with respect to adjacent rights-of-way;

(e) The existing and proposed uses of the structure(s) and land;

(f) The number of employees, families, housekeeping units, bedrooms, or rental units the structure is designed to accommodate;

(g) The location and dimensions of off-street parking and means of ingress and egress for such space;

(h) Height of all structures;

(i) The clear zone for structures similar to silos, grain bins, windmills, chimneys, stacks, spires, flagpole, skylights, derricks, conveyors, cooling towers, observation towers, water tanks, telecommunication facilities, etc. in excess of fifty (50) feet in height;
(j) Setbacks;
(k) Buffer yard and screening, if applicable;
(l) Location of garbage collection area and screening;
(m) Location of existing and/or proposed signage;
(n) Layout of all internal roadways;
(o) Location and size of stormwater management facilities;
(p) Utility lines and easements;
(q) Grading plan;
(r) Erosion and sediment control plan; and,
(s) Signature of applicant.

(2) Drainage plan and drainage calculations that bear the name, address, signature and seal of a registered professional engineer, with floodplain zones clearly denoted, a typical of all swales, and a design of the drop inlets;

(3) If applicable, design of stormwater management facility and drainage calculations that bear the name, address, and seal of a registered design professional licensed by the State of West Virginia and as authorized by West Virginia State law and that meet the requirements of this article, the City's stormwater management ordinance and all other applicable local, state and federal regulations;

(4) Parking and landscaping plan;

(5) Sign plan;

(6) Approved WV Division of Highways Access Permit, if applicable;

(7) Sediment and erosion control plan as approved by the West Virginia Department of Environmental Protection, the City of Morgantown, and the Morgantown Utility Board;

(8) Any other such information concerning the lot or neighboring lots as may be required by the Planning Director to determine conformance with, and provide for the enforcement of, this article; where deemed necessary, the Planning Director may require that in the case of accessory structures or minor additions, all dimensions shown on plans relating to the size of the lot and the location of the structure(s) thereon be based on an actual survey by a registered design professional licensed by the State of West Virginia and as authorized by West Virginia State law, said survey to be provided by the applicant;

(B) No site plan shall be accepted unless it is complete and is verified as to the correctness of information given by the signature of the applicant attesting thereto.

(C) Site plans shall be reviewed by an AICP certified planner, and such reviews may include other agencies that the City believes to have a direct or indirect interest in the development site.

(D) Site plans approved by the Planning Director authorize only the use, arrangement, and construction set forth in such approved site plans and no other use, arrangement or construction. Furthermore, the approval of a site plan shall not be construed to be approval of any violation of the provisions of this article. The issuance of a building permit by the City based upon site plans given approval by the Planning Director shall not prevent the City from thereafter requiring the correction of errors in said site plans or from preventing operations from being carried on thereunder when in violation with this article. Site plan approval does not eliminate the need to obtain an approved building permit and the applicant's responsibility to meet all other requirements established by local, state and federal regulations.

(E) One copy of the site plan submitted for a permit as required in subsection (C) above for the Planning Department shall be returned to the applicant after the Planning Director has marked such copy as either approved or disapproved as to the provisions of this article and attested to same by his signature on such copy. The original, similarly marked, shall be retained by the Planning Director.
(Ord. 15-31. Passed 6-2-15.)

1385.08 TYPE III: PLANNING COMMISSION REVIEW OF DEVELOPMENTS OF SIGNIFICANT IMPACT.

(A) Development of Significant Impact are those that have a Citywide or regional impact. Such impacts could involve the transportation network, environmental features such as parks or stream corridor, local schools, etc. Such developments could include large-scale residential commercial or mixed-use developments, employment centers, regional shopping centers, industrial and/or manufacturing, and extractive industry.

(B) All applications for a Development of Significant Impact shall be accompanied by site and development plan drawings submitted under the seal and signature of a registered design professional licensed by the State of West Virginia and as authorized by West Virginia State law. All sheets shall be 24" x 36" size drawn to scale at a minimum 1"=50' and a maximum of 1"=10' with the exception of the maps on Sheet One, unless otherwise approved by the City Engineer. Three (3) full-scale sets of the site plan drawings shall be submitted for review, along with one (1) exact digital file as required by the Planning Director, and shall observe the following format:

(1) Sheet One (Title Sheet). The following information shall be submitted as part of Sheet One:

(a) Full legal description with sufficient reference to section corners and boundary map of the subject project, including appropriate benchmark references.

(b) Name of the project.

(c) Name and address of the owner, developer, and person who prepared the plans.

(d) Total acreage with the project and the number of residential dwelling units and/or the gross square footage of non-residential buildings whichever is applicable.

(e) Existing zoning of the subject land and all adjacent lands.

(f) Boundary lines of adjacent tracts of land, showing owners of record.

(g) A key or vicinity map at a scale of one inch equals four hundred feet or less, showing the boundaries of the proposed project and covering the general area within which it is to be located.

(h) A statement of the proposed uses, stating the type and size of residential and non-residential buildings, and the type of business, commercial or industry, so as to reveal the effect of the project on traffic, fire hazards, or congestion of population.

(i) Any existing or proposed covenants and restrictions affecting property owners and/or homeowners associations.

(j) Statement of proposed starting and completion dates for the project, including any proposed phasing and sequencing.

(2) Sheet(s) Two (Existing Site Conditions). The following information shall be submitted as part of Sheet Two:

(a) Location, widths, and type of construction of all existing streets, street names, alleys, or other public ways and easements, street classification as per the approved regional transportation plan, railroad and utility rights-of-way or easements, parks, wooded areas, cemeteries, watercourses, drainage ditches, designated wetlands, low areas subject to flooding, permanent buildings, bridges, and other data considered pertinent by the Planning Commission or the Planning Director for the subject land, and within three hundred (300) feet of the proposed project or six hundred twenty-five (625) feet for extractive industry development.

(b) Existing water mains, fire hydrants, storm sewers, sanitary sewers, culverts, bridges, and other utility structures or facilities within, adjacent to, or serving the subject land, including pipe sizes, grades, and exact locations, as can best be obtained from public or private records.

(c) Existing contours based in U.S.G.S. datum with intervals of not more than two (2) feet. Elevations shall be based on sea level datum.

(d) The water elevation at the date of the survey of rivers, lakes, streams, or designated wetlands within the project or affecting it, as well as the approximate high and low water elevation of such rivers, lakes, streams, or designated wetlands. The plan shall also show the boundary line of the regulatory 100-year flood. The plan shall also show the base flood elevation of the regulatory 100-year flood at any building location along with the elevation of the lowest finished floor. All elevations shall be based on sea level datum.

(3) Sheet(s) Three (Proposed Site Conditions.) The following information shall be submitted as part of Sheet Three:

(a) Locations, widths, and type of construction of all existing and proposed streets, street names, alleys, or other public ways and easements, railroad and utility rights-of-way or easements, parks, wooded areas, cemeteries, watercourses, drainage ditches, designated wetlands, low areas subject to flooding, permanent buildings, bridges, and other data considered pertinent by the Planning Commission or the Planning Director for the subject land, and within three hundred (300) feet of the proposed project or six hundred twenty-five (625) feet for extractive industry development.

(b) Existing and proposed water mains, fire hydrants, storm sewers, sanitary sewers, culverts, bridges, and other utility structures or facilities within, adjacent to, or serving the subject land, including pipe sizes, grades, and exact locations, as can best be obtained from public or private records.

(c) Water Supply Plan. For development that involves the use of water at higher volumes than customarily associated with nonindustrial-type development, the City may require, in coordination with the Morgantown Utility Board, a water supply plan. A water supply plan must include at least the identification of the water source(s); the development and use of freshwater impoundments, if applicable; when and where water withdrawals will occur; necessary operational water volumes; potential competing water users; and, cumulative impact of the development's water consumption to the public water system, watersheds and/or groundwater.

(d) Building setback lines, showing dimensions.

(e) Internal and perimeter sidewalk system/pedestrian circulation plan.

(f) Proposed contours with intervals of not more than two (2) feet. The plan shall also show the contour line for the floodway fringe boundary. Grading plans and drainage plans and calculations are not required for Planning Commission site plan review, but shall be required prior to issuance of any building permits. Such plans shall be prepared by a registered design professional licensed by the State of West Virginia, and as authorized by West Virginia State law; and shall also meet the City's stormwater management ordinance and all applicable local, state and federal regulations.

(g) Location and detail plans for all trash dumpsters.

(h) Location and detail plans for utility and mechanical equipment placed on the ground (e.g. pad-mounted transformers, HVAC units, etc.)

(i) The number of employees, families, housekeeping units, bedrooms, or rental units the structure(s) is designed to accommodate.

(j) If applicable, the clear zone for structures similar to silos, grain bins, windmills, chimneys, stacks, spires, flag pole, skylights, derricks, conveyors, cooling towers, observation towers, water tanks, telecommunication facilities, etc., in excess of fifty (50) feet in height.

(4) Sheet(s) Four (Preliminary Landscape Plan and Preliminary Site Lighting Plan). A preliminary landscape plan prepared to the standards specified in this zoning ordinance. A preliminary site lighting plan that includes exterior light fixture details and photometric plans in footcandles.

(5) Sheet Five (Plat-like dedication sheet, if necessary). The following information shall be submitted as part of Sheet Five if a plat-like dedication document for easements and rights-of-way is deemed necessary by the Planning Commission or its authorized designee:

(a) Parcels of land proposed to be dedicated or served for public use, or reserved for common use of all property owners within the project, with the proposed conditions and maintenance requirements, if any, shall be designated as such and clearly labeled on the plans;

(b) Radii, internal angles, points of curvature; tangent bearings and lengths of all arcs, chord, and chord bearings; and

(c) Accurate location of all survey monuments erected, corners and other points established in the field in their proper places.

(6) Sheet(s) Six (Floor Plans). Floor plans must illustrate and identify internal and external dimensions, uses, gross floor areas, and include a summary table of residential unit types and/or nonresidential use gross floor areas and any additional information deemed necessary for proper review of the development plan by the Planning Director, City Engineer, or Planning Commission.

(7) Sheet(s) Seven (Building Elevations). Elevations of all facades illustrating height of building; top of adjoining finish grade elevation; exterior building components (roof, walls, foundation, etc.); exterior finishes and materials; roof slope or pitch; window types; exterior stairs, landings, guardrails, and handrails; and, any additional information deemed necessary for proper review of the development plan by the Planning Director, City Engineer, or Planning Commission.

(8) Sheet(s) Eight (Parking Layout Plan). Parking layout plan must identify ingress and egress driveway entrance(s) and distances of same from neighboring property boundaries, existing driveway entrances, and intersections; layout of internal roadway; parking stall types, and dimension details for parking stalls and drive aisles; pedestrian circulation plan (if required); and, any additional information deemed necessary for proper review of the development plan by the Planning Director, City Engineer, or Planning Commission.

(9) All sheets shall contain the following information:

(a) All dimensions shown on plans relating to the size of the lot and the location of the structure(s) thereon be based on an actual survey by a registered land surveyor or registered design professional licensed by the State of West Virginia and as authorized by West Virginia State law, said survey to be provided by the applicant.

(b) The proposed name by which the project shall be legally and commonly known.

(c) Date of survey, scale, and north point.

(d) All lots or outlots intended for sale or lease shall be designated with boundary lines and numbered or labeled for identification purposes.

(e) Private parks, common areas, or excluded parcels shall be designated as such and clearly labeled on the plans.

(f) All necessary reference points tying the subject property to the appropriate section corners.

(g) Each sheet shall be sealed and signed by the professional preparing the drawings.

(h) All sheets shall be tied to state plan coordinates for horizontal and vertical controls.

(i) Such other information as may be deemed necessary for proper review of the site plan by the Planning Director, City Engineer, or Planning Commission to determine conformance with and provide for the enforcement of these zoning regulations.

(C) All applications for a Development of Significant Impact shall be accompanied by:

(1) A list of the property owners' names and addresses located within 200 feet of the site, including the subject property, as of record in the office of the Monongalia County Assessor. The applicant must also submit the tax map and parcel numbers for the list of properties.

(2) The applicant must also submit a stamped and addressed envelope for each of the names and addresses of the property owners within 200 feet of the site. Return address is not required.

(D) For development which, in the opinion of the City Engineer, may create excessive negative impacts on traffic and/or dedicated City roadways, rights-of-way, or improvements in the immediate vicinity that serve the use, the City may require an analysis of the proposed development's impact on current or future traffic flows and/or dedicated City roadways, rights-of-way, or improvements, as the developer's expense, prepared by a qualified professional engineer. The Planning Commission may also table consideration of a development and refer such developments to the City Engineer to ask his or her opinion as to whether a traffic impact study, transportation route plan, and/or transportation route protection agreement may be warranted.

(1) Traffic Impact Study. If the traffic impact study indicates that the projected traffic impact of the use would result in a two (2) full letter grade decline in the existing Level of Service (e.g., going from a Level of Service B to a Level of Service D) of any dedicated City street directly serving the use, such finding may be considered sufficient grounds for denial of the project, or a requirement that sufficient improvements be made to said streets, at the developer's expense, or that the project be reduced in size and scope to the point where no such negative impact on the Level of Service results. Level of Service refers to the traffic grading system described in the latest edition of the Highway Capacity Manual, published by the Transportation Research Board.

(2) Approved WV Division of Highways Permit and/or Agreement, if applicable, is not required for Planning Commission site plan review, but shall be required prior to issuance of a building permit. In the event a traffic analysis or traffic impact study is required and the review of same involves WV Division of Highways, written/electronic correspondence from the WV Division of Highways documenting its approval of the traffic analysis or traffic impact study must be presented to the Planning Commission by the applicant prior to DSI site plan approval.

(3) Transportation Route Plan. A transportation route plan shall include a map of routes and roads for equipment, supplies, chemicals or waste products used or produced by the development. The plan shall include a list of the length of all public roads that will be used for site ingress and egress to Morgantown corporate limits. The map shall also show the location or any areas within the City along the transportation route proposed for truck staging or storage related to the development's operations. The City may restrict the hours of operation of vehicles when the proposed transportation route passes through a designated school zone, heavily used roadways or intersections, or along local residential streets. In the event of construction detours, roadway closure or roadway deterioration along an approved transportation route, the City Engineer may amend the approved transportation route plan.

(4) Transportation Route Protection Agreement. For development which, in the opinion of the City Engineer may damage or create excessive deterioration to dedicated City roadways, rights-of-way, or improvements, the City may require a transportation route protection agreement. The agreement shall stipulate that the City roadways, rights-of-way, and improvements shall be maintained equal to or better than the original condition; stipulate any required major improvements and restrictions; stipulate the manner in which dirt, dust, mud and debris is to be controlled from leaving the development site; and, required bond.

(a) For the purpose of this article, "Required Major Improvements" are those modifications to City roadways, rights-of-way, or improvements that are necessitated by the high volumes of heavy traffic anticipated for the development and may include but are not limited to sight distance improvements, signage, signalization, road widening, construction of new roadways, and acquisition of rights-of-way.

(b) For the purpose of this article, "Restrictions" are requirements directed at the protection of the vehicular and pedestrian traveling public, including but not limited to routing, pilot vehicles, hours of operation, etc.

(c) For the purpose of this article, "Anticipated Damage" is the added potential stress placed on City roadways, rights-of-way, or improvements due to increased continuous use by heavy vehicles.

(d) The approved route(s) shall be filmed before commencement of development.

(e) The person in charge of the development site shall provide a 24 hour point-of-contact for use by the City Engineer.

(f) Bond. A bond or similar surety acceptable to the City shall be based on the degree of anticipated damage to City roadways, rights-of-way, or improvements up to the following maximum amounts:

$100,000	Paved Mile
$ 35,000	Tar and Chipped Mile
$ 25,000	Graveled Mile

(E) Emergency Action Response Plan. For development that involves the use and/or storage of large volumes of highly flammable, toxic matter, or explosive materials, the City may require an emergency action response plan. A emergency action response plan shall, at a minimum:

(1) Be submitted for review to and placed on file with the City Engineer, City Fire Chief, City Police Chief, the Morgantown Utility Board, and the Monongalia County Homeland Security and Emergency Management Agency.

(2) Establish written procedures to minimize any hazard resulting from highly flammable, toxic matter, or explosive materials.

(3) Identify and describe specific measures of how existing best practices will be managed and maintained regarding protection of the public and how practices are consistent with applicable federal, state, and local laws and regulations.

(4) Be kept current with any additions, modifications, and/or amendments concerning all related activities including construction, facility upgrades, and processes and production associated with the use of highly flammable, toxic matter or explosive materials. Updated plans shall be submitted for review to and placed on file with the City Engineer, City Fire Chief, City Police Chief, the Morgantown Utility Board, and the Monongalia County Homeland Security and Emergency Management Agency within five (5) business days after any additions, modifications, and/or amendments to said plan.

(5) Be kept on site, including updated plans.

(6) Provide for:

(a) Prompt and effective response by the person in charge of the development site to emergencies regarding leaks or releases that can affect public health, safety, and welfare; fire or explosions; and natural disasters and severe weather.

(b) Effective means to notify and communicate required and pertinent information to local fire, police, and public officials during an emergency.

(c) The availability of personnel, equipment, tools, and materials as necessary at the scene of an emergency.

(d) Measures to be taken to reduce public exposure to injury.

(e) Emergency shutdown of highly flammable, toxic matter or explosive materials and related sites.

(f) The safe restoration of service and operations following an emergency or incident.

(g) A follow-up incident investigation to determine the cause of the incident and require the implementation of corrective measures.

(h) An emergency notification page that indicates all emergencies must be reported to MECCA 9-1-1.

(i) Drive-to-maps from public rights-of-way to the development site.

(F) Hazardous Materials Management Plan. For development that involves the use, storage, or generation of hazardous materials and wastes, the City may require a hazardous materials management plan. A hazardous materials management plan shall, at a minimum:

(1) Be submitted for review to and placed on file with the City Engineer, City Fire Chief, City Police Chief, the Morgantown Utility Board, and the Monongalia County Homeland Security and Emergency Management Agency.
(2) Include contact information for the owner, onsite manager, property manager, environmental manager, and tenants.
(3) Include operations information that includes but is not limited to the total number of employees and hours of operation for each day of the week; public access and whether it restricted or unrestricted; and, hazardous-waste generator.
(4) Include a site and facilities plan that includes but is not limited to floor layout with uses; hazardous materials storage areas and containers with methods of secondary containment; interior (floor drain) and exterior (stormwater) drainage systems with locations of connections to public sanitary and stormwater systems.
(5) Include and maintain an inventory of all hazardous materials and wastes used, stored, or generated by the development.
(6) Identify and describe specific measures of how existing best practices will be managed and maintained for the proper use, storage, disposal of hazardous materials and wastes; prevent pollution; reduce the risk of spills; how practices are consistent with applicable federal, state, and local laws and regulations.
(7) Include a spill contingency plan responding to spills of hazardous materials and/or wastes that includes but is not limited to emergency contacts; spill response procedures including cleanup protocol, supplies, equipment disposal; and employee training.

(G) No site plan shall be accepted unless it is complete and is verified as to the correctness of information given by the signature of the applicant attesting thereto.

(H) The Planning Department shall send written notification to property owners within 200 feet of any property line of the development of the time, date and location of the Planning Commission meeting at which the project will be considered.

(I) The Planning Director may require that the lot and location of the building thereon shall be staked out on the ground before construction of a dwelling unit or primary structure is begun. The Planning Director, where deemed appropriate, may require the same for accessory structures or minor additions. In any case, it shall be the owner's responsibility to ensure that a structure is placed on his property according to his approved site plan (zoning review) and as required by any applicable City ordinance.

(J) Site plans approved by the Planning Commission authorize only the use, arrangement, and construction set forth in such approved site plans and no other use, arrangement or construction. Furthermore, the approval of a site plan shall not be construed to be approval of any violation of the provisions of this article. The issuance of a building permit based upon site plans given approval by the Planning Commission shall not prevent the Planning Director from thereafter requiring the correction of errors in said site plans or from preventing operations from being carried on thereunder when in violation with this article. Site plan approval does not eliminate the need to obtain an approved building permit and the applicant's responsibility to meet all other requirements established by local, state and federal regulations.

(K) One copy of the site plan submitted for a permit to the Planning Department shall be returned to the applicant after the Planning Director has marked such copy as either approved or disapproved as to the provisions of this article and attested to same by his/her signature on such copy. The original, similarly marked, shall be retained by the Planning Director.

(L) Electronic Submittal of Final Plans and Other Documents. Final plans or other documents required to be submitted under the Type III Site Plan review that will be archived must be submitted in an electronic format specified by the Planning Director as a condition to issuance of any type of permit, approval, or other action related to the final plans or documents. The Planning Director shall provide a schedule indicating which documents must be provided electronically, at which point during the approval process, and other information as necessary for archiving purposes.
(Ord. 15-31. Passed 6-2-15.)

1385.09 TYPE IV: BZA REVIEW OF CONDITIONAL USE PERMITS.

(A) All applications for a Conditional Use Permit shall be accompanied by the following:

(1) A site plan (3 copies), drawn to scale, that includes the following:

(a) The actual dimensions, size, square footage, and shape of the lot to be built upon as shown on an actual survey by a licensed land surveyor or registered design professional licensed by the State of West Virginia and as authorized by West Virginia State law.

(b) The exact sizes and locations on the lot of existing structures, if any.

(c) The location(s), square footage(s), and dimensions of all proposed principal, accessory, and/or temporary structure(s) or and/or alteration(s).

(d) The location of the lot with respect to adjacent rights-of-way.

(e) The existing and proposed uses of the structure(s) and land.

(f) The number of employees, families, housekeeping units, bedrooms, or rental units the structure is designed to accommodate.

(g) The location and dimensions of off-street parking and means of ingress and egress for such space.

(h) Height of all structure(s).

(i) Setbacks.

(j) Buffer yard and screening, if applicable.

(k) Location of garbage collection area and screening.

(l) Location of existing and/or proposed signage.

(m) Roadway typical detail for internal roadways, if applicable.

(n) Signature of applicant.

(2) Parking plan, if applicable.

(3) Landscaping plan, if applicable.

(4) Approved WV Division of Highways Permit and/or Agreement, if applicable, is not required for Board of Zoning Appeals conditional use site plan review, but shall be required prior to issuance of a building permit. In the event a traffic analysis or traffic impact study is required and the review of same involves WV Division of Highways, written/electronic correspondence from the WV Division of Highways documenting its approval of the traffic analysis or traffic impact study must be presented to the Board of Zoning Appeals by the applicant prior to conditional use site plan approval.

(5) A traffic impact study, if required by the City Engineer.

(6) Any other such information concerning the lot or neighboring lots as may be required by the Planning Director to determine conformance with, and provide for the enforcement of, this article; where deemed necessary, the Planning Director may require that in the case of accessory structures or minor additions, all dimensions shown on plans relating to the size of the lot and the location of the structure(s) thereon be based on an actual survey by a registered land surveyor or registered design professional licensed by the State of West Virginia and as authorized by West Virginia State law, said survey to be provided by the applicant.

(B) No site plan shall be accepted unless it is complete and is verified as to the correctness of information given by the signature of the applicant attesting thereto.

(C) The Planning Director may require that the lot and location of the building thereon shall be staked out on the ground before construction of a dwelling unit or primary structure is begun. The Planning Director, where deemed appropriate, may require the same for accessory structures or minor additions. In any case, it shall be the owner's responsibility to ensure that a structure is placed on his property according to his approved site plan (zoning review) and as required by any applicable City ordinance.

(D) Site plans approved by the Board of Zoning Appeals may authorize the use, arrangement, and construction set forth in such approved site plans. Furthermore, the approval of a site plan shall not be construed to be approval of any violation of the provisions of this article. The issuance of a building permit based upon site plans given approval by the Board of Zoning Appeals shall not prevent the Planning Director from thereafter requiring the correction of errors in said site plans or from preventing operations from being carried on thereunder when in violation with this article. Site plan approval does not eliminate the need to obtain an approved building permit and the applicant's responsibility to meet all other requirements established by local, state and federal regulations.

(E) One copy of the site plan submitted for a permit as required in subsection (C) above for the Planning Department shall be returned to the applicant after the Planning Director has marked such copy as either approved or disapproved as to the provisions of this article and attested to same by his signature on such copy. The original, similarly marked, shall be retained by the Planning Director.
(Ord. 15-31. Passed 6-2-15.)

1385.10 OTHER REQUIRED SUBMITTALS.

The Applicant shall be required to submit written documentation of the following, when applicable and/or required:

(A) Utility encroachment approvals;
(B) Other local, state, and federal approvals, including other City boards, commissions, or departments;
(C) Inspection and testing agreements with the Engineering Department;
(D) Outside reviews as required by the City;
(E) Easements and rights-of-ways not on a plat-like document shall be submitted in the form prescribed by the Engineering Department and include both a full legal description and a drawing exhibit; and,
(F) Traffic impact study.
(G) Erosion and Sediment Control Plan. Prior to the issuance of any permit authorizing any work relating to grading, grubbing, stripping, etc., as defined and regulated by City Code Article 1741 "Grading Requirements" and/or City Code Article 929 "Stormwater Management and Surface Water Discharge Control," an Erosion and Sediment (E&S) Control Plan must be submitted, reviewed, and approved by the City Engineer and the Morgantown Utility Board (MUD). All control plan documents and design details and all measures for soil erosion and sediment control and sequencing of installation must meet or exceed current methods and standards adopted by the City of Morgantown, the Morgantown Utility Board (MUD), and the West Virginia Department of Natural Resources (WVDNR). The City Engineer and/or the Morgantown Utility Board (MUD) has the right to require additional erosion control measures in the field as conditions warrant.
(Ord. 15-31. Passed 6-2-15.)

1385.11 RESUBMITTAL OF PLANS.

Submit three (3) complete full-scale sets of the final, revised plans showing conditions required by the Board of Zoning Appeals and/or the Planning Commission.
(Ord.15-31. Passed 6-2-15.)

1385.12 REJECTION STATEMENT.

(A) The Planning Director may reject any submittal for the following reasons:
  (1) Incomplete application;
  (2) The drawing set or supporting documents not complete; or
  (3) Poor legibility.

(B) After the review of an approved submittal, the Planning Director shall render a decision in writing, which decision shall consist of either:
  (1) Approval of the site plan based upon the determination that the proposed plan complies with the general, design and performance standards set forth in this article;
  (2) Disapproval of the site plan based upon the determination that the proposed project does not meet the general, design and performance standards set forth in this article;

(3) Approval of the site plan subject to any conditions, modifications and restrictions as required by the Planning Director which will ensure that the project meets the general, design and performance standards set forth in this article.
(Ord. 15-31. Passed 6-2-15.)

1385.13 DEVIATION FROM THE APPROVED SITE PLAN AND ADDITIONS TO EXISTING STRUCTURES.

(A) If the installation of the elements on the site plan materially deviate from the approved site plan (as determined by the Planning Director or City Engineer), the site plan shall be resubmitted to the Commission or Board for a new site plan approval in accordance with the procedures and requirements for site plan approval. For purposes of this section, material deviation is one that:

(1) Adds, removes, or reconfigures an internal street or relocates an access point;
(2) Affects a condition of site plan approval that was established by the Commission or Board during the site plan approval stage;
(3) Reduces the area devoted to open spaces or buffer landscaping;
(4) Involves the enlargement of a nonresidential building footprint on the site due to future additions that are more than ten percent (10%) of the gross floor area or 5,000 square feet, whichever is less.

(B) Minor changes that do not constitute material deviation shall be reviewed and approved by the City Planning and Engineering staff.
(Ord.15-31. Passed 6-2-15.)

1385.14 RECORD DRAWINGS AND CERTIFICATE OF COMPLETION AND COMPLIANCE.

Where applicable, the developer or owner shall cause record drawings to be prepared and submitted to the Planning Director for all streets, drainage ditches and facilities, utility pipes and structures, and finished grade elevations for the project. Said record drawings shall be filed with the Planning Director prior to the release of any performance assurances. Record drawings, including the approved final plat shall be submitted in electronic format and in paper format, in a manner prescribed by the City Engineer.

(A) General Requirements: Plans are to contain a certification statement that the improvements have been installed in reasonable compliance with the original design plans with respect to horizontal locations and grades and any deviations of locations, grade or material used are shown in these record drawings. Said certification is to be sealed and signed.

(B) Specific Requirements:

(1) Grading or Development Plan(s)
Grades:
(a) Major drainage swales and percents of slope;
(b) Pad grades;
(c) Street grades;
(i) Centerline and curb if street is bituminous pavement with concrete curb. Centerline only if streets are concrete and placed with electronic control. (Maximum 50 ft. spacing)
(ii) All sag and crest points.
(d) Paved swales, if any, at 50 ft. intervals;
(e) Lake or pond if applicable;
(f) Locations of sidewalk ramps.

(2) Plan and Profiles.

(a) Sanitary Sewers:

(i) Invert elevations and percents of slope;

(ii) Top of casting elevations;

(iii) Lateral locations based on distances along main from manholes;

(iv) Locations of each manhole or structure (to make sure they are sufficiently within designated easements to permit future excavation to system if needed;

(v) Designate any material change from design plans; where plans show any alternatives, indicate alternative actually used.

(b) Storm Sewers:

(i) Invert elevations and percents of slope;

(ii) Top of casting elevations;

(iii) Location of pipe and structures (to make sure they are within designated easements);

(iv) Designate any material change from design plans; where plans show any alternatives, indicate alternate actually used.

(c) Streets:

(i) Grades;

(ii) All low and high points;

(iii) All percents of slope;

(iv) Any deviation of alignment;

(v) Grades and dimensions on acceleration and deceleration lanes if applicable.

(Ord.15-31. Passed 6-2-15.)

1385.15 EXPIRATION DEADLINES.

(A) Approval of site plans shall expire two years from the date of approval if the project has not been completed. The Planning Commission or the Board of Zoning Appeals, at its discretion, may grant extensions for a period up to two years.

(B) Bonded improvements must be completed within two years of issuance of land alteration permit.

(C) Request for extension must be submitted in writing stating the justification for the extension. (Ord.15-31. Passed 6-2-15.)

ARTICLE 1387
Planning Commission

1387.01 Establishment.
1387.02 Powers and duties.

CROSS REFERENCES
Charter provisions - see CHTR. 6.01 et seq.
Statutory provisions - see W. Va. Code Art. 8A-2

1387.01 ESTABLISHMENT.

A Planning Commission known as the Morgantown Planning Commission is hereby established under the provisions of the Code of the State of West Virginia, Chapter 8A, Article 2, et seq., as amended. The membership of said Planning Commission, the qualifications thereof, and the powers, privileges, duties and responsibilities of said Planning Commission shall be as hereinafter set forth:

(A) The Morgantown Planning Commission shall consist of nine (9) members, all of whom shall be residents of the City who shall be qualified by knowledge and experience in matters pertaining to the development of the City, and shall fairly represent different areas of interest, knowledge and expertise, including, but limited to, business, industry, labor, government and other relevant disciplines. Three-fifths of all the members shall have been residents of the City for at least three years prior to nomination and confirmation or appointment. No two (2) shall be residents of the same ward. All members shall be nominated by the City Manager and confirmed by Council.

(B) One member of the City Planning Commission shall also be a member of Council, and one member shall also be a member of the Administrative Department of the City. The term of these two members shall be co-extensive with the term of office to which each has been elected or appointed, unless the City Manager and Council at the first regular meeting of each year appoint others to serve as the City representatives. The remaining members of the Commission shall be appointed terms of three (3) years and until their successors are appointed and qualify. Vacancies shall be filled by appointment in the same manner for the unexpired term only. Members shall serve without compensation, but shall be reimbursed for all reasonable and necessary expenses actually incurred in the performance of their official duties.

(C) The Commission shall fix times for holding regular meetings and shall meet at least quarterly. Special meetings may be called by the President or upon the written request of any two members. The secretary shall give at least two (2) days notice of any special meeting unless the same is waived by the full membership of the Commission. A majority of members shall constitute a quorum for the transaction of business and no action of the Commission shall be official unless authorized by a majority of the membership present at a regular or properly called special meeting.

(D) At the first regular meeting in each year the Commission shall elect from its membership a President and Vice President and may appoint a secretary from within or without its membership. The Commission may appoint such employees as are necessary to discharge its duties, and compensation paid shall be in conformity with the budgetary powers of the City Council.

1387.02 POWERS AND DUTIES.

To effectuate the purposes of this ordinance the Commission shall have power and authority to:

(A) Exercise general supervision for the administration of the affairs of the Commission;

(B) Prescribe uniform rules and regulations pertaining to administration, investigations and hearings, provided that the rules and regulations are adopted by City Council;

(C) Supervise the fiscal affairs and responsibilities of the Commission;

(D) With consent of Council, hire employees necessary to carry out the duties and responsibilities of the Planning Commission, provided that City Council sets the salaries;

(E) Keep an accurate and complete record of all Planning Commission proceedings;

(F) Record and file all bonds and contracts;

(G) Take responsibility for the custody and preservation of all papers and documents of the Commission.

(H) Make recommendations to City Council concerning planning.

(I) Make an annual report to City Council concerning the operation of the Planning Commission and the status of planning within the City;

(J) Prepare, publish and distribute reports, ordinances and other material relating to the activities authorized under the Code of the State of West Virginia Code, Chapter 8A, Article 2;

(K) Adopt a seal and certify all official acts;

(L) Invoke any legal, equitable or special remedy for the enforcement of the provisions of the Code of the State of West Virginia, Chapter 8A, Articles 1 through 12 or any ordinance, rule or regulation or any action taken thereunder;

(M) Prepare and submit an annual budget in the same manner as other departments of the City government and shall be limited in all expenditures to the provisions made therefore by City Council;

(N) If necessary, establish Advisory Committees;

(O) Delegate limited powers to a committee composed of one or more members of the Planning Commission; and,

(P) Contract for special or temporary services and professional counsel with the approval of City Council.

ARTICLE 1389
Board of Zoning Appeals

1389.01 Establishment.
1389.02 Powers and duties.
1389.03 Variances.
1389.04 Conditional uses.
1389.05 Judicial review.

CROSS REFERENCES
Charter provisions - see CHTR. 6.01
Statutory provisions - see W. Va. Code Art. 8A-8

1389.01 ESTABLISHMENT.

(A) The Board of Zoning Appeals is hereby established and shall consist of five members to be appointed by City Council, all of which shall be residents of the City and three-fifths of such members shall have been residents of the City for at least three years prior to the time of their appointment.

(B) No member of the Board of Zoning Appeals shall be a member of the Planning Commission nor shall any member hold any other elective or appointive office in the City of Morgantown.

(C) The members of the Board shall serve without compensation, but shall be reimbursed for actual expenses incurred in the performance of their official duties. If a vacancy occurs by resignation or otherwise among the members of the Board of Zoning Appeals, City Council shall appoint a member for the unexpired term.

(D) City Council may appoint up to three additional members to serve as alternate members of the Board who shall meet the same eligibility requirements as regular Board members. The term for an alternate Board member shall be three years and Council may appoint alternate members on a staggered term schedule.

(E) An alternate Board member shall serve on the Board when one of the regular members is unable to serve. The alternate Board member shall serve until a final determination is made in the matter to which the alternate member was initially called on to serve.

(F) The Board of Zoning Appeals shall establish rules and procedures for designating an alternate member who shall have the same powers and duties as a regular Board member.

(G) Any decision of the City Manager in the enforcement of this ordinance may be appealed to the Board by any person claiming to be adversely affected by such decision.

1389.02 POWERS AND DUTIES.

The Board shall have the following powers and it shall be its duty to:

(A) Hear, review and determine appeals from any order, requirement, decision or determination made by the City Manager in the enforcement of this ordinance;

(B) Authorize exceptions to the district rules and regulations only in the classes of cases or in particular situations, as specified in this ordinance;

(C) Hear and decide conditional uses upon which the Board is required to act under this ordinance;

(D) Authorize, upon appeal in specific cases, a variance from the terms of this ordinance;

(E) Reverse, affirm or modify the order, requirement, decision or determination appealed from and have all the powers and authority of the City Manager from whom the appeal was taken;

(F) Adopt rules and regulations concerning:

(1) The filing of appeals, including the process and forms for the appeal;

(2) Applications for variances and conditional uses;

(3) The giving of notice;

(4) The conduct of hearings necessary to carry out the Board's duties as authorized by State law;

(5) Keep minutes of its proceedings;

(6) Keep an accurate and complete audio record of all the Board's proceedings and official actions and keep the audio record in a safe manner, accessible within twenty-four hours of demand, for three years;

(7) Record the vote on all actions taken;

(8) Take responsibility for the custody and preservation of all papers and documents of the Board, which shall be filed in the Planning Office and made public record;

(9) With consent from City Council, hire employees necessary to carry out the duties and responsibilities of the Board, provided that Council sets the salaries; and

(G) Supervise the fiscal affairs and responsibilities of the Board.

1389.03 VARIANCES.

(A) No variance in the application of the provisions of this ordinance shall be made by the Board relating to buildings, land or premises now existing or to be constructed, unless after a public hearing, the Board shall find that the variance:

(1) Will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents;

(2) Arises from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance;

(3) Would eliminate an unnecessary hardship and permit a reasonable use of the land; and,
(4) Will allow the intent of the Zoning Ordinance to be observed and substantial justice done.

(B) In the case where a variance is denied by the Board, said application shall not be eligible for re-submittal for one (1) year from the date of said denial. A new application must be, in the opinion of the Board of Zoning Appeals, substantially different from the application denied, or conditions must have substantially changed for the new proposal to be eligible for consideration within one (1) year from said date of denial.

1389.04 CONDITIONAL USES.

(A) No conditional use application under the terms of this Ordinance shall be made by the Board unless after a public hearing the Board shall find that the conditional use is within the fitting character of the surrounding area and is consistent with the spirit, purpose, and intent of the Zoning Ordinance, because:

(1) Congestion in the streets is not increased;
(2) Safety from fire, panic, and other danger is not jeopardized;
(3) Provision of adequate light and air is not disturbed;
(4) Overcrowding of land does not occur;
(5) Undue congestion of population is not created;
(6) Granting this request will not create inadequate provision of transportation, water, sewerage, schools, parks, or other public requirements;
(7) Value of buildings will be conserved; and,
(8) The most appropriate use of land is encouraged.

(B) Each applicant must give their own response to these statements as a basis for the Board's evaluation of the request.

1389.05 JUDICIAL REVIEW.

Every decision or order of the Board of Zoning Appeals shall be subject to review by certiorari. Any person or persons jointly or severally aggrieved by any decision or order of the Board of Zoning Appeals may present to the Circuit Court of the County of Monongalia a petition duly verified, setting forth that such decision or order is illegal in whole or in part, and specifying the grounds of the alleged illegality. The petition must be presented to the Court within thirty (30) days after the date of the decision or the order of the Board of Zoning Appeals complained of.

ARTICLE 1391
Permit, Certificate, and Approval Revocation

1391.01 Authority to revoke.
1391.02 Effect of revocation.
1391.03 Revocation procedure.
1391.04 Appeal of revocation.

1391.01 AUTHORITY TO REVOKE.

Any permit or approval issued or granted under this ordinance may be revoked by the City Manager, in accordance with the provisions of this chapter, if the City Manager finds that the recipient of the permit or approval ("recipient") fails to use, develop or maintain the subject property in accordance with the plans submitted, the requirements and standards of this ordinance, any additional requirements or conditions imposed by the City, Board, Commission or Planning Director, or any commitments or self-imposed conditions made by the recipient.

1391.02 EFFECT OF REVOCATION.

(A) No person may continue to improve or make use of the subject property after a permit or approval issued pursuant to this ordinance has been revoked.

(B) The City may not issue any additional permits, certificates or approvals directly affecting or relative to the subject property until the basis for the revocation has been removed by the applicant or the matter otherwise resolved by the City and recipient.

1391.03 REVOCATION PROCEDURE.

(A) If the City Manager finds that sufficient grounds exist for the revocation of a permit or approval issued pursuant to this ordinance, the City Manager or his designee shall send the recipient ten (10) days written notice of intent to revoke, shall inform the recipient of the specific basis found to justify revocation, and shall specify the actions necessary to avoid revocation.

(B) The City Manager shall, upon request, review the basis of the intended revocation with the recipient.

(C) The recipient shall implement the actions specified by the City Manager within ten (10) days of the date of notice or within such other reasonable time as may be determined by the City Manager.

(D) If the City Manager revokes a permit or approval issued pursuant to this ordinance, the Planning Director shall send the recipient a written notice of revocation which specifies the specific basis of the revocation and which informs the recipient of his right to appeal the City Manager's action.

1391.04 APPEAL OF REVOCATION.

The revocation of any permit or approval issued pursuant to this ordinance may be appealed to the Board of Zoning Appeals by any person claiming to be adversely affected by the revocation, under the processes set forth for administrative appeals in Article 1371, Administrative Appeals.

ARTICLE 1393
Violations and Enforcement

1393.01 Remedies and penalties.

CROSS REFERENCES
Enforcement provisions - see W. Va. Code Art. 8A-10

1393.01 REMEDIES AND PENALTIES.

(A) The Planning Commission, the Zoning Board of Appeals, the City Manager, or any designated enforcement official may institute a suit for injunction in the Circuit Court of Monongalia County to restrain any individual or a governmental unit from violating the provisions of this ordinance.

(B) The Planning Commission, the Board of Zoning Appeals, the City Manager, or any designated enforcement official may also institute a suit for mandatory injunction directing any individual, a corporation or a governmental unit to remove a structure erected in violation of the provisions of this ordinance.

(C) If the Planning Commission, the Zoning Board of Appeals, the City Manager, or any designated official is successful in any such suit, the respondent shall bear the costs of the action.

(D) Any building erected, raised or converted, or land or premises used in violation of any provisions of this ordinance or the requirements thereof is hereby declared to be a common nuisance and as such may be abated in such manner as nuisances are now or may hereafter be abated under existing law.

(E) Any person, firm or corporation violating any of the provisions of this ordinance shall for each violation, upon conviction thereof, pay a penalty of not less than fifty dollars ($50) nor more than five hundred dollars ($500), with costs recoverable before the Judge of the Municipal Court; and upon default of payment of the penalty and costs the person or persons convicted may be committed to the City or County Jail for not exceeding thirty (30) days. Each day that a violation is permitted to exist shall constitute a separate offense.
(Ord. 15-04. Passed 2-3-15.)