



The City of Morgantown

430 Spruce Street
Morgantown, West Virginia 26505
(304) 284-7439
www.morgantownwv.gov

AGENDA

MORGANTOWN COMMITTEE OF THE WHOLE

West Virginia Botanic Garden, 1061 Tyrone Road, Morgantown, WV 26508

Tuesday, September 27, 2022 at 7:00 PM

1. PRESENTATIONS:

- A. West Virginia Botanic Garden - Philip Smith, Executive Director
- B. Vacant Structures Update - Rickie Yeager, Director of Development Services
- C. The Historic Morgantown Post Office - Dr. Jane Cardi, President

2. PUBLIC PORTION:

3. ITEMS FOR DISCUSSION:

- A. Ordinance Amending Article 169 - Utility Board
- B. Ordinance Amending Article 1718 - Vacant Structure Code
- C. Ordinance Amending Fee Schedule

4. ADJOURNMENT:

For accommodations, please contact us at 304-288-7072.

**AN ORDINANCE AMENDING ARTICLE 169
ENTITLED “UTILITY BOARD”**

WHEREAS, West Virginia law authorizes municipalities to operate combined utility systems providing water, sewer, and stormwater utility services pursuant to West Virginia Code Chapter 8, Article 16; and West Virginia Code Chapter 8, Article 20; and

WHEREAS, such combined utility systems are operated by the governing body of the municipality unless the governing body elects to establish a board to operate such combined utility systems in accordance with West Virginia Code Chapter 8, Article 20, Section 18; and

WHEREAS, any board operating a combined utility system authorized by West Virginia Code Chapter 8, Article 20 has authority and duties limited to the powers granted to the board by the governing body consistent with West Virginia Code Chapter 8, Article 16; and

WHEREAS, pursuant to West Virginia Code Chapter 8, Article 16, Section 4, the governing body is to provide the powers of the board operating the combined system by ordinance or ordinances, for said committee, board or commission to exercise such of the functions of the governing body or bodies in connection with the matter as it or they deem proper, and may provide for said committee, board or commission to receive such compensation as such body or bodies may deem proper, all of which authority and compensation shall be specifically provided for by ordinance or ordinances; and

WHEREAS, Morgantown City Council has established a board to operate its combined water, sewer, and stormwater utility system consistent with the provisions of West Virginia Code Chapter 8, Article 20, Section 18; and West Virginia Code Chapter 8, Article 16; and it has specifically provided for the authorities granted to such board in Article 169 of the City Code; and

WHEREAS, the utility board has historically participated in acquisition of real estate for the utility system by authorizing use of utility system funds to acquire real estate titled in the name of The City of Morgantown and describing in transaction documents that real estate was acquired by The City of Morgantown acting by and through the utility board, but Article 169 has not previously contained express provision for these transactions and the City of Morgantown has, on certain occasions, adopted ordinances authorizing the acquisition of real estate for use in the utility system; and

WHEREAS, pursuant to West Virginia Code Chapter 24, Article 2, Section 4b, as last amended effective March 10, 2018, the rates paid by customers of the combined utility system are set by ordinance of City Council without a separate proceeding for approval by the West Virginia Public Service Commission, because the utility system is a municipally operated water and/or sewer utility with more than 4,500 customers and annual combined gross revenue in excess of \$3 million; and

WHEREAS, pursuant to West Virginia Code Chapter 24, Article 2, Section 11, as last updated effective June 5, 2020, a public utility may not begin the construction of any plant, equipment, property or facility for furnishing to the public any of the services enumerated in section one, article two of this chapter, nor apply for, nor obtain any franchise, license or permit from any municipality or other governmental agency, except ordinary extensions of existing systems in the usual course of business, unless and until it shall obtain from the Public Service Commission a certificate of public convenience and necessity authorizing the construction franchise, license or permit; but, in accordance with the provisions of West Virginia Code Chapter 24, Article 2, Section 11, subsections (a) and (l), municipally operated water or sewer utilities with at least 4,500 customers and combined annual gross revenues of \$3 million do not need a certificate of convenience and necessity from the West Virginia Public Service Commission for such projects but instead must comply with certain notice and approval requirements including advance notice to customers on billing statements, publication in newspapers of general circulation, and enactment of an ordinance or resolution read at two meetings of the governing body with two weeks between readings; and

WHEREAS, City Council desires and intends to update Article 169 to incorporate these requirements and practices into the express authorities and duties conferred on the board by the governing body consistent with West Virginia Code Chapter 8, Article 16, Section 4; and

WHEREAS, City Council believes that efficient and effective coordination with the utility board is essential to the proper development and maintenance of the community and its infrastructure; and

WHEREAS, City Council believes that coordination will be promoted by providing for a member of City Council to serve on the utility board and to act as a conduit between the City Council and the utility board to ensure clear and open communication and assist with advance planning of community projects; and

WHEREAS, City Council believes these purposes will likewise be served by ensuring the City Manager, the chief executive and administrative officer of the City, participates directly or by designee in the deliberations and discussions of the utility board;

NOW, THEREFORE, The City of Morgantown hereby ordains that Article 169 is amended as follows:

Sec. 169.01. – Establishment; purpose. ~~Creation; members; compensation.~~

(a) ~~Upon the issuance of the combined waterworks and sewerage system refunding revenue bonds, the~~ The management, control and operation of the waterworks system, and the sewerage system, and the Morgantown Stormwater Utility (together, the “combined utility system”) of the City of Morgantown (the “City”) shall be are vested in the Morgantown Utility Board (the "Board"), in accordance with the terms of this Article. ~~created, appointed and functioning as hereinafter provided.~~

~~(b) The management, control and operation of the stormwater drainage and sewer system of the City shall be vested in the Morgantown Utility Board.~~

Sec. 169.02. – Members; qualifications; appointment; terms

(a) Members. The Board shall consist of five members, as follows:

- (i) One member shall be a representative of the City Council, selected by Council from among its members;
- (ii) Four members shall be residential customers of the Board
- (iii) The City Manager shall be a nonvoting *ex officio* member of the Board, entitled to participate in all meetings of the Board and all deliberations of the Board at such meetings.

(b) Qualifications. Each member shall be a person of outstanding reputation, ability, and integrity. No more than two members serving as residential customers of the Board may reside outside the corporate boundaries of the City.

(c) Terms.

- (i) The representative of City Council shall serve on the Board during the member’s term on City Council.
- (ii) The members serving as residential customers of the Board shall serve five-year terms beginning November 1 and ending October 31.
- (iii) Transition provisions. The member term ending immediately prior to the effective date of this ordinance shall cease to be a term of membership on the Board. All other members will continue in office and the length of the terms of such members will be consistent with their initial appointments and the terms of this ordinance.

(d) Appointment; service. Each member shall be appointed by the City Council. Members shall continue in office until a successor is appointed except in the event of their earlier death, removal, or resignation. Except as otherwise authorized by City Council, the seat of any Member who fails to attend a meeting of the Board for six consecutive months shall be deemed vacant. Vacancies shall be filled by City Council for the unexpired portion of a term only. Each Member shall be subject to removal for just cause by the recorded vote of a majority of City Council after a public hearing. The decision of City Council as to such removal shall be final and not subject to review by any court, arbitrator or other body, except as otherwise may be provided by law, and each Member accepting such appointment shall acknowledge the finality of such decision.

(e) Compensation; costs. The Members serving as residential customers shall receive compensation for their services at the rate established by ordinance of City Council, provided that no member of City Council shall receive compensation for service on the Board. All Members shall be reimbursed for any and all reasonable expenses incurred in the performance of their duties under order of the Board.

~~(c) — The Board shall consist of five persons each of whom shall be residential customers of the Morgantown Utility Board; shall be persons of outstanding reputation, ability and integrity; and shall be appointed by Council. No more than two of the appointees may be citizens of Monongalia County, residing outside of the corporate limits of the City; all remaining appointees shall be citizens and residents of the City. The City Manager shall notify all appointees of their appointment. The terms of such Boardmembers first appointed shall be for one, two, three, four and five years, respectively, from the first day of the month in which appointed. In the event of a vacancy and also within 30 days after the expiration of the term of office of any Boardmember, a successor shall be appointed by Council. All vacancies shall be filled for the unexpired term only and all other appointments shall be for a term of five years, to commence on the date following the scheduled expiration date of the previous term. The Board shall adopt rules of procedure for the time and place of its meetings and the conduct thereof. Any Boardmember shall be eligible for reappointment upon the expiration of his term. The Boardmembers shall each receive compensation for their services at the rate established by ordinance of Council and in addition, shall be reimbursed for any and all expenses incurred in the performance of their duties under order of the Board. Each Boardmember shall be subject to removal for just cause by Council by the recorded vote of a majority of Council after a public hearing thereon. The decision of Council as to such removal shall be final and not subject to review by any court, arbitrator or other body, and each accepting such appointment shall acknowledge the finality of such decision.~~

Sec. 169.032. - Organization.

~~At the first meeting of the Board each calendar year and annually thereafter, it shall organize by designating one of the Members Boardmembers to act as chairman and another or others to act as secretary and/or treasurer thereof. The chairman shall preside at all meetings when present and shall call special meetings on their his own motion, or when requested to do so by any two Members Boardmembers. The secretary shall keep a record of the proceedings which shall be available for inspection as other Municipal records. The treasurer shall disburse the funds of the Board as directed by the Board and in accordance with applicable laws, rules, and regulations. it. In the event that any Boardmember shall be unable to fulfill the duties of his office for a period of six months, a majority of the remainder of the Boardmembers may declare the office of such Boardmember vacant and Council shall thereupon fill such vacancy as otherwise provided for herein.~~

Sec. 169.043. – Powers and duties.

(a) The Board shall have full and complete supervision, management and control of the waterworks system, the sewerage system and the stormwater system, including the maintenance, operations, improvements and extension thereof, in accordance with the terms of this Article, all of which shall be combined as a single system under Chapter 8, Article 20 of the West Virginia Code of 1931, as amended (the “system”).

(b) All bills for water, sewer and stormwater service shall be collected and accounted for by the Board in the manner and form required by law, the Public Service Commission and/or the ordinances of the City, and all disbursements and accounts of the system shall be ordered paid out

only upon approval of such Board; provided however, that all such supervision, management and control of the systems and the collection and accounting for bills for water, sewer and stormwater service shall be consistent and in accordance with any ordinance pursuant to which the City may have authorized and issued any bonds from time to time outstanding, which by their terms are payable from and secured by the revenues of the system.

(c) The Board shall have the power and authority to make all contracts, agreements and other matters necessary or proper for the full complete supervision, management and control of the system, but such power shall not extend to the establishment, creation, or partnership in any separate or independent authority, agency, board, commission, or other entity without the prior approval of the City Council.

(d) The Board may acquire real estate, or interests therein, by majority vote of the Board; provided that real estate, or interests therein, shall be acquired in the name of The City of Morgantown and that such real estate will be held by The City of Morgantown for the benefit of the public. Any such real estate so acquired or encumbered shall be available for public use not inconsistent with the operation of the water, sewer and stormwater service in the discretion of City Council. Real estate acquired or used for the combined utility system may only be transferred or encumbered by ordinance duly enacted by City Council and in accordance with the terms thereof.

(e) The Board may propose rates or fees for the water, sewer and stormwater service to the City Council, from time to time, in accordance with West Virginia Code section 24-2-4b, and such proposals shall be evaluated by City Council consistent with applicable law and any procedures, rules, and regulations of Council. Any rate approved by City Council shall be set by ordinance, and the Council may request technical assistance in review of the proposed rates from the Public Service Commission of West Virginia in accordance with West Virginia Code section 24-2-4b(h).

(f) Should the Board wish to pursue a construction project not in the ordinary course of business, it shall propose such project to the City Council for consideration of approval by resolution or ordinance. Should City Council elect to consider the proposed project, Council will provide, or direct the Board to provide, in compliance with the requirements of West Virginia Code section 24-2-11(1), adequate prior public notice of the contemplated construction and the proposed changes to rates, fees, and charges, if any, as a result of the construction to both current customers and those persons who will be affected by the proposed construction. No project outside the ordinary course of business may proceed unless previously approved by resolution or ordinance of City Council. Except as otherwise specified by rules or regulations adopted by City Council, a project not in the ordinary course of business shall be (i) any project the total cost of which may exceed \$1 million; (ii) any project accessing property owned, operated, or used by a public entity for public recreation; (iii) any project that would otherwise require a certificate of convenience and necessity from the Public Service Commission pursuant to West Virginia Code section 24-2-11(1) or applicable law if the Public Service Commission had jurisdiction over the combined utility system; and (iv) any project determined in the reasonable discretion of City Council to constitute a project outside the ordinary course of business, when notification of such determination is made before construction begins.

By adoption of this ordinance, all prior acquisitions of real property for the combined utility system are ratified and approved, subject to and in accordance with the terms of this ordinance. This ordinance shall be construed in such a manner as to be consistent with the terms of any preexisting or prior ordinance relating to the financing of the System, as defined herein. This ordinance supersedes any prior ordinance, resolution, rule, regulation, action, or enactment inconsistent with the terms hereof, and, to the extent of a conflict between the terms of this ordinance and such prior enactments or actions, the terms of this ordinance shall control.

This ordinance is effective November 1, 2022.

FIRST READING: _____

Mayor

SECOND READING: _____

City Clerk

ADOPTED: _____

FILED: _____

Ordinance No. 2022-_____

**AN ORDINANCE AMENDING ARTICLE 1718
ENTITLED “VACANT STRUCTURE CODE”**

The City of Morgantown hereby ordains that Article 1718 of the City Code is amended as follows:

Sec. 1718.01. Adoption and Findings.

- (a) There is hereby adopted a Vacant Structure Code for the City of Morgantown.
- (b) The City finds and determines that vacant structures within the City can create dangerous conditions when left unmonitored and contribute to additional expenditures of public funds due to responses to complaints occurring at such properties, inspection of such properties in response to service calls and to ensure safety of entrants including building officials; fire protection officers; and law enforcement officers; and that a regular program of registration, inspection, and monitoring of vacant structures is essential to limit harm and expense to the public from such vacant structures.
- (c) The City estimates its annual costs of administering a registration program for vacant structures, excluding inspections, at \$100 per structure due to staff time involved in processing and reviewing applications and addressing property owner questions.
- (d) The City estimates its annual cost of monitoring well-maintained property, excluding annual inspections, at \$0 because such properties generally do not require additional inspections or response to service calls beyond those normally expected at occupied structures.
- (e) The City estimates that its annual cost of monitoring property that is not well-maintained exceeds the cost associated with well-maintained or occupied structures due to increased dangers to entrants, increased need to issue notices of violation or citations to address issues at the property, increased likelihood of the need to obtain entry and inspection of the property, increased likelihood of the need to take direct action at the expense of public funds to correct dangerous conditions at the property or to demolish the structure if it cannot be rehabilitated, and that such costs increase each year the structure remains vacant and unmaintained or poorly maintained.
- (f) The City estimates its annual cost of inspections based on the ordinary actual staff hours worked to perform inspection, and, in appropriate instances, to prepare and obtain a search warrant to gain entry to inspect, as provided from time to time on the Fee Schedule adopted by the City.

(Ord. No. 17-42, 10-17-2017)

Sec. 1718.02. Purpose.

The purpose of this article shall be to ensure that all vacant structures will be kept weathertight and secure from trespassers, safe for entry by police officers and fire fighters in

times of emergency, and to ensure that the structure and its contents do not present a hazard to the public during the time that the building remains vacant.

(Ord. No. 17-42, 10-17-2017)

Sec. 1718.03. Definitions.

The following definitions shall apply to this article:

Building Official means the director of the City of Morgantown Code Enforcement Department, a code enforcement department as defined by Title 87 West Virginia Code Rule Section 7-2, as it may be amended.

Code Enforcement Agency Official means a lawful agent of the City of Morgantown Code Enforcement Department, a code enforcement department as defined by Title 87 West Virginia Code Rule Section 7-2, as it may be amended.

Compliance Determination means the written determination by the Building Inspector and Fire Chief, made in their discretion and pursuant to applicable law, that a Vacant Property has been inspected by the Building Inspector and Fire Chief and determined to be in compliance with all applicable safety codes and not to constitute a hazard to entrants or the surrounding area, which will be issued to a property Owner in writing stating the date or dates for which the determination is valid.

Owner or property owner means a person who individually or jointly with others:

- (1) Has legal title to the property, with or without actual possession of the property;
- (2) Has charge, care, or control of the property as owner or agent of the owner;
- (3) Is an executor, administrator, trustee or guardian of the estate of the owner;
- (4) Is the agent of the owner for the purpose of managing, controlling or collecting rents; or
- (5) Is entitled to control or direct the management or disposition of the property.

Vacant building means a building or other structure that is:

- (1) Unoccupied;
- (2) Unsecured and occupied by one or more unauthorized persons; or
- (3) Is without continuous utility service evidencing actual use of water, sewer, electric, and/or gas service to the building for a period exceeding 90 days, but excluding any new building under construction prior to the issuance of a certificate of occupancy for that building and excluding any building granted an exemption by City Council pursuant to Section 1718.07(c); or
- (4) Partially unoccupied such that more than one entire level or floor of such building is unoccupied and 75% or more of the useable space of such building is unoccupied.

Vacant property means a property on which no building is erected and no routine activity occurs.

(Ord. No. 17-42, 10-17-2017)

Sec. 1718.04. Registration.

- (a) All owners of realty within the City of Morgantown that contain a vacant building, shall register each vacant building with the City's Building Official or his/her designee within 30 days after the structure meets the definition of a vacant building and on each subsequent July 1st when a vacant building is present on the owner(s)' property.
- (b) Registration is required annually, and at the time the vacant structure is registered, the registration form must be accompanied by a registration fee in the amount prescribed by this section. The registration form shall require information from the registrant deemed necessary by the Building Official, Fire Chief, and Police Chief of the City, to ensure that the purpose of this article is met. The contents of the form shall enable City Officers to determine the structural integrity of the building, any repairs necessary to ensure its structural integrity, that it will be safe for entry, and that the building and its contents do not present a hazard to the public. The above-named officers, or their designees, shall have the authority to issue orders to the owner or owner's local agent for corrective action deemed necessary. The Building Inspector and Fire Chief shall rely upon the West Virginia State Building Code and Fire Codes, as well as other applicable law, for guidance during any structural review.
- (c) Registration statement and fees; local agent.
 - (1) A registration statement in the form prescribed by the City must be filed by the owner or owner's local agent for all vacant buildings. Registration and payment of fees does not exonerate the owner, agent or responsible party from penalties for failure to comply with any building, housing, or fire code requirement. One registration statement may be filed to include all vacant buildings of an owner, but a separate fee is assessed for each vacant building.
 - (2) The owner(s) of the property on which a vacant building exists at the time registration is required shall be responsible, jointly and severally, for payment of the non-refundable registration fee; provided, that the City may not collect any amount exceeding the total prescribed fee. The fee shall be due upon registration in the following amount for each vacant building:
 - a. No fee for properties that are vacant for less than one year;
 - b. One hundred dollars per year for properties that are vacant more than one year and that have been inspected by the Building Inspector and Fire Chief and determined to be in compliance with all applicable safety codes and not to constitute a hazard to entrants or the surrounding area. The determination by the Building Inspector and Fire Chief will be made in their discretion and pursuant to applicable law, will be issued to a property owner in writing stating the date or dates for which the

determination is valid, and is referred to in this Article as a “Compliance Determination.”

- b. Five hundred dollars for properties that do not have a valid Compliance Determination and are vacant for at least one year but less than two years;
- c. One thousand dollars for properties that do not have a valid Compliance Determination and are vacant for at least two years but less than three years;
- d. Two thousand dollars for properties that do not have a valid Compliance Determination and are vacant for at least three years but less than four years;
- e. Three thousand five hundred dollars for properties that do not have a valid Compliance Determination and are vacant for at least four years but less than five years; and
- f. Four thousand dollars for properties that do not have a valid Compliance Determination and are vacant for at least five years, plus an additional \$1,000.00 for each year in excess of five years.

(3) If the owner of property on which a vacant building exists does not certify on the registration form that the owner is a resident of the state and capable of accepting service of process related to the vacant building, the registration statement also shall provide the name and address of a person who resides within the state and who is authorized to accept service of process on behalf of the property owners and who shall be designated as a responsible local agent for purposes of notification in the event of an emergency affecting the public health, safety or welfare and for purposes of service of any and all notices or registration statements related to the vacant building.

(d) All owners of vacant property within the City of Morgantown, as defined in Section 1718.03 above, shall register the same with the City's Building Official or his/her designee within 30 days after the property meets the definition of a vacant property and on each subsequent July 1st when the property qualifies as a vacant property. Registration is required annually but no registration fee shall be required. A registration statement in the form prescribed by the City must be filed by the owner for all vacant property. Registration does not exonerate the owner or responsible party from penalties for failure to comply with any building, housing, or fire code requirement. One registration statement may be filed to include all vacant property of an owner.

(Ord. No. 17-42, 10-17-2017)

Sec. 1718.05. Inspection; maintenance standards.

(a) Following registration of a vacant building, the Building Official, Fire Chief, and Police Chief shall determine whether it is necessary for any or all of them to inspect the structure to identify the existence of any public safety issues, or whether an inspection should be performed by a third party retained by the Property Owner. If an inspection is deemed necessary, reasonable efforts will be made to notify the owner of the time and place of inspection. If the owner fails or refuses to consent to and arrange for an inspection, the City

will seek a search warrant from a court of competent jurisdiction to authorize inspection of the premises for the purpose of determining compliance with this article, the structural integrity of the building, the repairs necessary to insure its structural integrity and that it will be safe for entry by building officials, emergency medical technicians or other health care providers, fire fighters, and police officers in time of emergency, and that the building and its contents do not present a hazard to the public during the time that the building remains vacant. The Property Owner will be responsible to pay the cost of each inspection according to the City Fee Schedule currently in effect. If the Building Official determines, consistent with this subsection, that the Property Owner should provide for inspection by a third party, the Property Owner shall be responsible for the cost of obtaining such inspection by a licensed, qualified inspector and providing the report of such third party to the Building Official within three (3) months of the delivery of notice of the determination that a third party inspection is required. Additional inspections of any vacant building or vacant property may be conducted according to these procedures when such inspection is deemed necessary by the Building Official, Fire Chief, and Police Chief.

- (b) The owner of each vacant building or vacant property shall maintain it in compliance with all applicable laws and codes, including without limitation the Fire Code and Building Code.

(Ord. No. 17-42, 10-17-2017)

Sec. 1718.06. Corrective action.

- (a) The owner(s) or local agent of an owner of a vacant building or vacant property shall be notified in writing of any corrective action deemed necessary by City Officials. The notice shall describe the corrective action required, identify the laws or regulations violated by the current condition, and identify a reasonable time period in which the corrective action must be taken by the owner or his agent.
- (b) The notice of corrective action shall be served in accordance with the law of the State of West Virginia concerning the service of process in civil actions, except that personal service of the notice may be made by a Code Enforcement Agency Official. If service is made by certified mail under Rule 4(d)(1)(D) of the West Virginia Rules of Civil Procedure and delivery of the notice is refused, the Code Enforcement Agency Official, promptly upon the receipt of the notice of the refusal, shall mail to the person or entity being noticed, by first class mail, postage prepaid, a copy of the summons and complaint. If the first class mailing is not returned as undeliverable by the U.S. Postal Service, service of the notice is presumed to have been effectuated.
- (c) If the owner fails to take the corrective action upon expiration of the time period specified in the notice, the City may, but shall not be required to, act to bring the vacant building or vacant property into compliance with the standards set forth in this article, or otherwise eliminate the public nuisance caused by any noncompliant conditions.
- (d) The cost of any and all repairs, demolition, or maintenance, and all related legal and administrative costs, incurred by the City in the enforcement of this section shall be paid to the City by the owner. The City may institute civil proceedings to collect any such costs.

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(Supp. No. 3)

(Ord. No. 17-42, 10-17-2017)

Sec. 1718.07. Right of appeal.

- (a) A property owner may challenge any determination made as to the property owner's vacant building or vacant property pursuant to this article by filing an administrative appeal with the City Manager on forms to be prescribed by the City. In general, an appeal is filed for the purpose of claiming that a structure is not a Vacant Building as defined by this Code, while an Exemption Request is filed for a structure that the Property Owner agrees is a Vacant Building but would like to avoid registering because the structure cannot be occupied for a certain limited period of time. The appeal must be filed within ten days of delivery of notice of the determination challenged and shall describe with particularity all objections thereto. The burden of proof shall be on the property owner to show that the determination was incorrect and contrary to law, in whole or in part. The City Manager shall review the appeal and provide for any necessary hearing, render a decision on the appeal and promptly notify the property owner of such decision in writing, all within a reasonable time. During the pendency of the administrative appeal, any time period given to the property owner to take corrective action shall be tolled and the City shall not take any action to enforce the determination subject of the appeal except to address an emergency condition presenting an imminent danger to the life, health, or safety of the public. The City Manager may prescribe regulations and forms as necessary to implement the provisions of this section.
- (b) Any property owner whose appeal is denied, in whole or in part, may file an appeal to the Monongalia County Circuit Court within 30 days of the date the decision on the appeal is issued.
- (c) The City Council, on a case-by-case basis, upon request by the property owner, shall exempt a vacant building from registration upon a finding for good cause shown that the person will be unable to occupy the building for a determinate period of time. In order to obtain such exemption, the property owner shall submit a written request for exemption to the City Manager for delivery to the City Council stating all reasons showing good cause that the building cannot be occupied and identifying the time period for which it cannot be occupied. City Council shall consider the request at its next regular meeting for which notice of the request can be adequately provided in accordance with the law, or at a special meeting called for that purpose, and may continue the hearing as the Council deems appropriate. The Council may prescribe regulations and forms as necessary to implement the provisions of this section.

(Ord. No. 17-42, 10-17-2017)

Sec. 1718.08. Enforcement; liens.

- (a) In addition to any other rights conferred by law, the City may institute a civil action against the property owner to enforce the provisions of this article and to collect any unpaid and delinquent vacant building registration fees.

- (b) In addition to any other rights conferred by law the City may, without instituting a civil action, file a lien on any real property for which there are unpaid and delinquent vacant building registration fees upon compliance with the notice provisions of this section.
- (c) Before any lien is filed, the City shall give notice to the property owner or local agent of the property owner by certified mail, return receipt requested, that the City will file the lien unless the delinquent fees are paid by a date stated in the notice, which date shall be no less than 30 days from the date the notice is received by the property owner or local agent of the property owner. The date of receipt shall be the date of delivery shown on the signed certified mail return receipt card.
- (d) If service cannot be obtained by certified mail as provided in Paragraph (c), above, the City may file a lien after obtaining service pursuant to the provisions of Section 1718.06(b), provided that no additional attempt to make service by certified mail shall be required.

(Ord. No. 17-42, 10-17-2017)

Sec. 1718.09. Deposit and expenditure of fees.

All fees received pursuant to this article shall be deposited by the City into a separate account, which shall be used for the following purposes:

- (1) To improve public safety efforts, especially for police and fire personnel, who most often contend with the dangerous situations manifested in vacant properties;
- (2) To monitor and administer this section; and
- (3) To repair, close or demolish a vacant structure as authorized by Section [1718.06] of this article.

(Ord. No. 17-42, 10-17-2017)

Sec. 1718.99. Penalty.

- (a) Any person who fails to comply with the provisions of this article, or fails to take the corrective action required by this article, shall be guilty of a misdemeanor, punishable by a fine of no more than \$500.00. Each day that a violation continues shall be deemed a separate offense.
- (b) Any person who interferes with or fails to allow inspection of a property subject to inspection under this Article shall be guilty of a misdemeanor, punishable by a fine of no more than \$500.00. Each day that a violation continues shall be deemed a separate offense
- (c) Any person who fails to comply with an order issued by an official having authority to make such order under this Article shall be guilty of a misdemeanor, punishable by a fine of no more than \$500.00. Each day that a violation continues shall be deemed a separate offense

(d) Any person found guilty of a second violation of this Article within any 12-month period shall be subject to a fine of no less than \$250.00 nor more than \$500.00 for such offense.

(e) Any person found guilty of a third violation of this Article within any 12-month period shall be subject to a fine of \$500.00 for such offense.

(Ord. No. 17-42, 10-17-2017)

This ordinance shall be effective _____ days after its adoption.

FIRST READING: _____

Mayor

SECOND READING: _____

ADOPTED: _____

City Clerk

FILED: _____