



Office of the City Clerk

The City of Morgantown

Linda L. Tucker, CMC
389 Spruce Street, Room 10
Morgantown, West Virginia 26505
(304) 284-7439 Fax: (304) 284-7525
llittle@cityofmorgantown.org

AGENDA
MORGANTOWN CITY COUNCIL
COMMITTEE OF THE WHOLE
May 26, 2015
7:00 p.m.

NOTE: Committee of the Whole Meetings of the Morgantown City Council are intended to provide an opportunity for the Council to receive information, ask questions, and identify policy options in an informal setting. No official action is taken at these meetings. At this Committee of the Whole Meeting the following matters are scheduled:

PRESENTATIONS:

1. **Downstream Strategies Presentation on Phase III ASF Grant**
2. **University Avenue project Presentation (intersection of 3rd Street at University Avenue)**

PUBLIC PORTION:

ITEMS FOR DISCUSSION:

1. **Sunnyside Parking District Designation & Modification to Wiles Hill Parking District**
2. **Ex-officio student member City Council**
3. **HARP orphan road program and inclusion of Oakview Streets into the City Network**
4. **Amendment to Dangerous Dog Ordinance**
5. **Outdoor Dining Permit Amendments**
6. **Planning and Zoning Code Ordinances intended to further Urban Agriculture**

If you need an accommodation contact us at 284-7439

**AN ORDINANCE AMENDING CITY CODE SECTION 367.04 GOVERNING RULES
FOR DESIGNATED PARKING DISTRICTS**

WHEREAS, Article 367 provides general standards for Designated Parking Districts, including a maximum number of permits per structure applicable to all districts; and

WHEREAS, differences in character among the Designated Parking Districts in the City require different permit availability responsive to each District; and

WHEREAS, permit availability will be more appropriately determined in the ordinance creating each Designated Parking District than by use of a generally applicable maximum;

NOW, THEREFORE, the City of Morgantown hereby ordains that City Code section 367.04 is amended as follows:

367.04 PERMITS; RULES; FEES.

(a) The City Manager, or his/her designee, which may include the Morgantown Parking Authority, is hereby authorized to issue parking permits to qualified residents of designated parking districts within the City.

(b) The City Manager shall promulgate rules governing the use of designated parking districts, including, but not limited to, rules governing the determination of eligibility residents for receipt of parking permits.

(c) The rules shall make provisions for parking district petition processes, feasibility study procedures, and administrative recommendations.

(d) The rules shall make provision for regular permits, as well as for the issuance of temporary permits for the guests and visitors of residents of the district and also for temporary permits to delivery or other business vehicles serving the residents of the district.

(e) The rules shall ~~make provisions~~ create standards for determining the distribution of parking permits ~~per household~~, which may differ from one parking district to another. ~~; provided that no more than two resident permits and one visitor permit, with the exception of one day (24 hour) visitor permits, shall be issued to any one household within the district.~~

(f) Prior to implementing any such rules, the City Manager shall reduce them to writing and present them to City Council for consideration and approval by Resolution.

(g) The intent of the permit process is to provide on-street parking for residents, their guests and visitors to their household. Permits are not to be given by residents to individuals so that those individuals may park in the district when not specifically there for the sole purposes of visiting with the residence in question. Visitor permits of any type, with the exception of one-day (24 hour) visitor permits, may not be used for more than five (5) consecutive days for the same vehicle.

(h) The City Clerk shall maintain a book that contains all ordinances, resolutions, and adopted rules and regulations pertaining to the designation and enforcement of parking districts within the City. Said book shall also contain any amendments to the foregoing documents. The City Clerk shall title this book "Parking Districts and Applicable Ordinances, Resolutions, and Rules."

(i) The fees for permits issued under this article shall be established by ordinance setting the fee schedule for each designated parking district; provided, parking permit fees shall not be less than:

First Resident Permit	\$5.00 per year
Each additional Resident Permit	\$10.00 per year
Visitor Permits (all types except One-day Visitor Permit)	\$5.00 per year
One-day Visitor Permit (1 to a maximum of 8 permits per occurrence)	\$5.00 per occurrence

(j) Permits issued under this article are valid only in the designated parking district for which the permit is issued.

This Ordinance shall be effective on the date of its adoption.

FIRST READING:

Mayor

ADOPTED:

FILED:

City Clerk

**AN ORDINANCE REVISING THE BOUNDARIES OF THE WILES HILL
DESIGNATED PARKING DISTRICT**

WHEREAS, the City of Morgantown, by ordinance adopted October 1, 1991, pursuant to authority set forth in Article 367 of the Morgantown City Code, established the Wiles Hill Designated Parking District (the "District"); and

WHEREAS, the boundaries, permit requirements, and wording of signage for the District were revised by City Ordinance 14-20, adopted July 15, 2014; and

WHEREAS, City Council finds, based upon the recommendation of the City's administration and the Morgantown Parking Authority, that additional modifications to the District as stated in this Ordinance are required;

NOW, THEREFORE, the City of Morgantown hereby ordains that Ordinance 14-20 describing the Wiles Hill Designated Parking District is amended as follows:

WILES HILL DESIGNATED PARKING DISTRICT

ESTABLISHMENT OF DISTRICT:

There is hereby established within the City of Morgantown a Designated Parking District to be bounded as described below, and to be identified as the "Wiles Hill Designated Parking District."

BOUNDARIES OF DISTRICT:

The District shall be bounded as follows:

Beginning at the South east corner of the intersection of University Avenue and North Street (adjacent to Assessor's tax map 14 parcel 35) extending East along North Street to the intersection of North Street and Grove Street, including parcels on both sides of North Street with the exception of Tax map 14 parcels 34 and 76, then in an south easterly direction along Grove Street to the intersection with Afton Street, then in an easterly direction along Afton Street to the intersection of ~~Grove Street~~ Afton Street and Willowdale Road, including all parcels on both sides of Afton Street with the exception of Tax map 14 parcels 122, 122.01, and 123. Following Willowdale Road south to the intersection of Willowdale Road and Stewart Street, then following Stewart Street south to the intersection of Stewart Street and Lorentz Ave, then along Lorentz Avenue to a point adjacent to Tax Map 20 parcel 253, including parcels on both sides of Lorentz Ave, then along Lorentz Ave including only parcels along the right side and Tax Map 20 parcel 273 to the intersection of Lorentz Avenue and Sharon Avenue, along Sharon Avenue (excluding Tax map 20 Parcel 274) to the intersection with Jones Avenue-Overhill Street, then southwest along Overhill Street to the intersection of Overhill Street and Jones Avenue, then in a northwesterly direction to the intersection of Jones Avenue and Highview Place, including Tax map 20 parcels 198, 199, and 200, then in a westerly direction along Highview Place to the dead end at tax map 14 Parcel 51, Then following the parcel boundary in a westerly direction of parcel 51 to the intersection with parcel 48, then following the parcel

boundary of parcel 48 in a northerly direction along the rear parcel boundaries of parcels 49, 50, 46, 45, 44, 43 to the intersection with the right-of-way of Beaver Street, then along the northern property line of Tax Map 14 Parcel 55.1 to a point on Warrick Street adjacent to Tax Map 14 Parcel 62, then in a northerly direction along Warrick Street to the intersection of Warrick Street and University Avenue, then in a northerly direction along University Avenue to the point of beginning. ~~The boundaries are shown on the Exhibit hereto attached.~~

These boundaries are shown on the map attached as an Exhibit to this Ordinance, which is made a part of the Ordinance.

PERMITS AVAILABLE:

Not more than two (2) residential occupant parking permits and one (1) visitor parking permit per residential structure will be issued.

PERMIT FEES:

Permits issued for the Wiles Hill Designated Parking District shall require payment of five dollars (\$5.00) for the first residential occupant permit, ten dollars (\$10.00) for each additional residential occupant permit, and five dollars (\$5.00) for each annual visitor permit. Each residential occupant permit and annual visitor permit shall be valid for the period from August 1 to July 31. Fees will not be prorated over the permit time period. Each permit must be renewed annually, and renewal requires payment of the permit fee.

One-day visitor permits may be issued upon payment of a five dollar (\$5.00) fee per occurrence. One-day visitor permits will be valid only for the date shown on the permit.

SIGNING OF STREETS:

The City Manager shall cause all streets within the above Designated Parking District to be signed as follows:

PARKING BY PERMIT ONLY
MONDAY THRU SATURDAY
7:00 a.m. – 7:00 p.m.

APPLICABILITY OF OTHER PARKING RESTRICTIONS:

Nothing contained herein shall be construed as permitting the parking of any vehicle in any property marked “no parking” or restricted parking area or in violation of any other City ordinance or law.

This Ordinance shall be effective as of August 1, 2015.

FIRST READING:

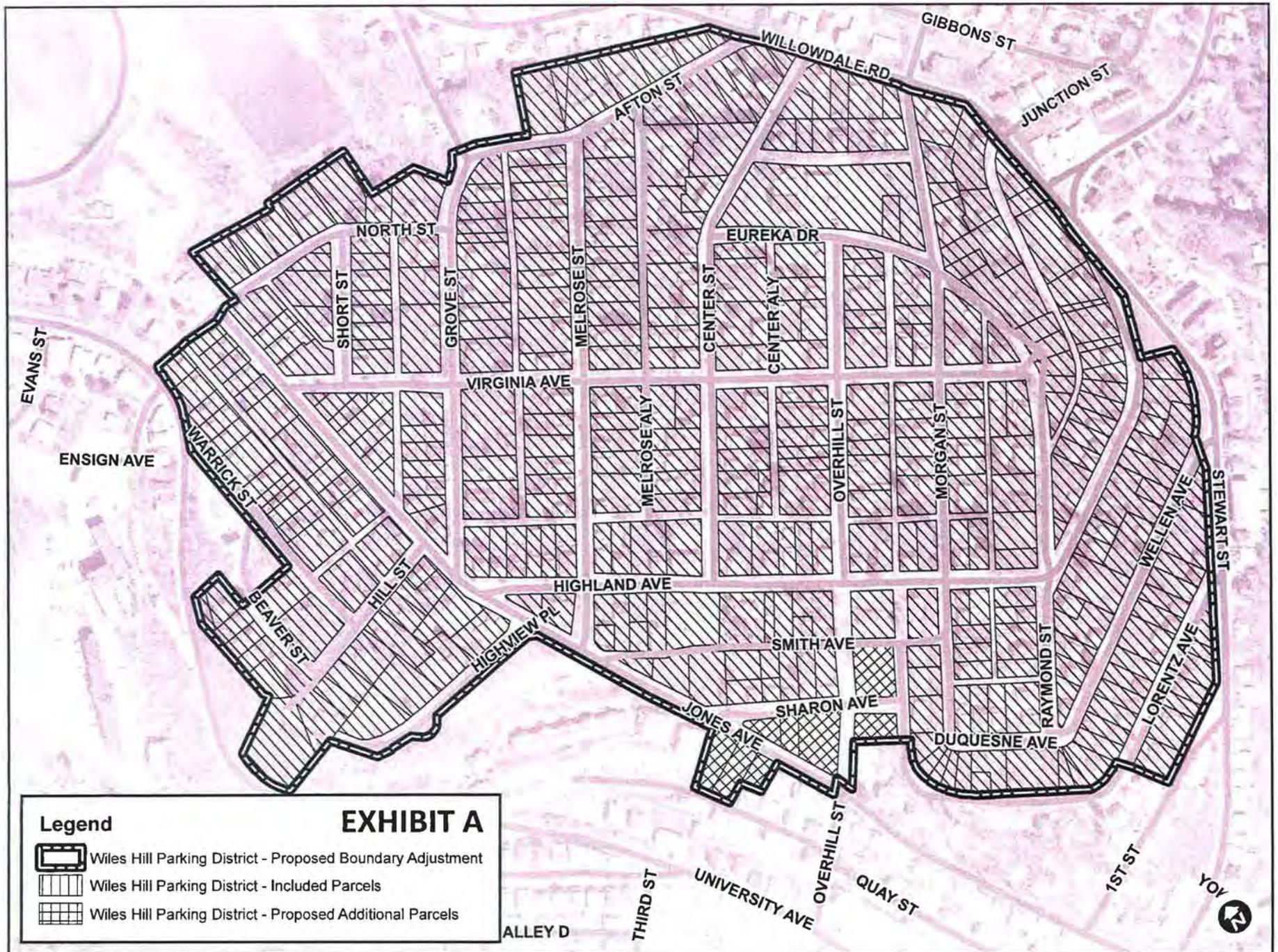
Mayor

ADOPTED:

FILED:

City Clerk

RECORDED:



**AN ORDINANCE ESTABLISHING THE SUNNYSIDE
DESIGNATED PARKING DISTRICT**

WHEREAS, Article 367 of the City Code establishes Designated Parking Districts within the City; and

WHEREAS, Section 367.03 of the City Code provides that Council shall, from time to time as it deems necessary, identify, by specific and separate ordinances, areas of the City as designated parking districts; and

WHEREAS, City Council finds, based upon the recommendation of the City's administration and the Morgantown Parking Authority, that establishment of a Designated Parking District in the Sunnyside Area, as more particularly defined in this Ordinance, is necessary to promote the purposes of Article 367, including reduction of hazardous traffic conditions and remedying on-street parking shortages;

NOW, THEREFORE, the City of Morgantown hereby ordains that the Sunnyside Designated Parking District is established as follows:

SUNNYSIDE DESIGNATED PARKING DISTRICT

ESTABLISHMENT OF DISTRICT:

There is hereby established within the City of Morgantown a Designated Parking District to be bounded as described below, and to be identified as the "Sunnyside Designated Parking District."

BOUNDARIES OF DISTRICT:

The District shall be bounded as follows:

Beginning at the east corner of the intersection of Beechurst Avenue and 8th Street extending in a southeasterly direction along Beechurst Avenue to the intersection of Beechurst Avenue and Third Street, then east along the entire southeast side of Assessor's tax map 19 parcels 18 and 17, then southeast along the southwest side of the parcels bordering McLain Avenue to Campus Drive, then in a northeasterly direction along Campus Drive to the intersection of Campus Drive and University Avenue, then in a northeasterly direction along Stewart Street to the intersection of Stewart Street and Jones Avenue, then in a northerly direction along Jones Avenue to the intersection of Jones Avenue and Overhill Street, then southwest along Overhill street to the intersection of Overhill Street and University Avenue, then south along University Avenue to the intersection of University Avenue and Houston Drive, then in a westerly direction along Houston drive to the intersection of Houston Drive and Grant Avenue, then in a northwesterly direction along Grant Avenue to the intersection of Grant Avenue and Third Street, then northeast along Third Street to the intersection of Third Street and Beverly Avenue, then northwest along Beverly Avenue to the southern corner of Assessor's tax map 20 parcel 2, then northeast along the southeast border of this parcel to University Avenue, then in a northwesterly direction along

University Avenue to the eastern corner of Assessor's tax map 15 parcel 266, then northwest along the northeastern borders of Assessor's tax map 15 parcels 266 and 663, then southwest along the northeast border of this parcel, then in a northwesterly direction along the Beverly Avenue right of way to the intersection of the Beverly Avenue Right of Way and the Gianola Street Right of Way, then in a northeasterly direction along the Gianola Street Right of Way to the intersection of the Gianola Street Right of Way and the Creston Street right of Way, then northeast along the Hardy Street Right of Way to the eastern corner of Assessor's tax map 11 parcel 248, then northwest along the northeastern border of this parcel to 8th Street, then southwest along 8th Street to the northeastern border of Assessor's tax map 15 parcel 109, then northwest along the entire northeast border of this parcel, then southwest along the northwest border of Assessor's tax map 15 parcels 109, 108, and 107 to Grant Avenue, then northwest along Grant Avenue to the intersection of Grant Avenue and Bent Tree Court, then southwest along Bent Tree Court, then in a southeasterly direction along Bent Tree Court to the intersection of Bent Tree Court and 8th Street, then southwest along 8th Street to the intersection of 8th Street and Beechurst Avenue to the point of beginning.

These boundaries are shown on the map attached as an Exhibit to this Ordinance, which is made a part of the Ordinance.

PERMITS AVAILABLE:

Not more than three (3) residential occupant parking permits per residential structure will be issued. No visitor parking permits will be issued.

PERMIT FEES:

Each permit issued for the Sunnyside Designated Parking District shall require payment of ten dollars (\$10.00) and be valid for the period from August 1 to July 31. Fees will not be prorated over the permit time period. Each permit must be renewed annually, and renewal requires payment of the permit fee.

SIGNING OF STREETS:

The City Manager shall cause all streets within the above Designated Parking District to be signed as follows:

PARKING BY PERMIT ONLY
MONDAY THRU FRIDAY
7:00 a.m. – 7:00 p.m.

APPLICABILITY OF OTHER PARKING RESTRICTIONS:

Nothing contained herein shall be construed as permitting the parking of any vehicle in any property marked "no parking" or restricted parking area or in violation of any other City ordinance or law.

This Ordinance shall be effective as of August 1, 2015.

FIRST READING:

Mayor

ADOPTED:

FILED:

City Clerk

RECORDED:

LAWS GOVERNING COUNCIL MEMBER REQUIREMENTS

Eligibility for Council Member seat under City Charter:

SECTION 2.01. COMPOSITION, ELIGIBILITY, ELECTION AND TERMS.

(a) Composition. There shall be a City Council of seven members elected by the qualified voters of the City at large. Each of the members shall be nominated in the respective wards in which they reside by petitions signed by 75 or more qualified voters in that ward, in the manner provided in Article VII.

(b) Eligibility. Only qualified voters of the City, as defined by Article VII, shall be eligible to hold the office of Councilmember. There shall be no other eligibility requirements.

(c) Election and Terms. The regular election of Councilmembers shall be held on the last Tuesday in April, in each odd-numbered year, beginning with the first odd-numbered year following the effective date of this Charter in the manner provided in Article VII. The candidate in each ward who receives the greatest number of votes cast by the qualified voters of the City at large, shall be declared elected. Each Councilmember shall serve for a term of two years, beginning on July first following his election.

(Qualified voters in Art. VII: “ (b) Qualified Voters. All citizens qualified by the constitution and laws of the State of West Virginia to vote in the City and who satisfy the requirements for registration prescribed by law shall be qualified voters of the City within the meaning of this Charter”)

- Amendment to City Charter § 2.01(a) and possibly (b) would be required to add an ex officio member.

Council Members defined by State Code:

W. Va. Code Ann. § 8-5-7:

(a) Unless otherwise provided in the charter of a municipality, there shall be elected a mayor, a recorder and council members, who together shall form the governing body of the municipality.

(b) When a municipality has not been divided into wards or election districts, there shall be at least five council members, but when the municipality has been divided into wards or election districts, the governing body may, by ordinance, determine the number of council members to be elected from each ward or election district. When it is considered necessary, the governing body may, by ordinance, increase or decrease the number of wards or election districts and change the boundaries thereof, the wards or election districts to be made as nearly equal as may be, in population, and when the municipality is divided into wards or election districts, or there is an increase or decrease in the number of wards or election districts as aforesaid, the governing body may increase or decrease the number of council members and, in the case of an increase in the number of council members, direct an election to be held at the next regular municipal election in the additional ward or wards or election district or districts so that each ward or election

district may have its full number of council members residing therein and may have equal representation on the governing body. When a municipality has been divided into wards or election districts, the governing body may, by ordinance, also provide for the election of council members at large in addition to the council members to be elected from each ward or election district. The provisions of this subsection are applicable to any municipality except to the extent otherwise provided in the charter of the municipality.

(c) Unless otherwise provided by charter provision or ordinance, the mayor, recorder and council members must be residents of the municipality and must be qualified voters entitled to vote for members of its governing body. A city manager in a manager form of government need only be a resident of the city at the time of his or her appointment.

- The section provides that members be elected and one from each ward, unless otherwise provided in the Charter. In some cases, the Charter may vary these requirements.

State Constitution provisions:

Const. Art. 4, § 4

§ 4. Persons entitled to hold office--Age requirements

No person, except citizens entitled to vote, shall be elected or appointed to any state, county or municipal office; but the governor and judges must have attained the age of thirty, and the attorney general and senators the age of twenty-five years, at the beginning of their respective terms of service; and must have been citizens of the state for five years next preceding their election or appointment, or be citizens at the time this constitution goes into operation.

W. Va. Const. art. IV, § 4

- Any change to the City Charter may not permit someone who is not a qualified voter to serve in municipal office

**Zachary L. Mendelson
124 Morgan Drive
Morgantown, WV 26505**

Phone: (412) 841-5569 Email: Zachary.mendelson@wellsfargo.com

April 10, 2015

Dear Mr. Mikorski:

**Re: Oakview Sub-Division Roads
Acceptance into the City of Morgantown**

As a follow up to our meeting on April 7th regarding the status of the Oakview Subdivision Roads, and based upon the recent correspondence from the State DOH to relinquish its jurisdiction and maintenance responsibilities of our roads, please accept this letter as a formal request to the City of Morgantown to assume responsibility in consideration we are now situated within the city boundaries.

Please advise if there is anything additional you will need from me and/or our neighborhood association. I would also appreciate receiving formal notice from the City of Morgantown as to their future action on this request.

Thank you in advance for your consideration of this request.

Zach Mendelson

*Zachary L. Mendelson
Oakview Homeowners Association
President*

THE WEST VIRGINIA DEPARTMENT OF TRANSPORTATION
 DIVISION OF HIGHWAYS
 CHARLESTON, WEST VIRGINIA

901/67 to
 901/73

ABSTRACT
 FROM
 THE RECORDS OF THE COMMISSIONER'S ORDERS
 DATED

November 3, 2000

In accordance with provisions of Chapter 17, Article 2A, Section 8, and Chapter 17, Article 2C, Sections 1 to 3 of the Official Code of West Virginia, 1931, as amended, the Commissioner upon recommendation of the District Administrator, and with the concurrence of the Director of the Planning and Research Division, and the Statewide Orphan Road Coordinator, hereby ORDERS the ADDITION to the Home Access Roads Program (HARP) of the following ORPHAN ROAD(S) in:

MONONGALIA COUNTY, DISTRICT FOUR

<u>NAME OF ROAD</u>	<u>LENGTH</u>	<u>HARP NUMBER TO BE ASSIGNED</u>
POPLAR DRIVE, FOREST DRIVE, MORGAN DRIVE	0.50	901/67
DALE LANE	0.09	901/68
HOST DRIVE	0.12	901/69
ELIZABETH VALLEY ROAD	0.30	901/70
BETH LANE	0.29	901/71
ALCOVE STREET	0.11	901/72
GOOSE HOLLOW ROAD	0.21	901/73

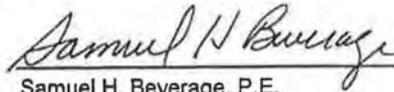
DISTRIBUTION

- DD
- OM
- TDP
- DR
- TCP
- DT

DISTRICT
FOUR

COUNTY
COMMISSION

Entered this 3 rd day November, 2000.

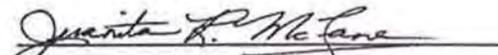


Samuel H. Beverage, P.E.
 Commissioner
 Division of Highways

STATE OF WEST VIRGINIA
 WEST VIRGINIA DEPARTMENT OF TRANSPORTATION
 DIVISION OF HIGHWAYS, to wit:

I, Juanita R. McLane, Administrative Secretary of the Division of Highways, do hereby certify that the foregoing is a true abstract from the Orders of the West Virginia Commissioner of Highways entered of record on the 3rd day of November, 2000.

Given under my hand and seal of the Division of Highways this 3rd day of November, 2000.

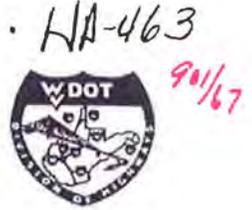



Juanita R. McLane
 Division of Highways

R/W

West Virginia Division of Highways

Orphan Road Data Collection Sheet



DATE: 10/19/2000

COUNTY: Monongalia MILES MUNICIPAL: _____ MILES RURAL: 0.5

LOCAL NAME OF ROAD: Poplar Drive, Forest Drive, Morgan Drive

<u>DESCRIPTION</u>	
Beginning at a point on:	<u>Oakview Drive</u> said point being <u>0.022 mile</u>
	<u>northeast</u> of the junction of <u>Oakview Drive</u> and <u>Anderson Avenue</u>
thence	<u>easterly</u> following <u>Poplar Drive 0.048 mile</u> to a junction with
	<u>Morgan Drive</u> ; thence easterly following <u>Poplar Drive 0.026 mile</u> to a junction with <u>Forest Drive</u> ;
	thence counter-clockwise following <u>Forrest Drive 0.226 mile</u> to a junction with <u>Morgan Drive</u> ; thence
	following <u>Morgan Drive 0.200 mile</u> to a junction with <u>Poplar Drive</u> .
	Total Miles to be Added: <u>0.5</u>

ROADWAY WIDTH: 22' TYPE SURFACE: Asphalt
 (Including Shoulders)

RIGHT OF WAY WIDTH: 40' WIDTH OF SURFACE: 22'

----- **SERVES DIRECTLY** -----

Number of DWELLINGS: 26 Number of CHURCHES: None
 Number of INDUSTRIES: None Number of SCHOOLS: None
 School Bus: No Mail Route: Yes

Number of RAILROAD CROSSINGS: None Number of BRIDGES: None
 MILEPOST: _____ MILEPOST: _____
 CROSSING ID NUMBER: _____ LENGTH: _____
 WIDTH: _____

OTHER: _____

 Wayne Wilmoth
 DISTRICT REVIEW BY: _____ Data Collection Team

RESOLUTION

WHEREAS, HARP 901/67 is described as, beginning at a point on Oakview Drive, said point being 0.022 miles northeast of the junction of Oakview Drive and Anderson Avenue, thence easterly following Poplar Drive 0.048 mile to a junction with Morgan Drive; thence Easterly following Poplar Drive 0.026 mile to a junction with Forest Drive; thence counter-clockwise following Forest Drive 0.226 mile to a junction with Morgan Drive; thence following Morgan Drive 0.200 mile to a junction with Poplar Drive, totaling 0.5 mile; and

WHEREAS, the City of Morgantown has recently annexed portions of the Oakview subdivision containing Forest Drive, Morgan Drive, and Poplar Drive; and

WHEREAS, the City of Morgantown recognizes the streets Forest Drive, Morgan Drive, and Poplar Drive are entirely within City limits but currently under the jurisdiction of the Division of Highways.

NOW, THEREFORE, the City of Morgantown hereby requests HARP 901/67 removal from the Division of Highways inventory of Forest, Morgan, and Poplar Drives as described above and the City of Morgantown hereby accepts the maintenance and upkeep of these aforementioned streets.

MAYOR

CITY CLERK

**AN ORDINANCE REPEALING CITY CODE SECTIONS 507.11 AND 507.12
RELATING TO DESTRUCTION OF DOGS**

WHEREAS, the Supreme Court of Appeals of West Virginia ruled in its 2014 decision of the case *Robinson v. City of Bluefield* that municipalities do not have the power to order destruction of a dog determined to be dangerous; and

WHEREAS, the Court found that a municipality may adopt an ordinance prohibiting a person from owning, keeping or harboring a dog known to be vicious, dangerous or in the habit of biting or attacking persons, and may pursue charges against an owner of such a dog in municipal court;

NOW, THEREFORE, the City of Morgantown hereby ordains that City Code sections 507.11 and 507.12 are repealed in their entirety as follows:

~~507.11 DESTRUCTION.~~

~~—(a) The City Manager or his designee may order the destruction of a dog that it determines to be extremely dangerous to public health or safety, a dog that has made an extremely vicious attack upon an individual, or a dog declared dangerous whose owner is unable or unwilling to adequately restrain it.~~

~~—(b) The City Manager or his designee shall give written notice by certified mail of his intention to destroy such dog to the owner or custodian of the dog, who may request in writing, within ten (10) business days after delivery of such notice, a hearing before the City Manager to contest the intended destruction.~~

~~—(c) If no hearing is requested pursuant to subsection (b) hereof, the dog shall be destroyed pursuant to applicable provisions of law.~~

~~—(d) If a hearing is requested pursuant to subsection (b) hereof, such hearing shall be held by the City Manager within ten (10) business days after the request; and the dog shall not be destroyed prior to the conclusion of the hearing.~~

~~—(e) The dog owner shall be responsible for payment of all boarding costs and other fees as may be required for the City to humanely and safely keep the animal during any legal proceeding.~~

~~(Ord. 00-18. Passed 5-16-00.)~~

~~507.12 APPEAL FROM ORDER OF HUMANE DESTRUCTION.~~

~~—If a Section 507.11 hearing results in the City Manager or his designee ordering a dangerous dog to be humanely destroyed, that decision shall be final unless the dog owner applies to a court of competent jurisdiction for any remedies that may be~~

~~available within ten (10) days after receiving notice of the destruction order. If an appeal is timely filed, the City Manager shall suspend the destruction order pending the final determination of the court. The appeal shall be a civil proceeding for the purpose of affirming or reversing the City Manager's destruction order. (Ord. 00-18. Passed 5-16-00.)~~

This ordinance shall be effective upon the date of adoption.

FIRST READING:

Mayor

ADOPTED:

FILED:

City Clerk

RECORDED:

**AN ORDINANCE AMENDING ARTICLE 906 OF THE CITY CODE PROVIDING FOR
OUTDOOR DINING PERMITS**

WHEREAS, outdoor dining at City businesses provides increased economic opportunities while contributing to a pleasant community atmosphere; and

WHEREAS, the City desires to improve its outdoor dining permit program by expanding opportunities to participate and updating regulation of the program;

NOW, THEREFORE, the City of Morgantown hereby ordains that City Code Sections 906.02 and 906.03 are amended as follows:

906.02 BOUNDARY OF OUTDOOR PERMIT AREA.

~~The plat attached hereto and made a part of original Ordinance 00-07, depicts the properties to be considered as part of the Outdoor Dining Permit Area. The City recognizes that the plat will not appear in the codified version of original Ordinance 00-07, and mandates that the City Manager be the custodian of said plat. In general, the area is bounded by the center lines of Willey Street to the north, Spruce Street to the east, Foundry Street to the south, and University Avenue/Hwy. 119 to the west.~~

Outdoor dining permits may be issued by the City Manager for any area within the municipal boundaries.

906.03 GENERAL PROVISIONS.

The City Manager is authorized to issue permits for the use of public sidewalks rights-of-way for restaurant tables, chairs, and similar or related equipment for the purpose of serving food and/or nonalcoholic drink to the public, including conditions upon the time or manner in which the permitted area may be used, subject to the following conditions:

(a) An Outdoor Dining Permit shall be required prior to placing tables, chairs, or any other equipment on any public sidewalk right-of-way. Permits issued hereunder shall be valid from January 1 through December 31. The permit fee for an Outdoor Dining Permit shall be fifty dollars (\$50.00) for each year the permit is obtained.

(b) As a condition of the Outdoor Dining Permit, tables and chairs on any public sidewalk right-of-way shall be acquired through the City or its designated representative, unless the City Manager or City Manager's designee approves the

use of other tables and chairs in writing. The design and placement of tables and chairs, as well as other equipment, shall comply with applicable requirements of the Americans with Disabilities Act.

(c) The proposed use shall not unreasonably interfere with pedestrian or vehicular traffic or with access to parked vehicles, and in no event shall the uses permitted by an Outdoor Dining Permit reduce the open portion of any sidewalk to less than ~~six~~ four feet in width. ~~All equipment placed in the~~ The placement of items in the public sidewalk right-of-way area shall conform with Section 5 (Definitions) of the Zoning Ordinance as to corner- comply with visibility requirements of the Planning and Zoning Code.

(d) Prior to issuance of a permit, the applicant shall furnish, to the City Manager, a dimensioned plan showing the sidewalk right-of-way and all existing public improvements and encroachments such as light posts, benches, planters, trash receptacles, fences, trees and tree grates ~~in the area,~~ bicycle racks, and newspaper boxes. The diagram shall also include the location of the curb relative to the building to be served by the permit and the proposed location of all café furniture, and other equipment to be placed on the sidewalk. Outdoor dining permits shall not be ~~allowed~~ issued for an area within ten feet of a fire hydrant, Fire Department standpipe connection, fire escape, bus stop, loading zone, mail boxes, or traffic signal stanchions. ~~A maximum of five tables will be allowed per business, per street frontage.~~ Tables must be adjacent to the restaurant requesting a permit. No permits will be issued for off-site seating (i.e. seating in front of another business).

(e) The permittee shall prohibit the consumption and possession of alcoholic beverages in the area for which an Outdoor Dining Permit has been issued.

(f) All applicable Health Department sanitation requirements shall be followed for outdoor food handling. The permittee shall be responsible for posting the outdoor seating area as to any special Health Department requirements.

(g) All ~~sidewalks~~ rights-of-way encompassed by the Outdoor Dining Permit shall be maintained, by the permittee, in a sanitary manner at all times. ~~Food scraps and containers~~ Food, trash, and recyclables shall be disposed of in appropriate refuse containers on a regular basis during the day by the permittee. ~~Sweeping of refuse or food scraps into tree grates is not permitted.~~

(h) Permittees shall be responsible for emptying ~~the~~ any public trash containers placed in the permit area by the City ~~if they should become full prior to the next regular pickup time.~~

(i) Permittees shall see that the public areas encompassed by their Outdoor Dining Permit are kept clean throughout the day and at the end of each business day, so as not to have any food, scraps, or drink leftovers remaining which would pose an attraction to animals or insects. Each permit holder shall wash, as needed,

the public area to remove any food or drink residue that may attract animals and/or create a pedestrian slip hazard.

(j) No tables, chairs, or other equipment shall be attached or affixed to the sidewalk, poles or any other public facilities.

(k) Outdoor dining, ~~subject to~~ permitted under this article, may only occur ~~between 7:00 a.m. and 10:00 p.m. during the hours specified in the permit issued for each premises.~~

(l) The applicant for an Outdoor Dining Permit shall provide at its sole cost and expense and shall maintain in effect during the entire period of the permit, insurance in the following manner:

(1) Worker's Compensation insurance in at least the required statutory limits;

(2) Comprehensive general liability insurance, including owner's protective liability insurance and contractual liability insurance covering claims for personal injury and property damage with limits of at least one million dollars (\$1,000,000) per occurrence, and one million dollars (\$1,000,000) for any single injury; and

(3) Prior to issuance of an Outdoor Dining Permit, the permittee shall provide the City with copies of the certificates of insurance for the required policies for each type of insurance naming the City as an additional insured party.

(4) The required insurance policies shall each provide that they shall not be changed or canceled during the life of the Outdoor Dining Permit until thirty days after written notice of such change has been delivered to the City.

(m) The permittee shall hold harmless, indemnify, and defend the City and the West Virginia ~~DOH~~ Department of Transportation, Division of Highways from and against any and all injuries, deaths, losses, damages, claims, suits, liabilities, judgments, costs and expenses, consequential or otherwise, including reasonable attorneys' fees, which may in any way arise out of or be connected with the granting or use of an Outdoor Dining Permit ~~which may in any way result therefrom~~, or from any act or failure to act by the permittee, its agents or employees.

(n) Outdoor dining is a privilege. The City shall have the right and power, acting through the City Manager, to prohibit the operation of an outdoor dining area at any time because of anticipated or actual problems and conflicts in the use of the sidewalk area. Such problems and conflicts may arise from, but are not limited to, scheduled festivals and similar events or parades or marches, or repairs to the street or sidewalk, or from demonstrations or emergencies occurring in the area. The City Manager may suspend or revoke ~~the~~ an Outdoor Dining Permit for any reason after providing at least three days' prior written notice, ~~except in an emergency~~, to a permittee, and the City Manager may revoke an Outdoor Dining Permit without notice in a situation determined by the City Manager to be an emergency. Any violation of the provisions of this Section or of the specific conditions of any

Outdoor Dining Permit shall be cause for immediate revocation of the Outdoor Dining Permit.

This ordinance shall be effective upon the date of adoption.

FIRST READING:

Mayor

ADOPTED:

FILED:

City Clerk

RECORDED:



MEMORANDUM

Date: 19 MAY 2015
To: Jeff Mikorski, City Manager *via email*
RE: 26 MAY 2015 Committee of the Whole Agenda
TX15-02 / Administrative / Urban Agriculture

After deliberating and tabling the above referenced administrative text amendment petition at its 09 APR 2015 hearing and holding a workshop on 27 APR 2015 to study policy direction, the Planning Commission voted on 14 MAY 2015 to forward a recommendation to City Council to approve Planning and Zoning Code and General Offense Code amendments intended to further urban agriculture within the City.

The urban agriculture movement has gained momentum across the country growing out from small neighborhoods on to regional organized operations in large metropolitan cities like Detroit, Michigan. On a much larger and multifaceted scale, community leaders and residents in the greater Detroit area have committed to restoring, renovating, and greening their way out of significant economic crisis and overcoming an estimated 30,000 acres of distressed land.¹

The movement has also matured from local "Grow Local / Eat Local" and "Locavore" campaigns to a real concern over vulnerabilities within our country's food system. Emerging interest and attention appears to be focused on reforming our centralized, industrial system of food production to a more bio-regional approach.

However, according to the American Planning Association, there has been a limited number of municipalities across the country that have moved urban agriculture onto their respective planning agendas and a very small percentage of cities and counties including food elements in their comprehensive plans.²

As in all things, transformative movements start small. Through the Morgantown Municipal Green Team, a group of interested volunteers have championed the identification of regulatory barriers in City Code and the City's Planning and Zoning Code that either prohibit or overly restrict urban agriculture uses and opportunities. The following volunteers contributed to this endeavor over the last few months:

From the Desk of:
Christopher M. Fletcher, AICP
Director of Development Services



Development Services
389 Spruce Street
Morgantown, WV 26505
304.284.7431

MEMORANDUM

- William Beasley
- John Bird
- Pamela Cubberly
- Ruth Heavener
- Matthew Held
- Katlynn Hildreth
- James Kotcon
- Lisa Lagana
- Jenny Selin
- H.R. Scott

The City of Charleston, West Virginia recently undertook a similar exercise, which, according to Charleston City Neighborhood Planner Geoffrey Plagemann, was successful in changing Charleston's land-use policies and developing partnerships within the community to promote urban agriculture.

The following impacts of urban agriculture have been identified:³

Social Impacts

- Creating Safe Places/ Reducing Blight
- Access to Land
- Community Development/Building Social Capital
- Education and Youth Development Opportunities
- Cross-Generational and Cultural Integration

Health Impacts

- Food Access and Security
- Increased Fruit and Vegetable Consumption
- Food and Health Literacy
- General Well-Being (Mental Health and Physical Activity)

Economic Impacts

- Job Creation, Training, and Business Incubation
- Market Expansion for Farmers
- Economic Savings on Food
- Savings for Municipal Agencies
- Increased Home Values

From the Desk of:
Christopher M. Fletcher, AICP
Director of Development Services

Page 2 of 3



MEMORANDUM

The Planning Commission's recommendation provides for three (3) ordinances; two (2) of which involve the Planning and Zoning Code and one (1) that involves the General Offenses Code.

The following dates will keep to standard Planning and Zoning Code Text Amendment protocol:

- City Council Committee of the Whole TUE, 26 MAY 2015
- City Council First Reading TUE, 02 JUN 2015
- City Council Public Hearing and Second Reading TUE, 07 JUL 2015

Please include these ordinances on the City Council meeting agendas noted above and include this communication in the 26 MAY Committee of the Whole meeting packet. Only the ordinances should be included in the 02 JUN and 07 JUL meeting packets.

I recommend that the ordinance amending the General Offenses Code follow the same time line as the Planning and Zoning Code ordinances given their interdependent relationship.

Thank you.

Digitally signed by Christopher M. Fletcher, AICP
Date: 2015.05.19 14:13:38 -04'00'

¹ <http://www.msnbc.com/morning-joe/urban-farming-takes-hold-blighted-motor>

² Hodgson, K. (2012). Planning for Food Access and Community-Based Food Systems: A National Scan and Evaluation of Local Comprehensive and Sustainability Plans. American Planning Association Report, 1–175.

³ <http://asi.ucdavis.edu/resources/publications/LIA%20Lit%20Review-%20Golden%20Reduced%202011-15.pdf>

AN ORDINANCE AMENDING ARTICLE 1329 "DEFINITIONS" OF THE CITY'S PLANNING AND ZONING CODE AS IT RELATES TO URBAN AGRICULTURE.

WHEREAS, the City of Morgantown is committed to increasing access to fresh, locally grown, wholesome foods for all residents; and,

WHEREAS, to ensure the health and safety of all its residents, the City seeks to create and encourage programs and policies that sustain greater local food security and improve access to healthy food in underserved neighborhoods; and,

WHEREAS, urban agriculture contributes to the local economy by generating living-wage jobs, sales of food at farmers markets, grocery stores, and on-site farm stands and offering the opportunity for resident entrepreneurship in creating food-related small-business; and,

WHEREAS, urban agriculture provides a tool for improving the City's quality-of-life by reducing the negative impact of vacant lots, buildings and unused rooftops and helps to support neighborhood stabilization and recovery; and,

WHEREAS, urban agriculture at a residential scale provides a valuable supplement to a family food budget; and,

WHEREAS, urban agriculture at a community scale provides an invaluable opportunity for students to learn about nutrition and where food comes from; and,

WHEREAS, new technologies for growing food, including indoor growing technologies such as aquaponic and hydroponics, are the basis for new agricultural opportunities, partnerships, and research.

NOW THEREFORE, the City of Morgantown hereby ordains that Section 1329.02 "Definition of Terms" of the City's Planning and Zoning Code is amended as follows (deleted matter struck through; new matter underlined):

Article 1329.02 DEFINITION OF TERMS.

For 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.

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).

AGRICULTURE, COMMERCIAL – The farming, cultivating, harvesting, husbandry, aquaponic and hydroponic farming, and/or production principally for the sale to others of plants, animals, or their products, including but not limited to: forage and sod crops, grain and feed crops, dairy animals, and dairy products; livestock, including dairy and beef cattle, poultry, sheep, swine, horses, ponies, mules, and goats; including the breeding and grazing of all such animals; bees and apiary products; fruits of all kinds including grapes, nuts, and berries; vegetables; nursery, floral ornamental and greenhouse products, and other commodities as described in the Standard Industrial Classification for agriculture, forestry, fishing, and trapping. COMMERCIAL AGRICULTURE shall not include poultry or swine production or animal feedlot operations.

AGRICULTURE, HOME – The gardening and/or production, principally for use or consumption of the property owner or resident, of plants, certain animals, or their products and for sale to others where such sales are incidental. Such gardening and/or production includes, but is not limited to, fruits of all kinds including grapes, nuts, and berries; vegetables; floral ornamental and non-commercial greenhouse products; bees and apiary products; and, for household use of the property owner or resident only, domestic poultry and rabbits. These uses do not require a permit or license except where the City Code generally requires a building permit or other permit; provided, that permits and/or approvals must be issued, if applicable, for an ACCESSORY STRUCTURE and/or HOME OCCUPATION.

AQUAPONICS – The cultivation of fish and plants together in a constructed, re-circulating ecosystem utilizing natural bacterial cycles to convert fish waste to plant nutrients and considered a COMMERCIAL AGRICULTURE use.

COMMUNITY GARDENS – A private or public facility for cultivation of fruits, flowers, vegetables, or ornamental plants by more than one person or family. A neighborhood-based development with the primary purpose of providing space for members of the community to grow plants for beautification, education, recreation, community distribution, or personal use. The responsibility of managing maintenance and operations of COMMUNITY GARDEN sites shall be that of the land owner or designated public or civic entity, nonprofit organization or other community-based organization. Processing and storage of plants or plant products are prohibited on site. Gardening tools and supplies may be stored within an accessory structure that is in compliance with Article 1331.08 of this ordinance.

DOMESTIC POULTRY – Domesticated birds kept for eggs, meat, feathers, etc. that include chicken, turkey, duck, goose, pigeon, pheasant, partridge, guinea fowl, peafowl, and quail but shall not include ratite, ostrich, emu, or rhea.

FREE-RANGE – A method of farming husbandry where the animals, for at least part of the day, can roam freely outdoors, rather than being confined in an enclosure (e.g., coops, pens, etc.) for twenty-four (24) hours each day.

~~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.~~

HYDROPONICS – The cultivation of plants in nutrient solution rather than soil.

This ordinance shall be effective upon date of adoption.

FIRST READING:

Mayor

ADOPTED:

FILED:

RECORDED:

City Clerk

AN ORDINANCE AMENDING ARTICLE 1331 "ESTABLISHMENT OF ZONING DISTRICTS AND ZONING MAP" OF THE CITY'S PLANNING AND ZONING CODE AS IT RELATES TO URBAN AGRICULTURE.

WHEREAS, the City of Morgantown is committed to increasing access to fresh, locally grown, wholesome foods for all residents; and,

WHEREAS, to ensure the health and safety of all its residents, the City seeks to create and encourage programs and policies that sustain greater local food security and improve access to healthy food in underserved neighborhoods; and,

WHEREAS, urban agriculture contributes to the local economy by generating living-wage jobs, sales of food at farmers markets, grocery stores, and on-site farm stands and offering the opportunity for resident entrepreneurship in creating food-related small-business; and,

WHEREAS, urban agriculture provides a tool for improving the City's quality-of-life by reducing the negative impact of vacant lots, buildings and unused rooftops and helps to support neighborhood stabilization and recovery; and,

WHEREAS, urban agriculture at a residential scale provides a valuable supplement to a family food budget; and,

WHEREAS, urban agriculture at a community scale provides an invaluable opportunity for students to learn about nutrition and where food comes from; and,

WHEREAS, new technologies for growing food, including indoor growing technologies such as aquaponic and hydroponics, are the basis for new agricultural opportunities, partnerships, and research.

NOW THEREFORE, the City of Morgantown hereby ordains that Section 1331.05 "Permitted Land Uses" and Section 1331.06 "Supplemental Regulations Pertaining to Permitted Land Uses Table" of the City's Planning and Zoning Code are amended as follows (deleted matter struck through; new matter underlined):

Article 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.

CUse 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
Agricultural Activity	P										P	
Community Gardens	P	P	P	P	C	P	C	C	C	C	C	28
<u>Agriculture, Commercial</u>	C										C	33
<u>Agriculture, Home</u>	P	P	P	P	P	P	P	P	P	P	P	34
Greenhouse, Noncommercial	A	A	A	A	A	A	A	A	A	A	PA	

Article 1331.06 SUPPLEMENTAL REGULATIONS PERTAINING TO PERMITTED LAND USES TABLE.

(33) The following regulations are specific to COMMERCIAL AGRICULTURE development:

- (a) The Board of Zoning Appeals must determine COMMERCIAL AGRICULTURE use to be compatible with the area and may limit its hours of operation.
- (b) The use shall not create unacceptable congestion or traffic hazards on the neighboring streets.
- (c) The use shall not create a nuisance due to noise, smoke, electrical interference, dust, or obnoxious odor.
- (d) Land devoted to the use shall be well-maintained, regularly cleared of debris and free of excessively tall weeds and grass as provided in the International Property Maintenance Code (IPMC).
- (e) Principal and accessory structures for the use shall be subject to applicable building and fire code requirements and any applicable rules and regulations and shall be well maintained.

- (34) The following regulations are specific to HOME AGRICULTURE development:
- (a) The use shall not create a nuisance due to noise, dust, or obnoxious odor.
 - (b) Land devoted to the use shall be well-maintained, regularly cleared of debris and free of excessively tall weeds and grass as provided in the International Property Maintenance Code (IPMC).
 - (c) Noncommercial greenhouses, pens, coops, apiary structure or similar structures are subject to applicable building code requirements and shall be well maintained.
 - (d) Hoop houses, cold frames, or other similar structures shall be allowed as accessory structures subject to applicable building code requirements, shall be well maintained, and the cover shall be removed and stored when plants are not being cultivated.
 - (e) Structures referenced in subsections (c) and (d) above:
 - (i) Shall not be placed in the front yard. If placed in a side yard, such structures shall not be located closer to the street than the building line of the principal structure.
 - (ii) Shall not be placed closer than five (5) feet to the side or rear property line.
 - (iii) On corner lots, such structures shall not be located between any portion of the principal structure and either street.
 - (f) Rooftop HOME AGRICULTURE uses are subject to all applicable building and fire codes. Building permits and other applicable permits must be obtained before beginning any use, where required by City Code.
 - (g) Domestic Poultry. A maximum of six (6) domestic poultry birds may be kept on parcels smaller than one (1) acre. Roosters are prohibited. Ownership, care and control of domestic poultry shall be the responsibility of a resident of the dwelling on the parcel. Free-range shall be prohibited and domestic poultry shall be confined to a pen and/or coop, where permitted, twenty-four (24) hours each day. State health regulations may further limit the number and/or manner of keeping domestic poultry.
 - (h) Rabbits. A maximum of three (3) rabbits, ten (10) weeks of age and older, may be kept on parcels smaller than one (1) acre; provided, not more than one (1) rabbit, ten (10) weeks of age and older, is male. Ownership, care and control of the rabbits shall be the responsibility of a resident of the dwelling on the parcel. Free-range shall be prohibited and rabbits shall be confined to a pen and/or coop, where permitted, twenty-four (24) hours each day. State health regulations may further limit the number and/or manner of keeping rabbits.
 - (i) Hoofed Animals. Hoofed animals, including but not limited to cattle, horses, goats, sheep, pigs, deer, and donkeys, are prohibited with the exception of miniature pet pigs, which shall be considered a "small animal" relating to COMMERCIAL KENNEL uses.

- (j) HOME OCCUPATION approval is required for the incidental sale of HOME AGRICULTURE production.

This ordinance shall be effective upon date of adoption.

FIRST READING:

Mayor

ADOPTED:

FILED:

RECORDED:

City Clerk

AN ORDINANCE AMENDING ARTICLE 505 "ANIMALS AND FOWL" OF CITY'S GENERAL OFFENSES CODE AS IT RELATES TO URBAN AGRICULTURE.

WHEREAS, the City of Morgantown is committed to increasing access to fresh, locally grown, wholesome foods for all residents; and,

WHEREAS, to ensure the health and safety of all its residents, the City seeks to create and encourage programs and policies that sustain greater local food security and improve access to healthy food in underserved neighborhoods; and,

WHEREAS, urban agriculture contributes to the local economy by generating living-wage jobs, sales of food at farmers markets, grocery stores, and on-site farm stands and offering the opportunity for resident entrepreneurship in creating food-related small-business; and,

WHEREAS, urban agriculture provides a tool for improving the City's quality-of-life by reducing the negative impact of vacant lots, buildings and unused rooftops and helps to support neighborhood stabilization and recovery; and,

WHEREAS, urban agriculture at a residential scale provides a valuable supplement to a family food budget; and,

WHEREAS, urban agriculture at a community scale provides an invaluable opportunity for students to learn about nutrition and where food comes from; and,

WHEREAS, new technologies for growing food, including indoor growing technologies such as aquaponic and hydroponics, are the basis for new agricultural opportunities, partnerships, and research.

NOW THEREFORE, the City of Morgantown hereby ordains that Section 505.02 "Keeping Animals; Pens and Stables" of the City's General Offenses Code is amended as follows (deleted matter struck through; new matter underlined):

Article 505.02 KEEPING ANIMALS: PENS AND STABLES.

- (a) ~~Rabbits. No person shall confine, keep or house live rabbits, exceeding two in number, within the City, in any pen, coop or structure located within 120 feet of the residence or dwelling of any other person without the consent of such person in writing.~~

- (b) (a) ~~Permitting Pens to Become Offensive. No person shall permit any yard, kennel, pen, coop, apiary structure or other similar structures wherein live animals may be confined, kept or housed to become or be offensive, noxious or deleterious to health.~~
- (c) ~~Chickens.—No person shall confine, keep or house chickens or other domestic fowl, exceeding two in number, in any pen, coop or structure located within eighty feet of the residence or dwelling of any other person without the consent in writing of such other person; provided, that this section shall not be construed to prohibit the proprietor of any market, hotel, restaurant, boarding house or residence from keeping or confining for sale or slaughter chickens or other fowls in a pen or coop within such prescribed limit for a period not exceeding ten days; provided that such pen or coop is thoroughly cleaned at least once during each forty-eight hour period and rendered free from offensive, noxious or deleterious odors.~~
- (d) ~~Permitting Coops to Become Offensive. No person shall permit any pen, coop or other structure wherein chickens or other fowl may be confined, kept or housed, to become offensive, noxious or deleterious to health.~~
- (e) (b) ~~Stables. Whoever shall keep a stable within the City shall cause all the stable manure produced there at to be kept within such stable until hauled away, and he shall in no case allow such manure to accumulate in such quantities or condition as to become offensive, or deleterious to health; and all manure so kept within the stable shall be protected from flies by means of screens or other fly-excluding devices. The floor of every stable shall be kept free from standing or seeping stable liquids, excrements and other offensive matters.~~

This ordinance shall be effective upon date of adoption.

FIRST READING:

Mayor

ADOPTED:

FILED:

RECORDED:

City Clerk