**AN ORDINANCE AMENDING ARTICLE 1365 OF THE PLANNING AND ZONING CODE PROVIDING PARKING, LOADING, AND INTERNAL ROADWAYS REQUIREMENTS**

WHEREAS,

The City of Morgantown hereby ordains that Article 1365 of the Planning and Zoning Code is amended as follows:

**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~~ by an appropriate design or plan~~,~~ that the required 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 met

~~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,~~ vehicles belonging to patrons, occupants or employees of specified uses. ~~Said~~ The parking facilities shall not be used for (i) commercial vehicles, including but not limited to motor vehicles with more than two axles, buses, construction equipment or vehicles, and commercial delivery vehicles; or (ii) 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,](http://whdrane.conwaygreene.com/NXT/gateway.dll?f=jumplink$jumplink_x=Advanced$jumplink_vpc=first$jumplink_xsl=querylink.xsl$jumplink_sel=title;path;content-type;home-title;item-bookmark$jumplink_d=%7bMorgantn%7d$jumplink_q=%5bfield%20folio-destination-name:%271365.04.01%27%5d$jumplink_md=target-id=0-0-0-3961)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.](http://whdrane.conwaygreene.com/NXT/gateway.dll?f=jumplink$jumplink_x=Advanced$jumplink_vpc=first$jumplink_xsl=querylink.xsl$jumplink_sel=title;path;content-type;home-title;item-bookmark$jumplink_d=%7bMorgantn%7d$jumplink_q=%5bfield%20folio-destination-name:%271365.04.01%27%5d$jumplink_md=target-id=0-0-0-3961)

   (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](http://whdrane.conwaygreene.com/NXT/gateway.dll?f=jumplink$jumplink_x=Advanced$jumplink_vpc=first$jumplink_xsl=querylink.xsl$jumplink_sel=title;path;content-type;home-title;item-bookmark$jumplink_d=%7bMorgantn%7d$jumplink_q=%5bfield%20folio-destination-name:%271365.04.01%27%5d$jumplink_md=target-id=0-0-0-3961).

   (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.

 (Q) Bicycle Storage – For all Developments of Significant Impact, the minimum bicycle storage amenities described in this Subsection Q must be provided. For each Development of Significant Impact subject to these bicycle storage amenities requirements, the required number of automobile parking spaces shall be reduced by one space for each three bicycle parking spaces provided, up to a maximum reduction of twenty automobile parking spaces. The minimum bicycle storage amenities are as follows:

 (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 space shall permit a bicycle to be individually secured with a lock to a permanent structure.

 (4) There should be sufficient space for easy access to each bicycle.

**Table 1365.04.01:  Minimum Off-Street Parking Requirements**