



Office of the City Clerk

# The City of Morgantown

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## AGENDA MORGANTOWN CITY COUNCIL REGULAR MEETING

June 2, 2015

7:00 p.m.

1. **CALL TO ORDER**
2. **ROLL CALL**
3. **PLEDGE TO THE FLAG**
4. **APPROVAL OF MINUTES:** Minutes for May 5<sup>th</sup> and May 19<sup>th</sup>, 2015 will be presented as soon as they are completed.
5. **CORRESPONDENCE:**
6. **PUBLIC HEARINGS:**
  - A. AN ORDINANCE AMENDING ARTICLE 1331.06 OF THE PLANNING AND ZONING CODE AS IT RELATES TO ELIMINATING THE ABILITY OF PERMITTED NON-RESIDENTIAL USES WITHIN THE R-1, R-1A, R-2, AND R-3 DISTRICTS TO COUNT ADJACENT ON-STREET PARKING STALLS TOWARDS MEETING MINIMUM OFF-STREET PARKING REQUIREMENTS.
  - B. AN ORDINANCE AMENDING ARTICLE 1345.06 OF THE PLANNING AND ZONING CODE AS IT RELATES TO ELIMINATING THE ABILITY TO COUNT ADJACENT ON-STREET PARKING STALLS WITHIN THE B-1, NEIGHBORHOOD BUSINESS DISTRICT TOWARDS MEETING MINIMUM OFF-STREET PARKING REQUIREMENTS.
  - C. AN ORDINANCE AMENDING ARTICLE 1361.03 OF THE PLANNING AND ZONING CODE AS IT RELATES TO ELIMINATING THE ABILITY TO COUNT ADJACENT ON-STREET PARKING STALLS WITHIN THE SUNNYSIDE OVERLAY DISTRICTS TOWARDS MEETING MINIMUM OFF-STREET PARKING REQUIREMENTS.

- D. AN ORDINANCE AMENDING TABLE 1365.04.01 "MINIMUM OFF-STREET PARKING REQUIREMENTS OF THE PLANNING AND ZONING CODE AS IT RELATES TO ELIMINATING THE ABILITY FOR BED AND BREAKFAST INN USES TO COUNT ADJACENT ON-STREET PARKING STALLS TOWARDS MEETING MINIMUM OFF-STREET PARKING REQUIREMENTS.**
- E. AN ORDINANCE AMENDING ARTICLE 1385 OF THE PLANNING AND ZONING CODE AS IT RELATES TO SITE PLAN REVIEW.**
- F. AN ORDINANCE AMENDING ARTICLE 1329.02 OF THE PLANNING AND ZONING CODE AS IT RELATES TO THE DEFINITIONS OF TERMS THAT SUPPORT REVISIONS TO ARTICLE 1385 "SITE PLAN REVIEW."**
- G. AN ORDINANCE AMENDING ARTICLE 1331.06 OF THE PLANNING AND ZONING CODE AS IT RELATES TO SUPPLEMENTAL REGULATIONS PERTAINING TO PERMITTED LAND USES TABLE THAT SUPPORT REVISIONS TO ARTICLE 1385 "SITE PLAN REVIEW."**
- H. AN ORDINANCE AMENDING ARTICLE 1349.08 OF THE PLANNING AND ZONING CODE AS IT RELATES TO PARKING AND LOADING STANDARDS IN THE B-4, GENERAL BUSINESS DISTRICT THAT SUPPORT REVISIONS TO ARTICLE 1385 "SITE PLAN REVIEW."**
- I. AN ORDINANCE AMENDING ARTICLE 1379.01 OF THE PLANNING AND ZONING CODE AS IT RELATES TO GENERAL PROVISIONS FOR CONDITIONAL USES THAT SUPPORT REVISIONS TO ARTICLE 1385 "SITE PLAN REVIEW."**
- J. AN ORDINANCE AMENDING THE FY 2014-2015 BUDGET OF THE CITY OF MORGANTOWN AS SHOWN IN THE REVISED BUDGET ATTACHED HERETO AND MADE A PART OF THIS ORDINANCE AS THE SAME APPLIES TO THE GENERAL FUND.**
- K. AN ORDINANCE ANNULLING PORTIONS OF QUAY STREET DEDICATING A PUBLIC RIGHT-OF-WAY ADJACENT TO QUAY STREET AND GRANTING AN EASEMENT IN THE QUAY STREET RIGHT OF WAY.**

**L. AN ORDINANCE AUTHORIZING EXECUTION OF AN EASEMENT AGREEMENT FOR SUBSURFACE USE OF THE QUAY STREET RIGHT-OF-WAY.**

**7. UNFINISHED BUSINESS:**

- A. Consideration of APPROVAL of (SECOND READING) and (ADOPTION) of AN ORDINANCE AMENDING ARTICLE 1331.06 OF THE PLANNING AND ZONING CODE AS IT RELATES TO ELIMINATING THE ABILITY OF PERMITTED NON-RESIDENTIAL USES WITHIN THE R-1, R-1A, R-2, AND R-3 DISTRICTS TO COUNT ADJACENT ON-STREET PARKING STALLS TOWARDS MEETING MINIMUM OFF-STREET PARKING REQUIREMENTS. (First reading May 5, 2015)**
- B. Consideration of APPROVAL of (SECOND READING) and (ADOPTION) of AN ORDINANCE AMENDING ARTICLE 1345.06 OF THE PLANNING AND ZONING CODE AS IT RELATES TO ELIMINATING THE ABILITY TO COUNT ADJACENT ON-STREET PARKING STALLS WITHIN THE B-1, NEIGHBORHOOD BUSINESS DISTRICT TOWARDS MEETING MINIMUM OFF-STREET PARKING REQUIREMENTS. (First reading May 5, 2015)**
- C. Consideration of APPROVAL of (SECOND READING) and (ADOPTION) of AN ORDINANCE AMENDING ARTICLE 1361.03 OF THE PLANNING AND ZONING CODE AS IT RELATES TO ELIMINATING THE ABILITY TO COUNT ADJACENT ON-STREET PARKING STALLS WITHIN THE SUNNYSIDE OVERLAY DISTRICTS TOWARDS MEETING MINIMUM OFF-STREET PARKING REQUIREMENTS. (First reading May 5, 2015)**
- D. Consideration of APPROVAL of (SECOND READING) and (ADOPTION) of AN ORDINANCE AMENDING TABLE 1365.04.01 "MINIMUM OFF-STREET PARKING REQUIREMENTS OF THE PLANNING AND ZONING CODE AS IT RELATES TO ELIMINATING THE ABILITY FOR BED AND BREAKFAST INN USES TO COUNT ADJACENT ON-STREET PARKING STALLS TOWARDS MEETING MINIMUM OFF-STREET PARKING REQUIREMENTS. (First reading May 5, 2015)**

- E. Consideration of APPROVAL of (SECOND READING) and (ADOPTION) of AN ORDINANCE AMENDING ARTICLE 1385 OF THE PLANNING AND ZONING CODE AS IT RELATES TO SITE PLAN REVIEW. (First reading May 5, 2015)**
- F. Consideration of APPROVAL of (SECOND READING) and (ADOPTION) of AN ORDINANCE AMENDING ARTICLE 1329.02 OF THE PLANNING AND ZONING CODE AS IT RELATES TO THE DEFINITIONS OF TERMS THAT SUPPORT REVISIONS TO ARTICLE 1385 "SITE PLAN REVIEW." (First reading May 5, 2015)**
- G. Consideration of APPROVAL of (SECOND READING) and (ADOPTION) of AN ORDINANCE AMENDING ARTICLE 1331.06 OF THE PLANNING AND ZONING CODE AS IT RELATES TO SUPPLEMENTAL REGULATIONS PERTAINING TO PERMITTED LAND USES TABLE THAT SUPPORT REVISIONS TO ARTICLE 1385 "SITE PLAN REVIEW." (First reading May 5, 2015)**
- H. Consideration of APPROVAL of (SECOND READING) and (ADOPTION) of AN ORDINANCE AMENDING ARTICLE 1349.08 OF THE PLANNING AND ZONING CODE AS IT RELATES TO PARKING AND LOADING STANDARDS IN THE B-4, GENERAL BUSINESS DISTRICT THAT SUPPORT REVISIONS TO ARTICLE 1385 "SITE PLAN REVIEW." (First reading May 5, 2015)**
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- J. Consideration of APPROVAL of (SECOND READING) and (ADOPTION) of AN ORDINANCE AMENDING THE FY 2014-2015 BUDGET OF THE CITY OF MORGANTOWN AS SHOWN IN THE REVISED BUDGET ATTACHED HERETO AND MADE A PART OF THIS ORDINANCE AS THE SAME APPLIES TO THE GENERAL FUND. (First reading May 19, 2015)**
- K. Consideration of APPROVAL of (SECOND READING) and (ADOPTION) of AN ORDINANCE ANNULLING PORTIONS OF QUAY STREET DEDICATING A PUBLIC RIGHT-OF-WAY ADJACENT TO QUAY STREET AND GRANTING AN EASEMENT IN THE QUAY STREET RIGHT OF WAY. (First reading May 19, 2015)**

L. Consideration of **APPROVAL** of **(SECOND READING)** and **(ADOPTION)** of **AN ORDINANCE AUTHORIZING EXECUTION OF AN EASEMENT AGREEMENT FOR SUBSURFACE USE OF THE QUAY STREET RIGHT-OF-WAY.** (First reading May 19, 2015)

**M. BOARDS AND COMMISSIONS**

8. **PUBLIC PORTION WHICH SHALL BE SUBJECT TO RULES ESTABLISHED BY COUNCIL AND ADOPTED BY RESOLUTION**

9. **SPECIAL COMMITTEE REPORTS:**

10. **NEW BUSINESS:**

A. Consideration of **APPROVAL** of **FIRST READING** of **AN ORDINANCE AUTHORIZING THE CITY TO SUBMIT AN AMENDMENT TO ITS WRITTEN PLAN TO THE HOME RULE BOARD.**

B. Consideration of **APPROVAL** of **FIRST READING** of **AN ORDINANCE AMENDING CITY CODE SECTION 507.04 AND REPEALING CITY CODE SECTIONS 507.11 AND 507.12 RELATING TO DESTRUCTION OF DOGS.**

C. Consideration of **APPROVAL** of **FIRST READING** of **AN ORDINANCE AMENDING CITY CODE SECTION 367.04 GOVERNING RULES FOR DESIGNATED PARKING DISTRICTS.**

D. Consideration of **APPROVAL** of **FIRST READING** of **AN ORDINANCE REVISING THE BOUNDARIES OF THE WILES HILL DESIGNATED PARKING DISTRICT.**

E. Consideration of **APPROVAL** of **FIRST READING** of **AN ORDINANCE ESTABLISHING THE SUNNYSIDE DESIGNATED PARKING DISTRICT.**

F. Consideration of **APPROVAL** of **FIRST READING** of **AN ORDINANCE AMENDING CITY CODE SECTIONS 305.01 AND 305.03 PROVIDING POWER TO REGULATE STREET TRAFFIC AND PARKING DURING REPAIRS OR EMERGENCIES.**

G. Consideration of **APPROVAL** of **FIRST READING** of **AN ORDINANCE**

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

- H. Consideration of APPROVAL of FIRST READING of AN ORDINANCE AMENDING ARTICLE 1329 "DEFINITIONS" OF THE CITY'S PLANNING AND ZONING CODE AS IT RELATES TO URBAN AGRICULTURE.**
- I. Consideration of APPROVAL of FIRST READING of AN ORDINANCE AMENDING ARTICLE 1331 "ESTABLISHED OF ZONING DISTRICTS AND ZONING MAP" OF THE CITY'S PLANNING AND ZONING CODE AS IT RELATED TO URBAN AGRICULTURE.**
- J. Consideration of APPROVAL of FIRST READING of AN ORDINANCE AMENDING ARTICLE 505 "ANIMALS AND FOWL" OF CITY'S GENERAL OFFENSES CODE AS IT RELATED TO URBAN AGRICULTURE.**
- K. Consideration of APPROVAL of a RESOLUTION TO COMBINED UTILITY SYSTEM REVENUE BONDS.**
- L. Consideration of APPROVAL of a RESOLUTION THAT THE CITY OF MORGANTOWN TO AUTHORIZE CITY MANAGER JEFF MIKORSKI TO RECEIVE AND ADMINISTER GRANT FUNDS FROM THE 2015 EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT (JAG) PROGRAM FOR EQUIPMENT UPGRADES.**
- M. Consideration of APPROVAL of a RESOLUTION REQUESTING HARP 901/67 REMOVAL FROM THE DIVISION OF HIGHWAYS INVENTORY OAKVIEW SUBDIVISION CONTAINING FOREST, MORGAN, AND POPLAR DRIVES AS THE CITY OF MORGANTOWN ACCEPTS THE MAINTENANCE AND UPKEEP OF THESE AFOREMENTIONED STREETS.**

**11. CITY MANAGER'S REPORT:**

**New Business:**

- 1. Award of Demolition Bid**
- 2. Quay Street Development Agreement**

**12. REPORT FROM CITY CLERK:**

13. REPORT FROM CITY ATTORNEY:
14. REPORT FROM COUNCIL MEMBERS:
15. ADJOURNMENT:

\*If you need an accommodation contact us at (304) 284-7439\*



**Office of the City Manager**

# The City of Morgantown

City Manager  
Jeff Mikorski, ICMA-CM  
389 SPRUCE STREET  
MORGANTOWN, WEST VIRGINIA 26505  
(304) 284-7405 FAX: (304) 284-7430  
[www.morgantownwv.gov](http://www.morgantownwv.gov)

## City Manager's Report for City Council Meeting on June 2, 2015

### **New Business:**

#### **1. Award of Demolition bid**

As discussed at the May 26, 2015 City Council Committee of the Whole meeting. The University Avenue and Third Street intersection project will begin in late June. Prior to the road project, the City of Morgantown will acquire the property at 2183 University Avenue and remove the building, which will allow additional right-of-way for widening the University Avenue road. Attached is a memo from Damien Davis, Public Works Director and City Engineer, with the bid results of for demolition of the building at 2183 University Avenue. I support the recommendation in the memo as request City Council authorize me to award the demolition contract to Reclaim Company, LLC in the amount of \$28,999.00. Funding of the demolition will be from Tax Increment Financing District #3 resources.

#### **2. Quay Street Development Agreement**

The attached development agreement acknowledges that if City Council approved the acceptance of land by Ordinance during tonight's meeting, that the City will dedicate the acquired parts of Quay Street as a municipal road, providing for the improvement of Quay Street and providing a means of public ingress, egress to the University Exchange Parcel upon completion of the improvements in accordance with the plans included.



Jeff Mikorski ICMA-CM,  
Morgantown City Manager

# Memo

## City of Morgantown

### Public Works Department

**To:** Jeff Mikorski, City Manager  
**From:** J. Damien Davis, Public Works Director and City Engineer   
**Subject:** Demolition of 2183 University Avenue Award – Bid Call 2015-11  
**Date:** May 27, 2015

Bids were opened at 2:00pm on May 27, 2015. The results are as follows:

<u>CONTRACTOR</u>	<u>COST</u>
1. Anderson Excavating, LLC	\$124,999.00
2. Safeco	\$59,000.00
3. Reclaim Co. LLC	\$28,999.00

Engineering has reviewed the submitted bids for completeness and adherence to the Bid Call requirements. Reclaim Co. LLC has previously performed work for the City to the City's satisfaction. I recommend awarding the contract for the demolition of 2183 University Avenue to Reclaim Co. LLC.

## DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT ("Agreement") is made this \_\_\_\_ day of May, 2015, by and between **DOWNTOWN CAMPUS PARKING ASSOCIATES, LLC**, a West Virginia limited liability company ("DCPA"), and **AMERICAN CAMPUS COMMUNITIES OPERATING PARTNERSHIP LP**, a Maryland limited partnership ("ACC") (DCPA and ACC are sometimes hereinafter collectively referred to as "Parties" and individually as a "Party").

**WHEREAS**, West Virginia University, an agency and higher education institution of the State of West Virginia ("University") is the owner of certain real property located in Morgantown, Monongalia County, West Virginia, more particularly described on Exhibit A attached hereto and made a part hereof (the "University Exchange Parcel");

**WHEREAS**, the University has agreed to convey the University Exchange Parcel to ACC under and pursuant to that certain Real Estate Exchange and Development Agreement dated February 6, 2015, by and between the University and ACC (the "Exchange Agreement"), as amended;

**WHEREAS**, DCPA is currently engaged in the design, development, and construction of certain parking garage facilities (the "Parking Garage Project") on University owned property located adjacent to Quay Street and the University Exchange Parcel;

**WHEREAS**, as part of the Parking Garage Project, DCPA is designing, developing and constructing certain improvements (including, without limitation, grading, paving, installation of curbs, etc.) to Quay Street (the "Quay Street Improvements"), as described and set forth on Exhibit B attached hereto and made a part hereof (the "Quay Street Improvements");

**WHEREAS**, a portion of the Quay Street Improvements are to be constructed on that certain parcel of real property located in Morgantown, Monongalia County, West Virginia, more particularly described on Exhibit C attached hereto and made a part hereof (the "ACC Parcel"), being a part of the University Exchange Parcel;

**WHEREAS**, DCPA has petitioned the Common Council of the City for an annulment of a portion of existing Quay Street, as described and set forth on Exhibit D attached hereto and made a part hereof, acceptance by the City of title to the ACC Parcel by quit claim from ACC, agreement by the City to dedicate the ACC Parcel as a part of Quay Street, a municipal public road providing a means of public ingress, egress to and from to the University Exchange Parcel, and agreement by the City to accept the Quay Street Improvements upon completion thereof by DCPA in accordance with the plans therefor (the "Annulment/Acceptance Ordinance");

**WHEREAS**, DCPA has requested that following the consummation of the transaction contemplated by the Exchange Agreement, ACC convey, by quit claim deed after taking proper title thereto, to the City the ACC Parcel;

**NOW, THEREFORE**, in consideration of the mutual covenants contained herein, the Parties agree as follows:

1. QUAY STREET IMPROVEMENTS.

1.1 Quay Street Improvements.

1.1.1 DCPA will construct the Quay Street Improvements in a good and workmanlike manner substantially in accordance with the plans described and set forth on Exhibit B attached hereto and made a part hereof (the “Quay Street Plans”) and all applicable governmental requirements.

1.1.2 DCPA will obtain all approvals required from all governmental authorities, if any, for construction of the Quay Street Improvements and will diligently pursue construction of the Quay Street Improvements to completion on or before September 15, 2015.

1.1.3 DCPA will cause ACC to be provided with copies of all performance, maintenance and other bonds, if any, required in connection with construction of the Quay Street Improvements.

1.1.4 DCPA will cause such bonds to remain in full force and effect during the entire term of construction of the Quay Street Improvements.

1.1.5 DCPA will provide ACC, within three (3) business days following receipt, with copies of any and all correspondence between the City and DCPA regarding any material changes to the Quay Street Improvements.

1.1.6 DCPA will pay all hard and soft costs and expenses for and relating to the construction of the Quay Street Improvements in accordance with the Quay Street Plans and the requirements of all governmental authorities.

1.1.7 Upon completion of the Quay Street Improvements, DCPA will obtain all approvals and acceptances required from the City, if any and as applicable, in order for the City to accept the same for maintenance.

2. ACC PARCEL. Following the approval by the City by final hearing of the Annulment/Acceptance Ordinance, ACC will release and quit claim, by quit claim deed in the form of Exhibit D attached hereto and made a part hereof, the ACC Parcel to the City for the City to accept title to and dedicate the ACC Parcel as a part of Quay Street, a municipal public road, providing for the improvement of said Quay Street and providing a means of public ingress, egress to and from to the University Exchange Parcel.

3. CONTINGENCIES. The following shall be a conditions precedent to the obligation of ACC to consummate this Agreement, the failure of which shall permit ACC to exercise the remedies set forth below:

3.1 The approval by the City by final hearing of the Annulment/Acceptance Ordinance on or before June 2, 2015 (the “Annulment/Acceptance Deadline”).

If such condition precedent is not satisfied on or before the Annulment/Acceptance Deadline (as the Annulment/Acceptance Deadline may be extended to such later date and time that is agreeable to DCPA and ACC), ACC shall be entitled to terminate this Agreement by written notice to DCPA, whereupon DCPA and ACC shall have no obligations hereunder, except with respect to any such obligations that expressly survive the termination hereof.

4. NOTICES. Any notice required or permitted to be given by any provision of this Agreement shall be in writing, executed by the party giving such notice, and delivered by certified mail, return receipt requested, postage prepaid, addressed as follows:

ACC: American Campus Communities Operating Partnership LP  
Attn: Jennifer Jones  
12700 Hill Country Blvd.  
Suite T-200  
Austin, TX 78738

DCPA: Downtown Campus Parking Associates, LLC  
Attn: Ryan Lynch  
PO Box 4034  
Morgantown, WV 26504-4034

and

Brian Helmick, Esq.  
Spilman Thomas & Battle, PLLC  
300 Kanawha Boulevard, East  
Charleston, WV 25301

5. GOVERNING LAW. This Agreement shall be governed by and construed in accordance with the laws of the State of West Virginia.

6. ASSIGNMENT. This Agreement may not be assigned by either ACC or DCPA without the prior written consent of the other Party.

7. ENTIRE AGREEMENT. This Agreement constitutes and contains all stipulations and agreements between ACC and DCPA, superseding any prior written or oral agreements between them respecting the subject matter of this Agreement. This Agreement may be executed in one or more counterparts, and all so executed shall constitute one (1) and the same agreement, binding upon the Parties hereto, notwithstanding that all of the Parties are not signatories to the same counterparts. Executed copies hereof may be delivered by email transmission or other electronic means and upon receipt will be deemed originals and binding upon the parties hereto, regardless of whether originals are delivered thereafter.

8. MODIFICATIONS. Any provision to modify, alter, enlarge, or change this Agreement shall be in writing, signed and dated by both Parties.

9. **BINDING AGREEMENT.** This Agreement and all of its terms and conditions shall extend to and be binding upon the Parties hereto and upon each of their respective heirs, executors, administrators, successors and permitted assigns.

10. **DEFAULT AND REMEDIES.**

10.1 In the event ACC fails to release and quitclaim the ACC Parcel to the City following the approval by the City by final hearing of the Annulment/Acceptance Ordinance, and if such default or breach is not cured within five (5) days after written notice thereof from DCPA, then DCPA, at its option, and as its sole and exclusive remedy, may (a) bring suit against ACC for specific performance of ACC's obligations under this Agreement or (b) terminate this Agreement by written notice to ACC, in which event neither party shall have any further liability hereunder, except those expressly surviving the termination of this Agreement.

10.2 In the event DCPA defaults under this Agreement or fails to perform any obligation of DCPA under this Agreement, and if such default or breach is not cured within five (5) days after written notice thereof from ACC to DCPA specifying such failure (or such longer period as may be reasonable under the circumstances, not to exceed sixty (60) days following ACC's initial notice to DCPA, as long as DCPA commences the cure of such failure within such five (5) day period and thereafter diligently pursues same to completion), ACC may pursue such remedies which may be available to ACC at law or in equity, including, without limitation, the right to seek to enforce specific performance of DCPA's obligations hereunder, the right to terminate this Agreement by written notice to DCPA, in which event neither party shall have any further liability hereunder, except those expressly surviving the termination of this Agreement, or, by written notice to DCPA may elect to take over construction of the Quay Street Improvements in accordance with the terms of Section 1.1, in which event, the following shall apply: (a) DCPA shall have no further right to construct the Quay Street Improvements, (b) ACC shall be entitled to: (i) take all necessary action to cause the Quay Street Improvements to be completed substantially in accordance with the Quay Street Plans; (ii) have the benefit of all easements which may be required, necessary or appropriate in order for ACC to cause the Quay Street Improvements to be completed, as may be reasonably necessary for construction and staging, for the purposes of constructing the Quay Street Improvements in the locations shown in the Quay Street Plans; (iii) engage all contractors and subcontractors deemed necessary or appropriate by ACC to complete the Quay Street Improvements, use all or any part or parts of the labor, materials, supplies and equipment contracted for by or on behalf of DCPA, whether or not previously incorporated into the Quay Street Improvements, all in the sole and absolute discretion of ACC; (iv) pay, settle or compromise all bills or claims for labor performed and materials furnished in connection with the construction and installation of the Quay Street Improvements, including, without limitation, claims arising prior to or after the taking over construction by ACC; and as costs are incurred by ACC in connection with completing the construction of the Quay Street Improvements in accordance with the terms hereof, present invoices for labor performed or materials furnished in connection with such construction to DCPA. If ACC elects to take over construction of the Quay Street Improvements in accordance with the provisions of this Section 10.2, DCPA will pay ACC on demand all sums paid or

incurred by ACC in connection with the construction of the Quay Street Improvements in accordance with the terms hereof.

10.3 The provisions of this Section 10 shall expressly survive the termination of this Agreement.

**IN WITNESS WHEREOF**, the parties have executed this Development Agreement to be effective as of the date first above written.

**ACC:**

AMERICAN CAMPUS COMMUNITIES,  
OPERATING PARTNERSHIP

By: \_\_\_\_\_

Its: \_\_\_\_\_

**DCPA:**

Downtown Campus Parking Associates, LLC,  
a West Virginia limited liability company

By: \_\_\_\_\_

Its: \_\_\_\_\_

The undersigned does hereby acknowledge and agree, on behalf of the City, that upon the release and quitclaim of the ACC Parcel by ACC to the City pursuant to Section 2 of this Development Agreement, the City will accept title to the ACC Parcel and will dedicate said ACC Parcel as a part of Quay Street, a municipal public road, providing for the improvement of said Quay Street and providing a means of public ingress, egress to and from to the University Exchange Parcel, and, will accept the Quay Street Improvements upon completion thereof by DCPA in accordance with the plans therefor.

The City of Morgantown, Monongalia County,  
West Virginia, a West Virginia municipal  
corporation

By: \_\_\_\_\_

Its: \_\_\_\_\_

EXHIBIT A

University Exchange Parcel

All of the following described real estate, together with any and all improvements thereon and appurtenances thereto belonging, situate, lying and being in the Fourth Ward of the City of Morgantown, Monongalia County, West Virginia, and being more particularly bounded and described as follows:

**PARCEL ONE (104 Quay Street -- M/P 20-201)**

All that portion of Lot No. 9 of the Moreland, Anderson and Cox Addition to Sunnyside, in the Fourth Ward to the City of Morgantown, which is described as follows:

BEGINNING at a point in an alley, where Lots Nos. 8 and 9 join, and running thence along said alley 50' 2-3/4" to a point where Lots Nos. 9 and 10 join; thence with Lot No. 10, running toward Jones Avenue, in said addition, a distance of 53' to a point; thence by a line parallel with the aforesaid alley, a distance of 50' 2-3/4" to a point in a line of Lot No. 8; thence a distance of 53' along Lot No. 8 to the beginning, excepting and reserving from the operation of this conveyance an easement or right-of-way over and across the said described lot of land for the purpose of forever maintaining and operating a sewer or drainage for the benefit of the balance of said Lot No. 9, which right-of-way or easement begins at a certain point in the third line above described, where a present sewer crosses the said line, and thence across said portion of Lot to a point in said first described line where the said sewer crosses into the said alley; and there is also reserved the right of ingress, egress and regress, on and over the above said parcel of said Lot for the purpose of maintaining and operating the same.

**PARCEL TWO (98 Quay Street and 100 Quay Street -- M/P 20-202)**

All those three certain lots or parcels of land lying adjoining each other and together fronting 46.4 feet on the Northern side of Anderson Street, adjoining Lot No. 6 on the East for a distance of 38 feet, and fronting 38.2 feet on a 15 foot alley on the West, and having a width of 50.1 feet on the Northern side, and being Lots 7, 8, and 9, as laid down and designated on the sale map of the Anderson Addition to Greater Morgantown, as surveyed and platted by Russell L. Morris, Civil Engineer, a copy of which said map is recorded in the office of the Clerk of the County Commission of Monongalia County, West Virginia, in Deed Book 89, at page 470.

There is also hereby conveyed a certain strip or parcel of land 14-1/2 feet in width extending along and adjoining said Lots 7, 8, and 9 and being 1/2 of the width of what was formerly known as Anderson Street and abutting upon Lots 7, 8, and 9. For a more certain location of said strip or parcel of land, specific reference is here made to the said map of Anderson Addition to Greater Morgantown.

**PARCEL THREE (213 Jones Avenue -- M/P 20-203)**

FIRST PARCEL: All that certain lot or parcel of land fronting 38 feet on the Western side of Jones Avenue and extending back therefrom with uniform width a distance of 78 feet, and being designated as Lot Nos. 5 and 6 on the map of Anderson Addition to Greater Morgantown.

SECOND PARCEL: All that certain strip or parcel of land 14 1/2 feet in width extending along and with said Lot Nos. 5 and 6 a distance of 78 feet, which said strip or parcel of land is one-half of what was once Anderson Street.

**PARCEL FOUR (205 Jones Avenue – M/P 20-204)**

FIRST PARCEL: All those two certain lots or parcels of real estate or land situate in the said Fourth Ward of the City of Morgantown, being designated as Lots Nos. 4 and 14 in the Anderson Addition to Morgantown, as surveyed for J. W. Wiles and R. L. Morris, by R. L. Morris, Engineer, which said map bears date January 16, 1901, and is recorded in the office of the Clerk of the County Commission of Monongalia County, West Virginia, in Deed Book No. 89, at Page 470, said Lot No. 4 fronts 38 feet on Jones Avenue and extends back with uniform width together with said Lot No. 14 a distance of 78 feet to Lot No. 13 in said Addition.

SECOND PARCEL: Being a strip of ground fronting 14-1/2 feet on Jones Avenue, and extending back along the northern line of said Lots Nos. 4 and 14, their entire depth of 78 feet, which said strip of ground was formerly designated on said plat or map as part of Anderson Street.

**PARCEL FIVE (92 Quay Street -- M/P 20-205)**

FIRST TRACT: All of Lots Nos. 10, 11, 13 in what is known as the Anderson Addition to Greater Morgantown, plat of which said Addition is of record in Deed Book No. 89, at Page 470, and which said real estate is more particularly bounded and described as follows: Beginning at the intersection of Anderson Street and White Alley, in said City, on the southern side of said Anderson Street, and running thence along the eastern side of White Alley, in a southerly direction, 38.2 feet to a stake; thence leaving White Alley, and running in an easterly direction, along Lot No. 12, in said plan of Lots, a distance of 39.9 feet to a stake; thence in a northerly direction a distance of 38 feet to a stake in the southern side

of Anderson Street; thence along said Anderson Street for a distance of 43.5 feet to the place of beginning.

**SECOND TRACT:** All of the right, title, interest and claim of the said party of the first part in and to a certain strip of ground 14-1/2 feet wide, situate, lying and being in the Fourth Ward of the City of Morgantown, Monongalia County, West Virginia, adjoining the above-mentioned lots, or parcels of real estate, described under "First Tract".

**PARCEL SIX (25 Overhill Street -- M/P 20-206)**

All those certain lots or parcels of land fronting 43.3 feet on the north side of Overhill Street and extending back along a 15-foot alley on the west side of the lots hereby conveyed a distance of 77.1 feet to the corner of Lot No. 11, and with the southern line of Lots Nos. 11 and 13 and part of Lot No. 14, a distance of 42 feet; thence in a southerly direction of 63.6 feet to Overhill Street, at a point 43.3 feet Northeast of the corner of Overhill Street and the 15-foot alley hereinbefore mentioned, and being Lots No. 1 and 12, and a small portion of Lot No. 2 on the plat or map of Anderson Addition to Greater Morgantown, as surveyed by Russell L. Morris, Civil Engineer, on the 16<sup>th</sup> day of January, 1901.

**PARCEL SEVEN (201 Jones Avenue -- M/P 20-207 & M/P 20-208)**

FIRST PARCEL: All that certain lot or parcel of real estate fronting for a distance of 41.7 feet on the northern side of Overhill Street and 41.3 feet on the western side of Jones Avenue, the western line of said lot being 54 feet long and the northern line of said lot being 40 feet long, and being known and designated as Lot No. 3 of Anderson Addition to Greater Morgantown.

SECOND PARCEL: All that certain lot fronting for a distance of 30.7 feet on Overhill Street and extending back therefrom along the First Parcel herein described for a distance of 54 feet; the western side of said lot being 63.6 feet, more or less, long; and the northern line of said lot being 35 feet; said lot being known and designated as Lot No. 2 in the Anderson Addition to Greater Morgantown, a map or plat of which Addition is of record in the Office of the Clerk of the County Commission of Monongalia County, West Virginia, in Deed Book No. 89, at Page 471 (sic 470).

And being part of the same real estate conveyed to West Virginia University Board of Governors on behalf of West Virginia University, a state institution of higher education, by special warranty deed dated October 26, 2012, and recorded in the Office of the Clerk of the County Commission of Monongalia County, West Virginia, in Deed Book 1468, at Page 379.

The above described real estate was recently surveyed on April 10, 2015 by Potesta & Associates, Inc., a copy of which is recorded in the aforesaid Clerk's Office in Map Cabinet No. 5, at Envelope 181A, which said plat of survey described the real estate being conveyed herein as follows:

Beginning at a 5/8 inch rebar with plastic cap found at the intersection of the western right of way line of Jones Avenue and the northern right of way line of Overhill Avenue, thence Leaving said Jones Avenue and Running with said Overhill Avenue

S53°18'33"W, 115.00 feet to a 5/8 inch rebar with plastic cap found at the intersection of said northern right of way line of Overhill Avenue and the eastern right of way line of Quay Avenue, thence leaving said Overhill Avenue and running with said Quay Avenue

N25°08'39"W, 231.87 feet to a 5/8 inch rebar with plastic cap found at the common corner to Eugene J. Stout, recorded in Deed Book 1082 at page 461, thence leaving said Quay Avenue and running with the lines of said Eugene J. Stout

N70°20'55"E, 53.23 feet to a 5/8 inch rebar with plastic cap found, thence

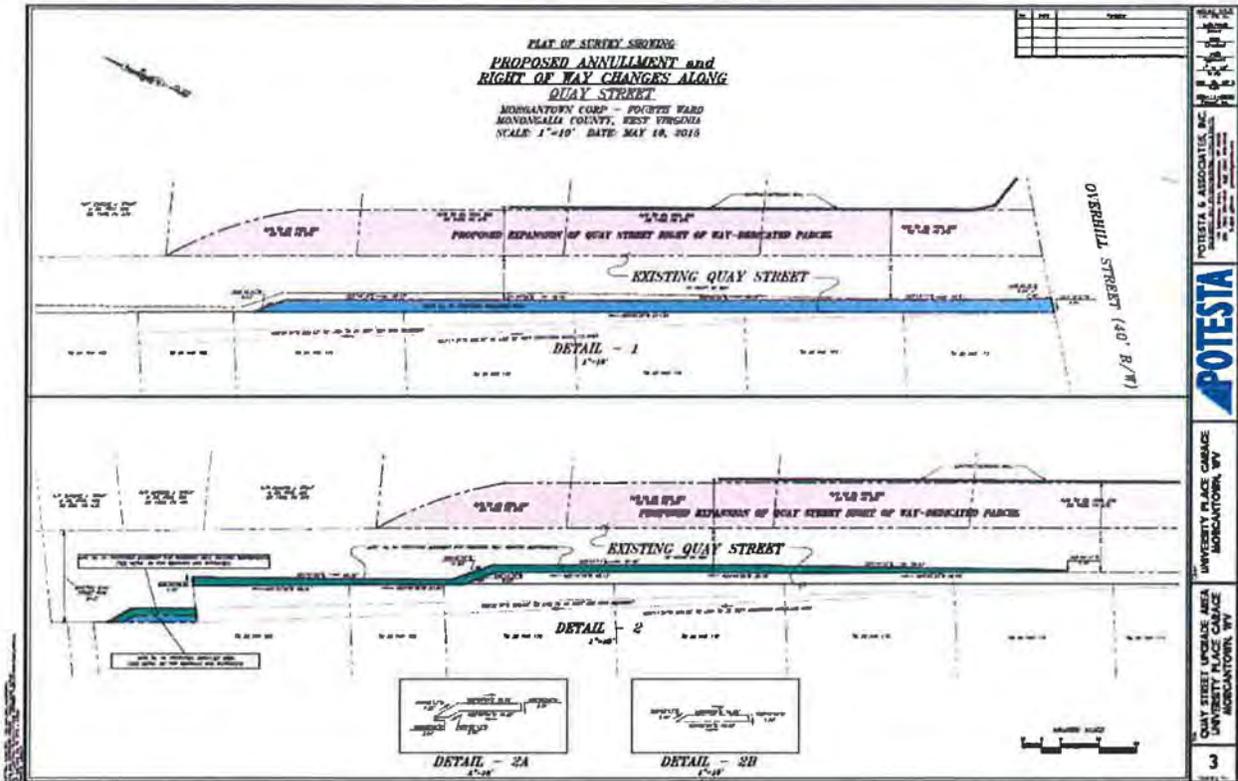
S24°12'51"E, 50.16 feet to a 5/8 inch rebar with plastic cap found, thence

N70°17'59"E, 75.13 feet to a 5/8 inch rebar with plastic cap found on said western right of way line of Jones Avenue, thence leaving said Eugene J. Stout and running with said Jones Avenue right of way line

S19°34'22"E, 147.17 feet to the place of beginning, containing 0.51 acres more or less.

# EXHIBIT B

## Quay Street Improvements



## EXHIBIT C

### ACC PARCEL LEGAL DESCRIPTION

All of the following described real estate, together with any and all improvements thereon and appurtenances thereto belonging, situate, lying and being in the Fourth Ward of the City of Morgantown, Monongalia County, West Virginia, and being more particularly bounded and described as follows:

Beginning at a 5/8 inch rebar with plastic cap found at the intersection of the northern right of way line of Overhill Street and the eastern right of way line of Quay Street, thence leaving said Overhill Street and running with said Quay Street, N25°08'39"W, 231.87 feet to a 5/8 inch rebar with plastic cap found at the common corner to Eugene J. Stout, recorded in Deed Book 1082 at page 461, thence leaving said Quay Street and running through and across the property from which this conveyance is a part of, Around a curve to the right, having an arc length of 36.71 feet, a radius of 102.17 feet and a chord bearing and distance of S44°43'20"E, 36.51 feet to a 5/8 inch rebar with plastic cap set, thence S25°08'39"E, 194.97 feet to a 5/8 inch rebar with plastic cap set on the northern right of way line of said Overhill Street, thence with said right of way line S53°18'33"W, 12.48 feet to the POINT OF BEGINNING, containing ±2,651 square feet, 0.06 acres more or less, all as more particularly shown and depicted upon the plat of survey dated April 10, 2015 and revised May 19, 2015, titled ALTA/ACSM Title Survey Sunnyside Commons 0.51 Acres, prepared by Potesta and Associates, Inc., and made a part hereof for all pertinent purposes, to be recorded in the Office of the Clerk of the County Commission of Monongalia County, West Virginia, immediately prior to this Deed.

## BOARDS AND COMMISSIONS - TERMS EXPIRED AND CURRENT VACANCIES

### Council

Please remember that your terms expire on 30<sup>th</sup> day of June 2015 for the boards you are on. Please be deciding if you wish to remain on those or switch to a new board.

**BOPARC:** Ed Cordell's term expires on 6/30/15. Talked with Mel Burch and she said he wishes to continue to serve. Council can vote on that appointment at the June 2, 2015 Regular Meeting. Residents at large apt. by Council-7 members.

**FIRE CIVIL SERVICE:** Dan Hursh e-mailed that he must resign due to personal reasons. We are looking for a new Commissioner administratively. This is a City Manager appointment. Shane Mardis term expires on 6/30/15. Checking to see if he wishes to continue to serve.

**HUMAN RIGHTS COMMISSION:** The following member's terms expire on 6/30/15: Anne Marie Lofaso; Jan Derry and Brian Jara. Chair Jan Derry is checking to see if all wish to continue to serve. Appt. by Council. Terms staggered

**METROPOLITAN THEATRE COMMISSION:** Connie Merandi has resigned. Will advertise for candidates to replace vacancy. 7 members to be City residents, 1 member from Council, 1 member from County Commission.

**MORGANTOWN HOUSING ADVISORY COMMISSION:** Chelsi Baker has done a press release for members. Council will be notified when the Clerk gets applications and will keep Council updated. Attached is press release.

**PARKING AUTHORITY:** Jeanne Hagen's term expires on 6/30/15. Tom Arnold is checking to see if she wishes to continue to serve. Residents, 3 members at large apt. by Mayor, 1 Council member.

**URBAN LANDSCAPE:** Cindy Fike the 6<sup>th</sup> ward member is resigning. Nicole Panaccione, Fourth Ward resigned on 7/1/2014. Councilor Selin is looking for a replacement for that position on that commission. Also, Joseph Scotti resigned as Fifth Ward member. Am asking our Deputy Mayor and 5<sup>th</sup> Ward Council member to find a replacement. Nominated by CM, one from each WD, 13 members with staggered terms and I Councilor. City Manager and Clerk will be meeting to discuss appointments.

**SISTER CITIES COMMISSION:** Helene Friedberg, Amelia Garcia and Rosalyn Becker's term expire on 6/30/15. George Lies Chair of this Commission is checking to see if they wish to continue to serve.

**TREE BOARD:** Kara Hurst also resigned from the Tree Board. City Clerk advertised for new members. Residents appt. not ward specific; one member must have knowledge of tree management and care.

**WARD AND BOUNDARY COMMISSION:** Don West, Cindy O'Brian, Roger Banks, Steve Carpenter, William Ryan, Guy Panrell and Chair Alan Donaldson's term expire on 6/30/15. Checking to see who wishes to continue to serve. Appt. by Council within 30 days of term commencement. One from each ward.

**\*POLICE & FIRE CIVIL SERVICE COMMISSIONS:** NEW PRESIDENTS APPOINTED IN JANUARY.

*\*Information for Boards and Commissions vacancies are placed in the Dominion Post, are advertised on the City's Government Station Channel 15, and are posted at the Library and also information is on the City's Web Page.*

*\*Council decided on 3-21-06 by unanimous consent that if there is only one candidate for Boards & Commissions, that they will not interview; the City Clerk will check with Council before scheduling a Special Meeting.*

*\*BZA and Planning Commission term expirations are advertised in October and interviews must be completed by December per State Law.*

5/22/15

**AN ORDINANCE AMENDING ARTICLE 1331.06 OF THE PLANNING AND ZONING CODE AS IT RELATES TO ELIMINATING THE ABILITY OF PERMITTED NON-RESIDENTIAL USES WITHIN THE R-1, R-1A, R-2, AND R-3 DISTRICTS TO COUNT ADJACENT ON-STREET PARKING STALLS TOWARDS MEETING MINIMUM OFF-STREET PARKING REQUIREMENTS.**

The Morgantown City Council hereby ordains that Article 1331.06 "Supplemental Regulations Pertaining To Permitted Land Uses Table" of the City's Planning and Zoning Code is amended as follows (deleted matter struck through; new matter underlined):

1331.06 SUPPLEMENTAL REGULATIONS PERTAINING TO PERMITTED LAND USES TABLE.

- (29) In the R-1, R-1A, R-2 and R-3 districts, the following regulations shall apply to permitted non-residential uses:
  - (a) Buildings shall be required to be two stories.
  - (b) Gross building size shall not exceed 2,000 square feet with not more than half (1,000 square feet) being devoted to non-residential use; and any café or food service area shall be limited to 500 square feet of customer seating area.
  - (c) May have residential or office uses on second floor, but no residential use shall be permitted on ground floor.
  - (d) All building facades visible from a public street shall be faced with masonry, stone, wood siding, or stucco-covered block. No vinyl, metal, or exposed concrete block walls.
  - (e) Shall have a minimum front setback of three (3) feet and a maximum of six (6) feet.
  - (f) All parking lots shall be screened along the street frontage by a decorative masonry wall (not concrete block) between three and one-half (3.5) and five (5) feet in height, and by dense landscaping along property lines not adjoining a public street.
  - (g) If residential units are placed above storefront, no extra parking shall be required for them.
  - ~~(h) Any existing on-street parking stalls immediately adjacent to the property shall be counted toward fulfilling parking requirement.~~
  - (h) Front façade of the building shall have a fenestration ratio of at least forty

(40) percent.

- ~~(j)~~ (i) A canvas awning not less than 6 feet in width shall be placed over the entry, and may extend to partially cover the sidewalk, provided that the leading edge of the awning extends no closer than two (2) feet to the curb line of the street.
- ~~(k)~~ (j) If no sidewalk exists, the property owner shall be required to construct one in front of the building's primary façade according to Engineering Department standards.
- ~~(l)~~ (k) Signage for such structures shall be limited to a total of four (4) square feet and all signs shall be either wall or suspended signs. No other sign types shall be permitted. Signs shall not be internally illuminated.
- ~~(m)~~ (l) No security bars, screens or gates shall be permitted to be attached to the primary façade.
- ~~(n)~~ (m) No alcoholic beverages may be sold or consumed on any premises permitted in this conditional use.
- ~~(o)~~ (n) No drive-through lanes or windows shall be permitted for any use.
- ~~(p)~~ (o) Hours of operation shall be limited to 9:00 a.m. to 8:00 p.m. daily.

This ordinance shall be effective upon date of adoption.

FIRST READING:

\_\_\_\_\_  
Mayor

ADOPTED:

FILED:

RECORDED:

\_\_\_\_\_  
City Clerk

**AN ORDINANCE AMENDING ARTICLE 1345.06 OF THE PLANNING AND ZONING CODE AS IT RELATES TO ELIMINATING THE ABILITY TO COUNT ADJACENT ON-STREET PARKING STALLS WITHIN THE B-1, NEIGHBORHOOD BUSINESS DISTRICT TOWARDS MEETING MINIMUM OFF-STREET PARKING REQUIREMENTS.**

**The Morgantown City Council hereby ordains that Article 1345.06 "Parking and Loading Standards" of the City's Planning and Zoning Code is amended as follows (deleted matter struck through; new matter underlined):**

ARTICLE 1345

B-1, Neighborhood Business District

1345.06 PARKING AND LOADING STANDARDS.

(A) All uses within this district shall provide not less than seventy-five (75) percent of the required parking as set forth in Article 1365, Parking, Loading and Internal Roadways.

~~(B) Any on-street parking located immediately in front of a building or on a corner lot, may be counted towards the parking requirements of this Ordinance.~~

(B) No parking spaces shall be permitted between the front façade of a building and any street right-of-way.

This ordinance shall be effective upon date of adoption.

FIRST READING:

\_\_\_\_\_  
Mayor

ADOPTED:

FILED:

RECORDED:

\_\_\_\_\_  
City Clerk



**AN ORDINANCE AMENDING ARTICLE 1361.03 OF THE PLANNING AND ZONING CODE AS IT RELATES TO ELIMINATING THE ABILITY TO COUNT ADJACENT ON-STREET PARKING STALLS WITHIN THE SUNNYSIDE OVERLAY DISTRICTS TOWARDS MEETING MINIMUM OFF-STREET PARKING REQUIREMENTS.**

**The Morgantown City Council hereby ordains that Article 1361.03 “Design and Performance Standards Common To All Sunnyside Overlay Districts” of the City’s Planning and Zoning Code is amended as follows (deleted matter struck through; new matter underlined):**

**1361.03 DESIGN AND PERFORMANCE STANDARDS COMMON TO ALL SUNNYSIDE OVERLAY DISTRICTS.**

The following design and performance standards are held in common and shall apply to the SCOD, SSOD, and BCOD overlay districts.

**(Q) Street Hierarchies and Land Use:**

- (1) Except for single and two family dwellings, buildings constructed along primary streets shall have sixty (60) percent or more of their ground floor space dedicated to retail, restaurant, office or personal service uses. Residential uses shall be permitted on the ground floor in the remaining space, but shall not enfront the primary street.
- ~~(2)~~ ~~On-street parking spaces immediately adjacent to a land use shall be counted toward fulfilling parking requirements for the use.~~
- ~~(3)~~ (2) The minimum number of off-street parking spaces for multi-family dwellings shall be one-half a space (0.5) per occupant as determined by the West Virginia State Building Code and adopted and implemented by the City. The minimum number of off-street parking spaces for mixed-use and over-store dwellings shall be one-half a space (0.5) per occupant as determined by the West Virginia State Building Code and adopted and implemented by the City plus required spaces for commercial use(s).
- ~~(4)~~ (3) Surface parking lots between buildings shall be designed as interior landscaped courtyards where cars are screened from the right-of-way; surface lots shall not be constructed where two (2) public rights-of-way intersect.
- ~~(5)~~ (4) Parking structures abutting open spaces or fronting on primary streets shall be designed with building-like facades.
- ~~(6)~~ (5) Parking garages three (3) stories or higher shall provide ground floor retail or service uses in an amount not less than thirty-five (35) percent of the ground floor area, located along the frontage of the garage.

- ~~(7)~~ (6) Private parking areas shall be accessed from secondary streets and/or alleys. Access from primary streets shall only be utilized when other options are not available.
- ~~(8)~~ (7) To minimize curb cuts along primary and secondary streets, residential garages or car ports or driveways shall be located at the rear of the property and accessed from an alley, when available.
- ~~(9)~~ (8) Parking areas and properties containing multifamily or commercial buildings shall provide linkages of similar design and quality to adjacent off-site pedestrian amenities such as sidewalks, bike paths, etc.
- ~~(10)~~ (9) Parking areas containing ten (10) or more stalls shall be lighted to create safe, attractive nighttime environments. Such lighting shall not be designed or situated in such a manner as to cause spillover glare onto adjoining properties. Building entrances and significant architectural or landscape features should be illuminated with low-intensity, indirect lighting sources directed toward the feature.

This ordinance shall be effective upon date of adoption.

FIRST READING:

\_\_\_\_\_  
Mayor

ADOPTED:

FILED:

RECORDED:

\_\_\_\_\_  
City Clerk

**AN ORDINANCE AMENDING TABLE 1365.04.01 “MINIMUM OFF-STREET PARKING REQUIREMENTS OF THE PLANNING AND ZONING CODE AS IT RELATES TO ELIMINATING THE ABILITY FOR BED AND BREAKFAST INN USES TO COUNT ADJACENT ON-STREET PARKING STALLS TOWARDS MEETING MINIMUM OFF-STREET PARKING REQUIREMENTS.**

The Morgantown City Council hereby ordains that Table 1365.04.01 “Minimum Off-Street Parking Requirements” of the City’s Planning and Zoning Code is amended as follows (deleted matter struck through; new matter underlined):

Table 1365.04.01: Minimum Off-Street Parking Requirements

Use	Minimum Off-Street Parking Requirement
Bed and Breakfast Inn	1 space per guest room plus 2 for the resident owner; <del>on-street parking spaces directly in front of the inn may count towards the parking requirement except in residential parking permit required areas</del>

This ordinance shall be effective upon date of adoption.

FIRST READING:

\_\_\_\_\_

Mayor

ADOPTED:

FILED:

RECORDED:

\_\_\_\_\_

City Clerk



**AN ORDINANCE AMENDING ARTICLE 1385 OF THE PLANNING AND ZONING CODE AS IT RELATES TO SITE PLAN REVIEW.**

**The City of Morgantown hereby ordains that Article 1385 "Site Plan Review" of the City's Planning and Zoning Code is amended as follows (deleted matter struck through; new matter underlined):**

ARTICLE 1385  
Site Plan Review

- 1385.01 Site plan review required.
- 1385.02 Application.
- 1385.03 Design and improvements requirements.
- 1385.04 Site plan review.
- 1385.05 Review thresholds.
- 1385.06 Type I: Administrative review of simple site plans.
- 1385.07 Type II: Administrative review of detailed site plans.
- 1385.08 Type III: Planning Commission review of developments of significant impact ~~and major developments of significant impact.~~
- 1385.09 Type IV: BZA review of conditional use permits.
- 1385.10 Other required submittals.
- 1385.11 Resubmittal of plans.
- 1385.12 Rejection statement.
- 1385.13 Deviation from the approved site plan and additions to existing structures.
- 1385.14 Record drawings and certificate of completion and compliance.
- 1385.15 Expiration deadlines.

**1385.01 SITE PLAN REVIEW REQUIRED.**

No land within the jurisdiction of the City of Morgantown shall be developed or altered for the purpose of constructing buildings or establishing uses without first having received site plan approval from either the Planning Department staff, or the Morgantown Planning Commission or the Morgantown Board of Zoning Appeals. It shall be the duty of the Planning Director, or his/her designee, in conjunction with other appropriate departments and agencies, to perform complete and thorough review of all plans submitted to the Planning Department.

#### 1385.02 APPLICATION.

- (A) All applications for site plan review shall be made on application forms prescribed by the Planning Department and follow established submittal deadlines.
- (B) Major development projects often become issues of significant contention between applicants and residents living adjacent to and in the vicinity of the property to be rezoned. Too often this results in difficult and argumentative public hearings before the Municipal Planning Commission and City Council. In most cases, opposition to a rezoning request is based on legitimate concerns over the well-being and preservation of a neighborhood, but sometimes opposition results from a simple lack of communication and understanding between the applicant and the neighborhood residents. The City, therefore, strongly advises any person that is considering applying for a Development of Significant Impact (DSI) ~~or a Major DSI~~ to discuss the proposal with residents living within 200 feet of the property to be rezoned and with the leadership of any organized neighborhood organizations that represent the area before making application to the Planning Department. The Department can assist by providing contact information for individuals who should be consulted.
- (C) All Development of Significant Impact site plans for development in the B-4 District also shall be submitted to the Downtown Design Review Committee for review and recommendations prior to any formal public hearing or final approval.

#### 1385.03 DESIGN AND IMPROVEMENTS REQUIREMENTS.

- (A) Requirements, standards and specifications for engineering design for construction of improvements for site plans shall be equal to or greater than the minimum requirements, standards, and specifications established for design and improvements by the City Engineer. In addition to the plan sheets specified below, the applicant shall submit a complete drainage report, including calculations and justifications. The City Engineer may approve and/or require other engineering designs or practices when deemed necessary.
- (B) The proper management of storm water runoff is essential in the land development process. The City has adopted a separate storm water management ordinance that considers criteria related to total disturbed area, total/modified impervious area, sedimentation and erosion control and other criteria. Development plans are reviewed for, and must demonstrate compliance with this article.

#### 1385.04 SITE PLAN REVIEW.

There are four types of site plan reviews which have different application requirements and approval procedures. Types 2, 3 and 4 shall be reviewed by an internal technical review team, whose membership shall include the City Manager or his designee, the Chief Code Enforcement Officer, the City Engineer, a representative from the Morgantown Utility Board, and the City's Fire Department. The types of review are:

Type I	Administrative Review, by the Planning Director, of Simple Site Plans
Type II	Administrative Review, by the Planning Director, of Detailed Site Plans
Type III	Planning Commission Review of Developments of Significant Impact
Type IV	Board of Zoning Appeals Review of Conditional Uses

1385.05 REVIEW THRESHOLDS.

In order to determine what type of review a project receives, the following standards have been established and noted for specific land uses in the land use table of this article.

(A) ~~Developments of Significant Impact may include but are not limited to:~~

~~Residential Projects: 12 to 99 dwelling units~~

~~Commercial Projects: 15,000 square feet of gross floor area~~

~~Office / Institutional Projects: 15,000 square feet of gross floor area~~

~~Industrial Projects: 0 square feet to 99,999 square feet of gross floor area~~

~~Mixed Use Projects: 15,000 square feet of gross floor area~~

(B) ~~Major Developments of Significant Impact may include but are not limited:~~

~~Residential Projects: 100 or more dwelling units~~

~~Commercial Projects: 100,000 or more square feet of gross floor area~~

~~Office / Institutional Projects: 100,000 or more square feet of gross floor area~~

~~Industrial Projects: 100,000 or more square feet of gross floor area~~

~~Mixed Use Projects: 100,000 or more square feet of gross floor area~~

(A) Type I Site Plan Review: Single-family and two-family residential primary and secondary structures that do not constitute a Development of Significant Impact.

(B) Type II Site Plan Review: Non-residential, multi-family structures, and temporary uses that do not constitute a Development of Significant Impact.

(C) Type III Site Plan Review: The following thresholds constitute Developments of Significant Impact.

<u>Land Use Category / District</u>	<u>Development of Significant Impact</u>
<u>Residential</u>	<u>A development that is 12 or more dwelling units.</u>
<u>Non-Residential</u>	<u>A development that is either 15,000 square feet or more of gross floor area or a site of 2 acres or more of net acreage.</u>
<u>Mixed-Use</u>	<u>A development that exceeds any of the following: 15,000 square feet or more of gross floor area of non-residential use(s); or, 12 or more dwelling units; or, 2 acres or more of net acreage.</u>
<u>Industrial</u>	<u>All industrial development, regardless of gross floor area or net acreage of the site.</u>
<u>Development in the B-4 District:</u>	
<u>All Land Use Categories</u>	<u>New construction of a principal structure, regardless of land use category or net acreage of the site.</u>
<u>Residential</u>	<u>A development that is 12 or more dwelling units.</u>
<u>Non-Residential</u>	<u>A development that is either 10,000 square feet or more of gross floor area or a site of one-half (1/2) acre or more of net acreage.</u>
<u>Mixed-Use</u>	<u>A development that exceeds any of the following: 10,000 square feet or more of gross floor area of non-residential use(s); or, 12 or more dwelling units; or, one-half (1/2) acre or more of net acreage.</u>
<u>Industrial</u>	<u>All industrial development, regardless of gross floor area or net acreage of the site.</u>

(D) Type IV Site Plan Review: All applications for a Conditional Use Permit.

**1385.06 TYPE I: ADMINISTRATIVE REVIEW OF SIMPLE SITE PLANS.**

- (A) All applications for permits for single-family residential and two-family residential primary and secondary structures shall be accompanied by the following:
- (1) A site plan drawn to scale, that includes the following for the use of the Planning Director:
    - (a) The actual dimensions, size, square footage, and shape of the lot to be built upon;
    - (b) The exact sizes and locations on the lot of existing structures, if any;
    - (c) The location(s), square footage(s), and dimensions of all proposed principal, accessory, and/or temporary structure(s) and/or alteration(s);
    - (d) The location of the lot with respect to adjacent rights-of-way and easements;
    - (e) The existing and proposed uses of the structure(s) and land;

- (f) The location and dimensions of off-street parking and means of ingress and egress for such space;
- (g) Height of all structures;
- (h) Setbacks;
- (i) Grading plan;
- (j) Stormwater management plan;
- (k) Erosion and sediment control plan; and,
- (l) Signature of applicant.

1385.07 TYPE II: ADMINISTRATIVE REVIEW OF DETAILED SITE PLANS.

(A) All applications for permits for non-residential, multi-family structures, and temporary uses that do not constitute a dDevelopment of sSignificant impact (DSI), shall be accompanied by the following:

- (1) A site plan (3 copies), drawn to scale, that includes the following for the use of the Planning Director:
  - (a) The actual dimensions, size, square footage, and shape of the lot to be built upon as shown on an actual survey by a registered design professional licensed by the State of West Virginia and as authorized by West Virginia State law, said survey to be provided by the applicant;
  - (b) The exact sizes and locations on the lot of existing structures, if any;
  - (c) The location(s), square footage(s), and dimensions of all proposed principal, accessory, and/or temporary structure(s) and/or alteration(s);
  - (d) The location of the lot with respect to adjacent rights-of-way;
  - (e) The existing and proposed uses of the structure(s) and land;
  - (f) The number of employees, families, housekeeping units, bedrooms, or rental units the structure is designed to accommodate;
  - (g) The location and dimensions of off-street parking and means of ingress and egress for such space;
  - (h) Height of all structures;
  - (i) The clear zone for structures similar to silos, grain bins, windmills, chimneys, stacks, spires, flagpole, skylights, derricks, conveyors, cooling towers, observation towers, water tanks, telecommunication facilities, etc. in excess of fifty (50) feet in height;
  - (j) Setbacks;
  - (k) Buffer yard and screening, if applicable;
  - (l) Location of garbage collection area and screening;

- (m) Location of existing and/or proposed signage;
  - (n) Layout of all internal roadways;
  - (o) Location and size of stormwater management facilities;
  - (p) Utility lines and easements;
  - (q) Grading plan;
  - (r) Erosion and sediment control plan; and,
  - (s) Signature of applicant.
- (2) Drainage plan and drainage calculations that bear the name, address, signature and seal of a registered professional engineer, with floodplain zones clearly denoted, a typical of all swales, and a design of the drop inlets;
  - (3) If applicable, design of stormwater management facility and drainage calculations that bear the name, address, and seal of a registered design professional licensed by the State of West Virginia and as authorized by West Virginia State law and that meet the requirements of this article, the City's stormwater management ordinance and all other applicable local, state and federal regulations;
  - (4) Parking and landscaping plan;
  - (5) Sign plan;
  - (6) Approved WV Division of Highways Access Permit, if applicable;
  - (7) Sediment and erosion control plan as approved by the West Virginia Department of Environmental Protection, the City of Morgantown, and the Morgantown Utility Board;
- (B) No site plan shall be accepted unless it is complete and is verified as to the correctness of information given by the signature of the applicant attesting thereto.
- (C) Site plans shall be reviewed by an AICP certified planner, and such reviews may include other agencies that the City believes to have a direct or indirect interest in the development site.
- ~~(D) At least five (5) days prior to planning staff conducting its review, the Planning Director shall notify the planning commissioner representing the ward in which the project is proposed that the plan will be reviewed.~~
- ~~(E)~~ (D) Site plans approved by the Planning Director authorize only the use, arrangement, and construction set forth in such approved site plans and no other use, arrangement or construction. Furthermore, the approval of a site plan shall not be construed to be approval of any violation of the provisions of this article. The issuance of a building permit by the City based upon site plans given approval by the Planning Director shall not prevent the City from thereafter requiring the correction of errors in said site plans or from preventing operations from being carried on thereunder when in violation with this article. Site plan approval does not eliminate the need to obtain an approved building permit and the applicant's responsibility to meet all other requirements

established by local, state and federal regulations.

- (F) (E) One copy of the site plan submitted for a permit as required in subsection (C) above for the Planning Department shall be returned to the applicant after the Planning Director has marked such copy as either approved or disapproved as to the provisions of this article and attested to same by his signature on such copy. The original, similarly marked, shall be retained by the Planning Director.

1385.08 TYPE III: PLANNING COMMISSION REVIEW OF DEVELOPMENTS OF SIGNIFICANT IMPACT AND MAJOR DEVELOPMENTS OF SIGNIFICANT IMPACT.

- (A) Developments of Significant Impact are those that have a Citywide or regional impact. Such impacts ~~would typically~~ could involve the transportation network, environmental features such as parks or stream corridor, ~~and~~ local schools, etc. Such developments could include large-scale residential, commercial or mixed-use developments, employment centers, regional shopping centers, industrial and/or manufacturing, and extractive industry.
- (B) All applications for a Development of Significant Impact shall be accompanied by site and development plan drawings submitted under the seal and signature of a registered design professional licensed by the State of West Virginia and as authorized by West Virginia State law. All sheets shall be 24" x 36" size drawn to scale at a minimum 1"=50' and a maximum 1"=10' with the exception of the maps on Sheet One, unless otherwise approved by the City Engineer. Three (3) full-scale sets of the site plan drawings shall be submitted for review, along with one (1) exact digital file as required by the Planning Director, and shall observe the following format:
- (1) Sheet One (Title Sheet). The following information shall be submitted as part of Sheet One:
- (a) Full legal description with sufficient reference to section corners and boundary map of the subject project, including appropriate benchmark references.
  - (b) Name of the project.
  - (c) Name and address of the owner, developer, and person who prepared the plans.
  - (d) Total acreage within the project and the number of residential dwelling units and/or the gross square footage of non-residential buildings whichever is applicable.
  - (e) Existing zoning of the subject land and all adjacent lands.
  - (f) Boundary lines of adjacent tracts of land, showing owners of record.
  - (g) A key or vicinity map at a scale of one inch equals four hundred feet or less, showing the boundaries of the proposed project and covering the general area within which it is to be located.



- and within three hundred (300) feet of the proposed project or six hundred twenty-five (625) feet for extractive industry development.
- (b) Existing and proposed water mains, fire hydrants, storm sewers, sanitary sewers, culverts, bridges, and other utility structures or facilities within, adjacent to, or serving the subject land, including pipe sizes, grades, and exact locations, as can best be obtained from public or private records.
  - (c) Water Supply Plan. For development that involves the use of water at higher volumes than customarily associated with nonindustrial-type development, the City may require, in coordination with the Morgantown Utility Board, a water supply plan. A water supply plan must include at least the identification of the water source(s); the development and use of freshwater impoundments, if applicable; when and where water withdrawals will occur; necessary operational water volumes; potential competing water users; and, cumulative impact of the development's water consumption to the public water system, watersheds and/or groundwater.
  - (d) Building setback lines, showing dimensions.
  - (e) Internal and perimeter sidewalk system/pedestrian circulation plan.
  - (f) Proposed contours with intervals of not more than two (2) feet. The plan shall also show the contour line for the floodway fringe boundary. Grading plans and drainage plans and calculations are not required for Planning Commission site plan review, but shall be required prior to issuance of any building permits. Such plans shall be prepared by a registered design professional licensed by the State of West Virginia, and as authorized by West Virginia State law; and shall also meet the City's stormwater management ordinance and all applicable local, state and federal regulations.
  - (g) Location and detail plans for all trash dumpsters.
  - (h) Location and detail plans for utility and mechanical equipment placed on the ground (e.g. pad-mounted transformers, HVAC units, etc.).
  - (i) The number of employees, families, housekeeping units, bedrooms, or rental units the structure(s) is designed to accommodate.
  - (j) If applicable, the clear zone for structures similar to silos, grain bins, windmills, chimneys, stacks, spires, flag pole, skylights, derricks, conveyors, cooling towers, observation towers, water tanks, telecommunication facilities, etc. in excess of fifty (50) feet in height.
- (4) Sheet(s) Four (Preliminary Landscape Plan and Preliminary Site Lighting Plan). A preliminary landscape plan prepared to the standards specified in this zoning ordinance. A preliminary site lighting plan that includes exterior light fixture details and photometric plans in footcandles.
- (5) Sheet Five (Plat-like dedication sheet, if necessary). The following information

shall be submitted as part of Sheet Five if a plat-like dedication document for easements and rights-of-way is deemed necessary by the Planning Commission or its authorized designee:

- (a) Parcels of land proposed to be dedicated or reserved for public use, or reserved for common use of all property owners within the project, with the proposed conditions and maintenance requirements, if any, shall be designated as such and clearly labeled on the plans;
  - (b) Radii, internal angles, points of curvature; tangent bearings and lengths of all arcs, chord, and chord bearings; and
  - (c) Accurate location of all survey monuments erected, corners and other points established in the field in their proper places.
- (6) Sheet(s) Six (Floor Plans). Floors plans must illustrate and identify internal and external dimensions, uses, gross floor areas, and include a summary table of residential unit types and/or nonresidential use gross floor areas and any additional information deemed necessary for proper review of the development plan by the Planning Director, City Engineer, or Planning Commission.
- (7) Sheet(s) Seven (Building Elevations). Elevations of all facades illustrating height of building; top of adjoining finish grade elevation; exterior building components (roof, walls, foundation, etc.); exterior finishes and materials; roof slope or pitch; window types; exterior stairs, landings, guardrails, and handrails; and, any additional information deemed necessary for proper review of the development plan by the Planning Director, City Engineer, or Planning Commission.
- (8) Sheet(s) Eight (Parking Layout Plan). Parking layout plan must identify ingress and egress driveway entrance(s) and distances of same from neighboring property boundaries, existing driveway entrances, and intersections; layout of internal roadway; parking stall types, and dimension details for parking stalls and drive aisles; pedestrian circulation plan (if required); and, any additional information deemed necessary for proper review of the development plan by the Planning Director, City Engineer, or Planning Commission.
- (9) All sheets shall contain the following information:
- (a) All dimensions shown on plans relating to the size of the lot and the location of the structure(s) thereon be based on an actual survey by a registered land surveyor or registered design professional licensed by the State of West Virginia and as authorized by West Virginia State law, said survey to be provided by the applicant.
  - (b) The proposed name by which the project shall be legally and commonly known.
  - (c) Date of survey, scale, and north point.
  - (d) All lots or outlots intended for sale or lease shall be designated with boundary lines and numbered or labeled for identification purposes.

- (e) Private parks, common areas, or excluded parcels shall be designated as such and clearly labeled on the plans.
- (f) All necessary reference points tying the subject property to the appropriate section corners.
- (g) Each sheet shall be sealed and signed by the professional preparing the drawings.
- (h) All sheets shall be tied to state plane coordinates for horizontal and vertical controls.
- (i) Such other information as may be deemed necessary for proper review of the site plan by the Planning Director, City Engineer, or Planning Commission to determine conformance with and provide for the enforcement of these zoning regulations.

(C) All applications for a Development of Significant Impact shall be accompanied by:

- (1) A list of the property owners' names and addresses located within 200 feet of the site, including the subject property, as of record in the office of the Monongalia County Assessor. The applicant must also submit the tax map and parcel numbers for the list of properties.
- (2) The applicant must also submit a stamped and addressed envelope for each of the names and addresses of the property owners within 200 feet of the site. Return address is not required.

(1) ~~All applications for a Development of Significant Impact shall be accompanied by the following:~~

- (a) ~~A site plan (14 copies), drawn to scale, that includes the following for the use of the Planning Director:~~
  - (i) ~~The actual dimensions, size, square footage, and shape of the lot to be built upon as shown on an actual survey by a licensed land surveyor or registered design professional licensed by the State of West Virginia and as authorized by West Virginia State law, said survey to be provided by the applicant;~~
  - (ii) ~~The exact sizes and locations on the lot of existing structures, if any;~~
  - (iii) ~~The location(s), square footage(s), and dimensions of all proposed principal, accessory, and/or temporary structure(s) and/or alteration(s);~~
  - (iv) ~~The location of the lot with respect to adjacent rights-of-way;~~
  - (v) ~~The existing and proposed uses of the structure(s) and land;~~
  - (vi) ~~The number of employees, families, housekeeping units, bedrooms, or rental units the structure(s) is designed to accommodate;~~
  - (vii) ~~The location and dimensions of off-street parking and means of~~

ingress and egress for such space;

- (viii) Height of all structure(s);
  - (ix) ~~The clear zone for structures similar to silos, grain bins, windmills, chimneys, stacks, spires, flag pole, skylights, derricks, conveyors, cooling towers, observation towers, water tanks, telecommunication facilities, etc. in excess of fifty (50) feet in height;~~
  - (x) ~~Setbacks;~~
  - (xi) ~~Buffer yard and screening, if applicable;~~
  - (xii) ~~Location of garbage collection area and screening;~~
  - (xiii) ~~Location of sign existing and/or proposed signage;~~
  - (xiv) ~~Layout of all internal roadways;~~
  - (xv) ~~Location of stormwater management facilities;~~
  - (xvi) ~~Utility lines and easements; and~~
  - (xvii) ~~Signature of applicant.~~
- (b) ~~Grading plans and drainage plans and calculations are not required for Planning Commission site plan review, but shall be required prior to issuance of any building permits. Such plans shall be prepared by a registered design professional licensed by the State of West Virginia, and as authorized by West Virginia State law; and shall also meet all applicable local, state and federal regulations.~~
  - (c) ~~A complete list of the names and addresses of all property owners for parcels that are, in whole or in part, within 200 feet of any property line of the lot(s) to be developed. Such information shall be obtained from the Monongalia County Assessor's Office.~~
  - (d) ~~Parking plan.~~
  - (e) ~~Landscaping plan.~~
  - (f) ~~Sign plan.~~
  - (g) ~~Approved WV Division of Highways Permit and/or Agreement, if applicable, is not required for Planning Commission site plan review, but shall be required prior to issuance of a building permit. In the event a traffic analysis or traffic impact study is required and the review of same involves WV Division of Highways, written/electronic correspondence from the WV Division of Highways documenting its approval of the traffic analysis or traffic impact study must be presented to the Planning Commission by the applicant prior to site plan approval.~~
  - (h) ~~Any other such information concerning the lot or neighboring lots as may be required by the Planning Director to determine conformance with, and provide for the enforcement of, this article; where deemed necessary, the~~

~~Planning Director may require that in the case of accessory structures or minor additions, all dimensions shown on plans relating to the size of the lot and the location of the structure(s) thereon be based on an actual survey by a registered land surveyor or registered design professional licensed by the State of West Virginia and as authorized by West Virginia State law, said survey to be provided by the applicant.~~

(2) (D) For development which, in the opinion of the City Engineer, may create excessive negative impacts on traffic and/or dedicated City roadways, rights-of-way, or improvements in the immediate vicinity that serve the use, the City may require an analysis of the proposed development's impact on current or future traffic flows and/or dedicated City roadways, rights-of-way, or improvements, at the developer's expense, prepared by a qualified professional engineer. The Planning Commission may also table consideration of a development and refer such development to the City Engineer to ask his or her opinion as to whether a traffic impact study, transportation route plan, and/or transportation route protection agreement may be warranted.

(a) (1) Traffic Impact Study. If the traffic impact study indicates that the projected traffic impact of the use would result in a two (2) full letter grade decline in the existing Level of Service (e.g., going from a Level of Service B to a Level of Service D) of any dedicated City street directly serving the use, such finding may be considered sufficient grounds for denial of the project, or a requirement that sufficient improvements be made to said streets, at the developer's expense, or that the project be reduced in size and scope to the point where no such negative impact on the Level of Service results. Level of Service refers to the traffic grading system described in the latest edition of the Highway Capacity Manual, published by the Transportation Research Board.

(2) Approved WV Division of Highways Permit and/or Agreement, if applicable, is not required for Planning Commission site plan review, but shall be required prior to issuance of a building permit. In the event a traffic analysis or traffic impact study is required and the review of same involves WV Division of Highways, written/electronic correspondence from the WV Division of Highways documenting its approval of the traffic analysis or traffic impact study must be presented to the Planning Commission by the applicant prior to DSI site plan approval.

(b) (3) Transportation Route Plan. A transportation route plan shall include a map of routes and roads for equipment, supplies, chemicals or waste products used or produced by the development. The plan shall include a list of the length of all public roads that will be used for site ingress and egress to Morgantown corporate limits. The map shall also show the location of any areas within the City along the transportation route proposed for truck staging or storage related to the development's operations. The City may restrict the hours of operation of vehicles when the proposed transportation route passes through a designated school zone, heavily used roadways or

intersections, or along local residential streets. In the event of construction detours, roadway closure or roadway deterioration along an approved transportation route, the City Engineer may amend the approved transportation route plan.

(e) (4) Transportation Route Protection Agreement. For development which, in the opinion of the City Engineer may damage or create excessive deterioration to dedicated City roadways, rights-of-way, or improvements, the City may require a transportation route protection agreement. The agreement shall stipulate that the City roadways, rights-of-way, and improvements shall be maintained equal to or better than the original condition; stipulate any required major improvements and restrictions; stipulate the manner in which dirt, dust, mud and debris is to be controlled from leaving the development site; and, required bond.

(i) (a) For the purpose of this article, "Required Major Improvements" are those modifications to City roadways, rights-of-way, or improvements that are necessitated by the high volumes of heavy traffic anticipated for the development and may include but are not limited to sight distance improvements, signage, signalization, road widening, construction of new roadways, and acquisition of rights-of-way.

(ii) (b) For the purpose of this article, "Restrictions" are requirements directed at the protection of the vehicular and pedestrian traveling public, including but not limited to routing, pilot vehicles, hours of operation, etc.

(iii) (c) For the purpose of this article, "Anticipated Damage" is the added potential stress placed on City roadways, rights-of-way, or improvements due to increased continuous use by heavy vehicles.

(iv) (d) The approved route(s) shall be filmed before commencement of development.

(v) (e) The person in charge of the development site shall provide a 24 hour point-of-contact for use by the City Engineer.

(vi) (f) Bond. A bond or similar surety acceptable to the City shall be based on the degree of anticipated damage to City roadways, rights-of-way, or improvements up to the following maximum amounts:

\$100,000	Paved Mile
\$ 35,000	Tar and Chipped Mile
\$ 25,000	Graveled Mile

(3) (E) Emergency Action Response Plan. For development that involves the use and/or storage of large volumes of highly flammable, toxic matter, or explosive materials, the City may require an emergency action response plan. A emergency action response plan shall, at a minimum:

- ~~(a)~~ (1) Be submitted for review to and placed on file with the City Engineer, City Fire Chief, City Police Chief, the Morgantown Utility Board, and the Monongalia County Homeland Security and Emergency Management Agency.
- ~~(b)~~ (2) Establish written procedures to minimize any hazard resulting from highly flammable, toxic matter, or explosive materials.
- ~~(c)~~ (3) Identify and describe specific measures of how existing best practices will be managed and maintained regarding protection of the public and how practices are consistent with applicable federal, state, and local laws and regulations.
- ~~(d)~~ (4) Be kept current with any additions, modifications, and/or amendments concerning all related activities including construction, facility upgrades, and processes and production associated with the use of highly flammable, toxic matter or explosive materials. Updated plans shall be submitted for review to and placed on file with the City Engineer, City Fire Chief, City Police Chief, the Morgantown Utility Board, and the Monongalia County Homeland Security and Emergency Management Agency within five (5) business days after any additions, modifications, and/or amendments to said plan.
- ~~(e)~~ (5) Be kept on site, including updated plans.
- ~~(f)~~ (6) Provide for:
  - ~~(i)~~ (a) Prompt and effective response by the person in charge of the development site to emergencies regarding leaks or releases that can affect public health, safety, and welfare; fire or explosions; and natural disasters and severe weather.
  - ~~(ii)~~ (b) Effective means to notify and communicate required and pertinent information to local fire, police, and public officials during an emergency.
  - ~~(iii)~~ (c) The availability of personnel, equipment, tools, and materials as necessary at the scene of an emergency.
  - ~~(iv)~~ (d) Measures to be taken to reduce public exposure to injury.
  - ~~(v)~~ (e) Emergency shutdown of highly flammable, toxic matter or explosive materials and related site.
  - ~~(vi)~~ (f) The safe restoration of service and operations following an emergency or incident.
  - ~~(vii)~~ (g) A follow-up incident investigation to determine the cause of the incident and require the implementation of corrective measures.
  - ~~(viii)~~ (h) An emergency notifications page that indicates all emergencies must be reported to MECCA 9-1-1.
  - ~~(ix)~~ (i) Drive-to-maps from public rights-of-way to the development site.

- (4) (F) Hazardous Materials Management Plan. For development that involves the use, storage, or generation of hazardous materials and wastes, the City may require a hazardous materials management plan. A hazardous materials management plan shall, at a minimum:
- (a) (1) Be submitted for review to and placed on file with the City Engineer, City Fire Chief, City Police Chief, the Morgantown Utility Board, and the Monongalia County Homeland Security and Emergency Management Agency.
  - (b) (2) Include contact information for the owner, onsite manager, property manager, environmental manager, and tenants.
  - (c) (3) Include operations information that includes but is not limited to the total number of employees and hours of operation for each day of the week; public access and whether it restricted or unrestricted; and, hazardous-waste generator.
  - (d) (4) Include a site and facilities plan that includes but is not limited to floor layout with uses; hazardous materials storage areas and containers with methods of secondary containment; interior (floor drain) and exterior (stormwater) drainage systems with locations of connections to public sanitary and stormwater systems.
  - (e) (5) Include and maintain an inventory of all hazardous materials and wastes used, stored, or generated by the development.
  - (f) (6) Identify and describe specific measures of how existing best practices will be managed and maintained for the proper use, storage, disposal of hazardous materials and wastes; prevent pollution; reduce the risk of spills; how practices are consistent with applicable federal, state, and local laws and regulations.
  - (g) (7) Include a spill contingency plan responding to spills of hazardous materials and/or wastes that includes but is not limited to emergency contacts; spill response procedures including cleanup protocol, supplies, equipment disposal; and employee training.
- (5) (G) No site plan shall be accepted unless it is complete and is verified as to the correctness of information given by the signature of the applicant attesting thereto.
- (6) (H) The Planning Department shall send written notification to property owners within 200 feet of any property line of the development of the time, date and location of the Planning Commission meeting at which the project will be considered.
- (7) (I) The Planning Director may require that the lot and location of the building thereon shall be staked out on the ground before construction of a dwelling unit or primary structure is begun. The Planning Director, where deemed appropriate, may require the same for accessory structures or minor additions. In any case, it shall be the owner's responsibility to ensure that a structure is placed on his property according to his approved site plan (zoning review) and as required by any applicable City

ordinance.

(8) (J) Site plans approved by the Planning Commission authorize only the use, arrangement, and construction set forth in such approved site plans and no other use, arrangement or construction. Furthermore, the approval of a site plan shall not be construed to be approval of any violation of the provisions of this article. The issuance of a building permit based upon site plans given approval by the Planning Commission shall not prevent the Planning Director from thereafter requiring the correction of errors in said site plans or from preventing operations from being carried on thereunder when in violation with this article. Site plan approval does not eliminate the need to obtain an approved building permit and the applicant's responsibility to meet all other requirements established by local, state and federal regulations.

(9) (K) One copy of the site plan submitted for a permit to the Planning Department shall be returned to the applicant after the Planning Director has marked such copy as either approved or disapproved as to the provisions of this article and attested to same by his/her signature on such copy. The original, similarly marked, shall be retained by the Planning Director.

(10) (L) Electronic Submittal of Final Plans and Other Documents. Final plans or other documents required to be submitted under the Type III Site Plan review that will be archived must be submitted in an electronic format specified by the Planning Director as a condition to issuance of any type of permit, approval, or other action related to the final plans or documents. The Planning Director shall provide a schedule indicating which documents must be provided electronically, at which point during the approval process, and other information as necessary for archiving purposes.

~~(B) Planning Commission Review of Major Developments of Significant Impact of a Regional Scale. The review process shall be identical to that for Developments of Significant Impact, except as otherwise noted in the plan submission requirements listed below.~~

~~Major developments of significant impact are those that are of such scope and scale that they have an impact on the region in terms of the transportation network, the environment, the schools, etc. Such projects could include regional shopping centers, large scale residential developments, heavy industry, heavy manufacturing, and extractive industry. All applications for a Major Development of Significant Impact shall be accompanied by a site plan submitted under the seal and signature of a registered design professional licensed by the State of West Virginia and as authorized by West Virginia State law. All sheets shall be 24" x 36" size drawn to scale at a minimum 1"=50' and a maximum 1"=10' with the exception of the maps on Sheet One, unless otherwise approved by the City Engineer. Eighteen (18) copies of the site plans shall be submitted for review and shall observe the following format:~~

~~(1) Sheet One (Title Sheet). The following information shall be submitted as part of Sheet One:~~

- (a) Full legal description with sufficient reference to section corners and boundary map of the subject project, including appropriate benchmark references;
  - (b) Name of the project;
  - (c) Name and address of the owner, developer, and person who prepared the plans;
  - (d) Total acreage within the project and the number of residential dwelling units or the gross square footage of non-residential buildings whichever is applicable;
  - (e) Existing zoning of the subject land and all adjacent lands;
  - (f) Boundary lines of adjacent tracts of land, showing owners of record;
  - (g) A key or vicinity map at a scale of one inch equals four hundred feet or less, showing the boundaries of the proposed project and covering the general area within which it is to be located;
  - (h) A statement of the proposed uses, stating the type and size of residential and non-residential buildings, and the type of business, commercial or industry, so as to reveal the effect of the project on traffic, fire hazards, or congestion of population;
  - (i) Any existing or proposed covenants and restrictions affecting property owners and/or homeowners associations; and
  - (j) Statement of proposed starting and completion dates for the project, including any proposed phasing and sequencing.
- (2) **Sheet Two (Existing Site Conditions).** The following information shall be submitted as part of Sheet Two:
- (a) Location, widths, and type of construction of all existing streets, street names, alleys, or other public ways and easements, street classifications as per the approved regional transportation plan, railroad and utility rights-of-way or easements, parks, wooded areas, cemeteries, watercourses, drainage ditches, designated wetlands, low areas subject to flooding, permanent buildings, bridges, and other data considered pertinent by the Planning Commission or the Planning Director for the subject land, and within three hundred (300) feet of the proposed project or six hundred twenty-five (625) feet for extractive industry development;
  - (b) Existing water mains, fire hydrants, storm sewers, sanitary sewers, culverts, bridges, and other utility structures or facilities within, adjacent to, or serving the subject land, including pipe sizes, grades, and exact locations, as can best be obtained from public or private records;
  - (c) Existing contours based in U.S.G.S. datum with intervals of not more than two (2) feet. Elevations shall be based on sea level datum; and

- (d) ~~The water elevation at the date of the survey of rivers, lakes, streams, or designated wetlands within the project or affecting it, as well as the approximate high and low water elevation of such rivers, lakes, streams, or designated wetlands. The plan shall also show the boundary line of the regulatory 100-year flood. The plan shall also show the base flood elevation of the regulatory 100-year flood at any building location along with the elevation of the lowest finished floor. All elevations shall be based on sea level datum;~~
- (3) ~~Sheet Three (Proposed Site Conditions). The following information shall be submitted as part of Sheet Three:~~
  - (a) ~~Location, widths, and type of construction of all existing and proposed streets, street names, alleys, or other public ways and easements, railroad and utility rights-of-way or easements, parks, wooded areas, cemeteries, watercourses, drainage ditches, designated wetlands, low areas subject to flooding, permanent buildings, bridges, and other data considered pertinent by the Planning Commission or the Planning Director for the subject land, and within three hundred (300) feet of the proposed project or six hundred twenty-five (625) feet for extractive industry development;~~
  - (b) ~~Existing and proposed water mains, fire hydrants, storm sewers, sanitary sewers, culverts, bridges, and other utility structures or facilities within, adjacent to, or serving the subject land, including pipe sizes, grades, and exact locations, as can best be obtained from public or private records;~~
  - (c) ~~Water Supply Plan. For development that involves the use of water at higher volumes than customarily associated with nonindustrial-type development, the City may require, in coordination with the Morgantown Utility Board, a water supply plan. A water supply plan must include at least the identification of the water source(s); the development and use of freshwater impoundments, if applicable; when and where water withdrawals will occur; necessary operational water volumes; potential competing water users; and cumulative impact of the development's water consumption to the public water system, watersheds and/or groundwater.~~
  - (d) ~~Building setback lines, showing dimensions;~~
  - (e) ~~Full description and details, including engineering calculations, for provision of storm water drainage plans and facilities, as required by the City's stormwater management ordinance;~~
  - (f) ~~Internal and perimeter sidewalk system/pedestrian circulation plan; and~~
  - (g) ~~Proposed contours with intervals of not more than two (2) feet. The plan shall also show the contour line for the floodway fringe boundary.~~
  - (h) ~~Show the location and detail plans for all trash dumpsters.~~
- (4) ~~Sheet Four (Erosion Control Plan). The following information shall be submitted as~~

part of Sheet Four and shall be reviewed prior to issuance of a building permit:

- (a) Location, widths, and type of construction of all existing and proposed streets, street names, alleys, or other public ways and easements, railroad and utility rights-of-way or easements, parks, wooded areas, cemeteries, watercourses, drainage ditches, designated wetlands, low areas subject to flooding, permanent buildings, bridges, and other data considered pertinent by the Planning Commission or the Planning Director for the subject land, and within three hundred (300) feet of the proposed project;
- (b) Proposed contours with intervals of not more than two (2) feet.
- (c) Details of terrain and area drainage, including the identity and location of watercourses, intermittent and perennial streams, receiving waters, and springs, and the total acreage of land that will be disturbed.
- (d) The direction of drainage flow and the approximate grade of all existing or proposed streets.
- (e) Detailed plans and locations of all surface and subsurface drainage devices, walls, dams, sediment basins, storage reservoirs, and other protective devices to be constructed with, or as part of, the proposed project, together with a map showing drainage area, the complete drainage network, including outfall lines and natural drainage ways which may be affected by the proposed development, and the estimated runoff of the area served by the drains.
- (f) A description of the methods to be employed in disposing of soil and other material that is removed from the grading site, including the location of the disposal site.
- (g) Measures for soil erosion and sediment control which must meet or exceed the methods and standards adopted by the City of Morgantown, the Morgantown Utility Board, and by the West Virginia Department of Natural Resources (as set forth in the West Virginia Handbook For Erosion Control in Developing Areas) and which must comply with the design principles, performance standards, and requirements set forth in this chapter.
- (h) A schedule of the sequence of installation of planned erosion and sediment control measures as related to the progress of the project, including the total area of soil surface that is to be disturbed during each stage, the anticipated starting and completion dates, and a schedule for the maintenance of such measures.
- (i) Include the following notes on the sheet:
  - (i) "All erosion control practices shall be in accordance with the WVDNR "West Virginia Handbook For Erosion Control In Developing Areas" dated October 1992 and the SCS "Field Office Technical Guide."
  - (ii) "The City Engineer has the right to require additional erosion control

measures in the field as conditions warrant."

- (j) Copies of the letter of intent and response from the Monongalia County Soil and Water Conservation District office for compliance, when required.
  - (k) Any other information reasonably required by the Planning Commission or Planning Director to properly evaluate the plan.
- (5) ~~Sheet Five (Landscape Plan). A landscape plan prepared to the standards specified in this zoning ordinance.~~
- (6) ~~Sheet Six (Plat-like dedication sheet, if necessary). The following information shall be submitted as part of Sheet Five if a plat-like dedication document for easements and rights-of-way is deemed necessary by the Planning Commission or its authorized designee:~~
- (a) ~~Parcels of land proposed to be dedicated or reserved for public use, or reserved for common use of all property owners within the project, with the proposed conditions and maintenance requirements, if any, shall be designated as such and clearly labeled on the plans;~~
  - (b) ~~Radii, internal angles, points of curvature, tangent bearings and lengths of all arcs, chord, and chord bearings; and~~
  - (c) ~~Accurate location of all survey monuments erected, corners and other points established in the field in their proper places.~~
- (7) ~~All sheets shall contain the following information:~~
- (a) ~~The proposed name by which the project shall be legally and commonly known;~~
  - (b) ~~Date of survey, scale, and north point;~~
  - (c) ~~All lots or outlots intended for sale or lease shall be designated with boundary lines and numbered or labeled for identification purposes;~~
  - (d) ~~Private parks, common areas, or excluded parcels shall be designated as such and clearly labeled on the plans;~~
  - (e) ~~A traffic impact study, if required by the City Engineer;~~
  - (f) ~~Such other information as may be deemed necessary for proper review of the site plan by the Planning Director, City Engineer, or Planning Commission;~~
  - (g) ~~All necessary reference points tying the subject property to the appropriate section corners;~~
  - (h) ~~Each sheet shall be sealed and signed by the professional preparing the drawings;~~
  - (i) ~~All sheets shall be tied to state plane coordinates for horizontal and vertical controls;~~

- ~~(j) Names and addresses of the parties within 200 feet of the property; and,~~
- ~~(k) The applicant must provide self-addressed stamped envelopes in sufficient quantities to provide notification to the parties identified in the item above. Return address is not required.~~

1385.09 TYPE IV: BZA REVIEW OF CONDITIONAL USE PERMITS.

(A) All applications for a Conditional Use Permit shall be accompanied by the following:

- (1) A site plan (§ 3 copies), drawn to scale, that includes the following:
  - (a) The actual dimensions, size, square footage, and shape of the lot to be built upon as shown on an actual survey by a licensed land surveyor or registered design professional licensed by the State of West Virginia and as authorized by West Virginia State law.
  - (b) The exact sizes and locations on the lot of existing structures, if any.
  - (c) The location(s), square footage(s), and dimensions of all proposed principal, accessory, and/or temporary structure(s) or and/or alteration(s).
  - (d) The location of the lot with respect to adjacent rights-of-way.
  - (e) The existing and proposed uses of the structure(s) and land.
  - (f) The number of employees, families, housekeeping units, bedrooms, or rental units the structure is designed to accommodate.
  - (g) The location and dimensions of off-street parking and means of ingress and egress for such space.
  - (h) Height of all structure(s).
  - (i) Setbacks.
  - (j) Buffer yard and screening, if applicable.
  - (k) Location of garbage collection area and screening.
  - (l) Location of existing and/or proposed signage.
  - (m) Roadway typical detail for internal roadways, if applicable.
  - ~~(n) Location and size of stormwater management facilities.~~
  - ~~(o) Utility lines and easements.~~
  - ~~(p) Grading Plan.~~
  - ~~(q) Erosion and Sediment Control Plan.~~
- ~~(r) (n) Signature of applicant.~~
- ~~(2) Drainage plan and drainage calculations that bear the name, address, signature and seal of a registered professional engineer, with floodplain zones clearly denoted, and design details of all drainage facilities.~~

- ~~(3)~~ If applicable, design of stormwater management facilities and drainage calculations that bear the name, address, and seal of a registered design professional licensed by the State of West Virginia and as authorized by West Virginia State law and that meet the requirements of this article and the City's stormwater management ordinance and all other applicable local, state and federal regulations.
  - (4) ~~(2)~~ Parking plan, if applicable.
  - (5) ~~(3)~~ Preliminary Landscaping plan, if applicable.
  - (6) Sign plan.
  - ~~(7)~~ ~~(4)~~ Approved WV Division of Highways Access Permit, if applicable. Approved WV Division of Highways Permit and/or Agreement, if applicable, is not required for Board of Zoning Appeals conditional use site plan review, but shall be required prior to issuance of a building permit. In the event a traffic analysis or traffic impact study is required and the review of same involves WV Division of Highways, written/electronic correspondence from the WV Division of Highways documenting its approval of the traffic analysis or traffic impact study must be presented to the Board of Zoning Appeals by the applicant prior to conditional use site plan approval.
  - ~~(8)~~ ~~Approved State of West Virginia NPDES General Permit for Stormwater Associated with Industrial (Construction) Activity, if applicable.~~
  - ~~(9)~~ ~~(5)~~ A traffic impact study, if required by the City Engineer.
  - ~~(10)~~ ~~(6)~~ Any other such information concerning the lot or neighboring lots as may be required by the Planning Director to determine conformance with, and provide for the enforcement of, this article; where deemed necessary, the Planning Director may require that in the case of accessory structures or minor additions, all dimensions shown on plans relating to the size of the lot and the location of the structure(s) thereon be based on an actual survey by a registered land surveyor or registered design professional licensed by the State of West Virginia and as authorized by West Virginia State law, said survey to be provided by the applicant.
- (B) No site plan shall be accepted unless it is complete and is verified as to the correctness of information given by the signature of the applicant attesting thereto.
- (C) The Planning Director may require that the lot and location of the building thereon shall be staked out on the ground before construction of a dwelling unit or primary structure is begun. The Planning Director, where deemed appropriate, may require the same for accessory structures or minor additions. In any case, it shall be the owner's responsibility to ensure that a structure is placed on his property according to his approved site plan (zoning review) and as required by any applicable City ordinance.
- (D) Site plans approved by the Board of Zoning Appeals may authorize the use, arrangement, and construction set forth in such approved site plans. Furthermore, the approval of a site plan shall not be construed to be approval of any violation of the

provisions of this article. The issuance of a building permit based upon site plans given approval by the Board of Zoning Appeals shall not prevent the Planning Director from thereafter requiring the correction of errors in said site plans or from preventing operations from being carried on thereunder when in violation with this article. Site plan approval does not eliminate the need to obtain an approved building permit and the applicant's responsibility to meet all other requirements established by local, state and federal regulations.

- (E) One copy of the site plan submitted for a permit as required in subsection (C) above for the Planning Department shall be returned to the applicant after the Planning Director has marked such copy as either approved or disapproved as to the provisions of this article and attested to same by his signature on such copy. The original, similarly marked, shall be retained by the Planning Director.

#### 1385.10 OTHER REQUIRED SUBMITTALS.

The Applicant shall be required to submit written documentation of the following, when applicable and/or required:

- (A) Utility encroachment approvals;<sub>z</sub>
- (B) Other local, state, and federal approvals, including other City boards, commissions, or departments;<sub>z</sub>
- (C) Inspection and testing agreements with the Engineering Department;<sub>z</sub>
- (D) Outside reviews as required by the City;<sub>z</sub>
- (E) Easements and rights-of-ways not on a plat-like document shall be submitted in the form prescribed by the Engineering Department and include both a full legal description and a drawing exhibit; ~~and,~~<sub>z</sub>
- (F) Traffic impact study.
- (G) Erosion and Sediment Control Plan. Prior to the issuance of any permit authorizing any work relating to grading, grubbing, stripping, etc. as defined and regulated by City Code Article 1741 "Grading Requirements" and/or City Code Article 929 "Stormwater Management and Surface Water Discharge Control," an Erosion and Sediment (E&S) Control Plan must be submitted, reviewed, and approved by the City Engineer and the Morgantown Utility Board (MUB). All control plan documents and design details and all measures for soil erosion and sediment control and sequencing of installation must meet or exceed current methods and standards adopted by the City of Morgantown, the Morgantown Utility Board (MUB), and the West Virginia Department of Natural Resources (WVDNR). The City Engineer and/or the Morgantown Utility Board (MUB) has the right to require additional erosion control measures in the field as conditions warrant.

#### 1385.11 RESUBMITTAL OF PLANS.

Submit ~~five (5) three (3)~~ complete full-scale sets of the final, revised plans showing conditions required by the Board of Zoning Appeals and/or the Planning Commission.

1385.12 REJECTION STATEMENT.

- (A) The Planning Director may reject any submittal for the following reasons:
  - (1) Incomplete application;
  - (2) The drawing set or supporting documents not complete; or
  - (3) Poor legibility.
- (B) After the review of an approved submittal, the Planning Director shall render a decision in writing, which decision shall consist of either:
  - (1) Approval of the site plan based upon the determination that the proposed plan complies with the general, design and performance standards set forth in this article;
  - (2) Disapproval of the site plan based upon the determination that the proposed project does not meet the general, design and performance standards set forth in this article;
  - (3) Approval of the site plan subject to any conditions, modifications and restrictions as required by the Planning Director which will ensure that the project meets the general, design and performance standards set forth in this article.

1385.13 DEVIATION FROM THE APPROVED SITE PLAN AND ADDITIONS TO EXISTING STRUCTURES.

- (A) If the installation of the elements on the site plan materially deviate from the approved site plan (as determined by the Planning Director or City Engineer), the site plan shall be resubmitted to the Commission or Board for a new site plan approval in accordance with the procedures and requirements for site plan approval. For purposes of this section, material deviation is one that:
  - (1) Adds, removes, or reconfigures an internal street or relocates an access point;
  - (2) Affects a condition of site plan approval that was established by the Commission or Board during the site plan approval stage;
  - (3) Reduces the area devoted to open spaces or buffer landscaping;
  - (4) Involves the enlargement of a nonresidential building footprint on the site due to future additions that are more than ten percent (10%) of the gross floor area or 5,000 square feet, whichever is less.
- (B) Minor changes that do not constitute material deviation shall be reviewed and approved by the City Planning and Engineering staff.

1385.14 RECORD DRAWINGS AND CERTIFICATE OF COMPLETION AND COMPLIANCE.

Where applicable, the developer or owner shall cause record drawings to be prepared and submitted to the Planning Director for all streets, drainage ditches and facilities, utility pipes and structures, and finished grade elevations for the project. Said record drawings shall be filed with the Planning Director prior to the release of any performance assurances. Record drawings,

including the approved final plat shall be submitted in electronic format and in paper format, in a manner prescribed by the City Engineer.

- (A) General Requirements: Plans are to contain a certification statement that the improvements have been installed in reasonable compliance with the original design plans with respect to horizontal locations and grades and any deviations of locations, grade or material used are shown in these record drawings. Said certification is to be sealed and signed.
- (B) Specific Requirements:
  - (1) Grading or Development Plan(s)
    - Grades:
      - (a) Major drainage swales and percents of slope;
      - (b) Pad grades;
      - (c) Street grades;
        - (i) Centerline and curb if street is bituminous pavement with concrete curb. Centerline only if streets are concrete and placed with electronic control. (Maximum 50 ft. spacing)
        - (ii) All sag and crest points.
      - (d) Paved swales, if any, at 50 ft. intervals;
      - (e) Lake or pond if applicable;
      - (f) Locations of sidewalk ramps.
    - (2) Plan and Profiles.
      - (a) Sanitary Sewers:
        - (i) Invert elevations and percents of slope;
        - (ii) Top of casting elevations;
        - (iii) Lateral locations based on distances along main from manholes;
        - (iv) Locations of each manhole or structure (to make sure they are sufficiently within designated easements to permit future excavation to system if needed);
        - (v) Designate any material change from design plans; where plans show any alternatives, indicate alternative actually used.
      - (b) Storm Sewers:
        - (i) Invert elevations and percents of slope;
        - (ii) Top of casting elevations;
        - (iii) Location of pipe and structures (to make sure they are within designated easements);

- (iv) Designate any material change from design plans; where plans show any alternatives, indicate alternate actually used.
- (c) Streets:
  - (i) Grades;
  - (ii) All low and high points;
  - (iii) All percents of slope;
  - (iv) Any deviation of alignment;
  - (v) Grades and dimensions on acceleration and deceleration lanes if applicable.

1385.15 EXPIRATION DEADLINES.

- (A) Approval of site plans shall expire two years from the date of approval if the project has not been completed. The Planning Commission or the Board of Zoning Appeals, at its discretion, may grant extensions for a period up to two years.
- (B) Bonded improvements must be completed within two years of issuance of land alteration permit.
- (C) Request for extension must be submitted in writing stating the justification for the extension.

This ordinance shall be effective upon date of adoption.

FIRST READING:

\_\_\_\_\_  
Mayor

ADOPTED:

FILED:

RECORDED:

\_\_\_\_\_  
City Clerk



**AN ORDINANCE AMENDING ARTICLE 1329.02 OF THE PLANNING AND ZONING CODE AS IT RELATES TO THE DEFINITIONS OF TERMS THAT SUPPORT REVISIONS TO ARTICLE 1385 "SITE PLAN REVIEW."**

The City of Morgantown hereby ordains that Article 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

Definitions

1329.02 DEFINITION OF TERMS.

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

~~DEVELOPMENT OF SIGNIFICANT IMPACT and MAJOR DEVELOPMENT OF SIGNIFICANT IMPACT~~ – Any proposed development whose characteristics warrant a more in-depth review by the Planning Commission in order to mitigate the negative impact these characteristics may have on surrounding land uses in particular and on the surrounding neighborhood in general. Developments of Significant Impact (DSI) are those that have a Citywide or regional impact. Such impacts could involve the transportation network, environmental features such as parks or stream corridor, local schools, etc. Such developments could include large-scale residential, commercial, or mixed-use developments, employment centers, regional shopping centers, industrial and/or manufacturing, and extractive industry.

~~Developments of Significant Impact are those that have a neighborhood or citywide impact. Such impacts would involve the transportation network, environmental features such as parks or corridor streams, and local schools.~~

~~Major developments of significant impact are those that are of such scope and scale that they have an impact on the region in terms of the transportation network, the environment, the schools, etc. Such projects could include regional shopping centers and large-scale residential developments.~~

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

<b>Land Use Category</b>	<b>Development of Significant Impact</b>	<b>Major Development of Significant Impact</b>
Residential	12 to 99 dwelling units	100 or more dwelling units
Commercial	15,000 square feet of gross floor area	100,000 or more square feet of gross floor area
Office/Institutional	15,000 square feet of gross floor area	100,000 or more square feet of gross floor area
Industrial	0 to 99,999 square feet of gross floor area	100,000 or more square feet of gross floor area
Mixed Use	15,000 square feet of gross floor area	100,000 or more square feet of gross floor area

<b><u>Land Use Category / District</u></b>	<b><u>Development of Significant Impact</u></b>
<u>Residential</u>	<u>A development that is 12 or more dwelling units.</u>
<u>Non-Residential</u>	<u>A development that is either 15,000 square feet or more of gross floor area or a site of 2 acres or more of net acreage.</u>
<u>Mixed-Use</u>	<u>A development that exceeds any of the following: 15,000 square feet or more of gross floor area of non-residential use(s); or, 12 or more dwelling units; or, 2 acres or more of net acreage.</u>
<u>Industrial</u>	<u>All industrial development, regardless of gross floor area or net acreage of the site.</u>
<u>Development in the B-4 District:</u>	
<u>All Land Use Categories</u>	<u>New construction of a principal structure, regardless of land use category or net acreage of the site.</u>
<u>Residential</u>	<u>A development that is 12 or more dwelling units.</u>
<u>Non-Residential</u>	<u>A development that is either 10,000 square feet or more of gross floor area or a site of one-half (1/2) acre or more of net acreage.</u>
<u>Mixed-Use</u>	<u>A development that exceeds any of the following: 10,000 square feet or more of gross floor area of non-residential use(s); or, 12 or more dwelling units; or, one-half (1/2) acre or more of net acreage.</u>
<u>Industrial</u>	<u>All industrial development, regardless of gross floor area or net acreage of the site.</u>

MIXED-USE DEVELOPMENT – A single development of more than one building and use, where the different types of land uses are in close proximity, planned as a unified complementary whole, and functionally integrated to the use of shared vehicular and pedestrian access and parking areas, but not a mixed use dwelling as defined in this Ordinance. Specifically, the development or use of a tract of land or building(s) or structure(s) containing both residential and non-residential uses. Generally, mixed-use development patterns are planned as a unified complementary whole, that are functionally integrated, and encourage a diversity of compatible land uses.

This ordinance shall be effective upon date of adoption.

FIRST READING:

\_\_\_\_\_  
Mayor

ADOPTED:

FILED:

RECORDED:

\_\_\_\_\_  
City Clerk



ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE AMENDING ARTICLE 1331.06 OF THE PLANNING AND ZONING CODE AS IT RELATES TO SUPPLEMENTAL REGULATIONS PERTAINING TO PERMITTED LAND USES TABLE THAT SUPPORT REVISIONS TO ARTICLE 1385 "SITE PLAN REVIEW."**

**The City of Morgantown hereby ordains that Article 1331.06(32) "Supplemental Regulations Pertaining to Permitted Land Uses Table" of the City's Planning and Zoning Code is amended as follows (deleted matter struck through; new matter underlined):**

1331.06 SUPPLEMENTAL REGULATIONS PERTAINING TO PERMITTED LAND USES TABLE

(32) HEAVY INDUSTRY and HEAVY MANUFACTURING uses are considered Major Developments of Significant Impact, regardless of gross floor or land area, ~~of a Regional Scale~~ for the purpose of site plan review and approval.

This ordinance shall be effective upon date of adoption.

FIRST READING:

\_\_\_\_\_  
Mayor

ADOPTED:

FILED:

RECORDED:

\_\_\_\_\_  
City Clerk



**AN ORDINANCE AMENDING ARTICLE 1349.08 OF THE PLANNING AND ZONING CODE AS IT RELATES TO PARKING AND LOADING STANDARDS IN THE B-4, GENERAL BUSINESS DISTRICT THAT SUPPORT REVISIONS TO ARTICLE 1385 "SITE PLAN REVIEW."**

**The City of Morgantown hereby ordains that Article 1349.08 "Parking and Loading Standards" of the City's Planning and Zoning Code is amended as follows (deleted matter struck through; new matter underlined):**

**1349.08 PARKING AND LOADING STANDARDS.**

(A) Off-street parking shall be provided in accordance with Article 1365, Parking, Loading and Internal Roadways for all Developments of Significant Impact and ~~Major Developments of Significant Impact~~ within this district, unless otherwise restricted by Article 1362 B-4NPOD, B-4 Neighborhood Preservation Overlay District, except as follows:

- (1) Residential: Parking shall not be required for the first twenty-two (22) occupants, as determined by the West Virginia State Building Code and adopted and implemented by the City, within permitted residential development. With the exception of the first twenty-two (22) occupants, the minimum number of parking spaces for permitted residential uses shall be one-half a space (0.5) per occupant, as determined by the West Virginia State Building Code and adopted and implemented by the City.
- (2) Nonresidential: Parking shall not be required for permitted nonresidential uses and development with a gross floor area of less than 15,000 square feet ~~which does not meet or exceed the criteria of a Development of Significant Impact or a Major Development of Significant Impact~~. The minimum number of parking spaces for permitted nonresidential uses shall be provided in accordance with Table 1365.04.01 "Minimum Off-Street Parking Requirements" for that gross floor area that exceeds of 15,000 square feet and greater the criteria of a Development of Significant Impact or a Major Development of Significant Impact.
- (3) Movie Theaters, as defined in this Zoning Ordinance.
- (4) Reduction in Minimum Required Parking – The B-4 zoning district is characterized by businesses and mixed-uses that are well connected to pedestrian and public transit routes and are in close proximity to publicly provided parking facilities. In addition, the uses in the B-4 ~~d~~District are characterized by a mixture of primarily daytime and nighttime uses. For these reasons, the minimum parking requirements may be reduced somewhat in the B-4 ~~d~~District, as a conditional use, as provided in Section 1365.04 "Determining the Number of Spaces Required."
- (5) Fee In-Lieu-of Parking – RESERVED

(6) The Board of Zoning Appeals, with the recommendation of the Planning Commission, may permit as a conditional use alternate strategies (i.e. remote parking, etc.) to meet minimum off-street parking requirements provided the intent of this Ordinance is observed and substantial justice done.

(B) All on-site surface parking must be located to the rear of the principal building or otherwise screened so as to not be visible from public right-of-way or residential zoning districts.

(C) Bicycle Storage – For all Developments of Significant Impact and ~~Major Developments of Significant Impact~~ in this district, the following minimum bicycle storage amenities must be provided:

- (1) One (1) indoor, secured, sheltered bicycle storage space per dwelling unit.
- (2) Each space shall be a minimum of 3-feet X 6-feet X 4 feet.
- (3) Each bicycle shall be individually secured with a lock to a permanent structure.
- (4) There should be sufficient space for easy access to each bicycle.

(D) Loading – Residential uses containing thirty (30) or more dwelling units shall conform to the loading requirements set forth in Section 1365.10 as a "Type II Use" (see Table 1365.10.01).

This ordinance shall be effective upon date of adoption.

FIRST READING:

\_\_\_\_\_  
Mayor

ADOPTED:

FILED:

RECORDED:

\_\_\_\_\_  
City Clerk

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE AMENDING ARTICLE 1379.01 OF THE PLANNING AND ZONING CODE AS IT RELATES TO GENERAL PROVISIONS FOR CONDITIONAL USES THAT SUPPORT REVISIONS TO ARTICLE 1385 "SITE PLAN REVIEW."**

**The City of Morgantown hereby ordains that Article 1379.01(D) "General Provisions" of the City's Planning and Zoning Code concerning conditional uses is amended as follows (deleted matter struck through; new matter underlined):**

Article 1379  
Conditional Uses

1379.01 GENERAL PROVISIONS.

(D) Review. If a conditional use permit is required for any new use, the Planning Director and Board of Zoning Appeals will review the site plan in order to determine if the conditional use permit is warranted. If a conditional use permit meets the thresholds for a Development of Significant Impact (DSI) ~~or major DSI~~ as set forth in Section 1385.05, the reviewing authority will then be the Planning Commission and Board of Zoning Appeals.

This ordinance shall be effective upon date of adoption.

FIRST READING:

\_\_\_\_\_  
Mayor

ADOPTED:

FILED:

RECORDED:

\_\_\_\_\_  
City Clerk



**AN ORDINANCE AMENDING THE FY 2014-2015 ANNUAL BUDGET OF THE CITY OF MORGANTOWN AS SHOWN IN THE REVISED BUDGET ATTACHED HERETO AND MADE A PART OF THIS ORDINANCE AS THE SAME APPLIES TO THE GENERAL FUND.**

The City of Morgantown hereby ordains:

That the FY 2014-2015 Annual Budget of the General Fund of the City of Morgantown is amended as shown in the revised budget (Revision 04) attached hereto and made a part of this ordinance.

First Reading:

Adopted:

\_\_\_\_\_  
Mayor

Filed:

Recorded:

\_\_\_\_\_  
City Clerk

Ora Ash, Deputy State Auditor  
 West Virginia State Auditor's Office  
 200 West Main Street  
 Clarksburg, WV 26301  
 Phone: 627-2415 ext. 5114  
 Fax: 627-2417

**REQUEST FOR REVISION TO APPROVED BUDGET**

Subject to approval of the state auditor, the governing body requests that the budget be revised prior to the expenditure or obligation of funds for which no appropriation or insufficient appropriation currently exists (§ 11-8-26a)

CONTROL NUMBER  
 FY: **2014-2015**  
 Fund: **General**  
 Rev. No. **4**  
 Pg. of No. **1 of 1**

City of Morgantown  
 GOVERNMENT ENTITY

Person To Contact Regarding Request:

Name: **Denise R. White**

Phone: **304-284-7407**

Fax: **304-284-7418**

389 Spruce Street

STREET OR PO BOX

Morgantown  
 CITY

26505  
 ZIP CODE

Municipality  
 Government Type

**REVENUES: (net each acct.)**

ACCOUNT NUMBER	ACCOUNT DESCRIPTION	PREVIOUSLY APPROVED AMOUNT	(INCREASE)	(DECREASE)	REVISED AMOUNT
305	Business and Occupation Tax	16,275,000	410,000		16,685,000
304	Excise Tax on Utilities	990,000	65,000		1,055,000
308	Hotel Occupancy Tax	875,000	14,000		889,000
309	Amusement Tax	5,000	7,000		12,000
	#N/A				
	#N/A				
<b>NET INCREASE/(DECREASE) Revenues (ALL PAGES)</b>			496,000		

**Explanation for Account # 378, Municipal Specific:**  
**Explanation for Account # 369, Contributions from Other Funds:**

**EXPENDITURES: (net each account category)**

(WV CODE 7-1-9)

ACCOUNT NUMBER	ACCOUNT DESCRIPTION	PREVIOUSLY APPROVED AMOUNT	(INCREASE)	(DECREASE)	REVISED AMOUNT
414	Finance Office	790,814		24,721	766,093
415	City Clerk	176,015	14,200		190,215
416	Police Judge's Office	257,494	24,721		282,215
417	City Attorney	319,275	4,500		323,775
438	Elections	19,000	5,000		24,000
444	Contributions / Transfers to Other Funds	4,874,806	410,000		5,284,806
900	Parks & Recreation	1,271,059	10,500		1,281,559
901	Visitors Bureau	437,500	7,000		444,500
439	Data Processing	167,990	12,000		179,990
699	Contingencies*	271,024	32,800		303,824
	#N/A				
<b>NET INCREASE/(DECREASE) Expenditures</b>			496,000		

APPROVED BY THE STATE AUDITOR

BY: Deputy State Auditor, Local Government Services Division Date

AUTHORIZED SIGNATURE OF ENTITY

APPROVAL DATE

AN ORDINANCE BY THE CITY OF MORGANTOWN VACATING, ABANDONING, AND ANNULLING PARTS OR PORTIONS OF QUAY STREET AND ACCEPTING THE DEDICATION OF ADDITIONS TO QUAY STREET, LOCATED AND SITUATE IN THE FOURTH WARD OF THE CITY OF MORGANTOWN, MONONGALIA COUNTY, WEST VIRGINIA, IN CONJUNCTION WITH THE PARTIAL REALIGNMENT AND RELOCATION OF QUAY STREET;

WHEREAS, the Common Council ("Council") of The City of Morgantown, West Virginia ("City"), finds and makes a legislative determination that Quay Street ("Street") is a publicly dedicated and accepted easement and right-of-way for, among other purposes, street purposes, that is shown, illustrated, and depicted on maps or plats of record in the Office of the Clerk of the County Commission of Monongalia County, West Virginia ("Clerk's Office"); and

WHEREAS, the Council finds and makes a legislative determination that the Street is located and situate within the Fourth Ward of the municipal limits of the City, Monongalia County, West Virginia; and

WHEREAS, the Council finds and makes a legislative determination that a part or portion of the Street is adjoined on the south by property of West Virginia University Board of Governors on behalf of West Virginia University, an agency and higher education institution of the State of West Virginia ("WVU"), and on the north by property to be conveyed to American Campus Communities Operating Partnership, LP, a Maryland limited partnership ("ACC"); and

WHEREAS, the Council finds and makes a legislative determination that it is in the best interests of the City and the public generally that the Street be partially realigned and relocated; and

WHEREAS, the Council finds and makes a legislative determination that to effect the partial realignment and relocation of the Street, separate and distinct parts or portions of the Street must be vacated, abandoned, and annulled by the City; and

WHEREAS, the Council finds and makes a legislative determination that to effect the partial realignment and relocation of the Street, a separate and distinct part or portion of the property of ACC must be dedicated by ACC to the City and accepted by the City for, among other purposes, street purposes; and

WHEREAS, a map or plat prepared by Potesta and Associates, Inc., a reproduction of which is appended to this Ordinance as Exhibit No. 1 and incorporated into this Ordinance by this reference ("Exhibit Plat"), shows, illustrates, and depicts (a) the separate and distinct parts or portions of the Street that must be vacated, abandoned, and annulled by the City to effect the partial realignment and relocation of the Street ("Vacated Parcel") and (b) the separate and distinct part or portion of the property of ACC that must be dedicated by ACC to the City and accepted by the City to effect the partial realignment and relocation of the Street ("Dedicated Parcel"); and

WHEREAS, Downtown Campus Parking Associates, LLC, a West Virginia limited liability company ("DCPA") is currently engaged in the design, development, and construction of certain parking garage facilities (the "Parking Garage Project") on property located adjacent to Quay Street and the Dedicated Parcel;

WHEREAS, as part of the Parking Garage Project, DCPA is designing, developing and constructing certain improvements (including, without limitation, grading, paving, installation of curbs, etc.) to Quay Street (the "Quay Street Improvements"), as described and set forth on Exhibit No. 2 attached hereto and made a part hereof (the "Quay Street Improvements");

WHEREAS, a portion of the Quay Street Improvements are to be constructed on the Dedicated Parcel;

WHEREAS, the Council finds and makes a legislative determination that, in conjunction with the realignment and relocation of the Street, the Vacated Parcels are not presently used, useful, or needed for street purposes or any other public uses or purposes; and

WHEREAS, the Council finds and makes a legislative determination that, in conjunction with the partial realignment and relocation of the Street, the Vacated Parcels shall not subsequently be used, useful, or needed for street purposes or any other public uses or purposes; and

WHEREAS, the Council finds and makes a legislative determination that, in conjunction with the partial realignment and relocation of the Street, no party nor any property of any party will be injured or damaged by either the partial realignment and relocation of the Street or the vacation, abandonment, and annulment of the Vacated Parcels; and

WHEREAS, the Council finds and makes a legislative determination that, in conjunction with the partial realignment and relocation of the Street, it is in the best interests of the City and the public generally that the Street be partially realigned and relocated and that the Vacated Parcels be vacated, abandoned, and annulled by the City for street purposes and any and all other public uses or purposes;

WHEREAS, the Council finds and makes a legislative determination that, in conjunction with the partial realignment and relocation of the Street, it is in the best interests of the City and the public generally that the Dedicated Parcel be conveyed by quitclaim deed from ACC to the City, all as more particularly set forth in that certain Quitclaim Deed from ACC dated of even date herewith and to be recorded simultaneously herewith ("Quitclaim Deed"); and

WHEREAS, the Council finds and makes a legislative determination that, in conjunction with the partial realignment and relocation of the Street, it is in the best interests of the City and the public generally that the Quay Street Improvements, including the portion of the Quay Street Improvements located on the Dedicated Parcel, be accepted upon completion thereof by DCAP in accordance with the plans therefor and dedicated by the City as a part of Quay Street, a municipal public road providing a means of public ingress, egress and regress for all adjacent parcels thereto.

NOW, THEREFORE, it is ordained by the Council, in regular session, duly and properly assembled, as follows:

Section 1. The findings and legislative determinations of the Council set forth and contained in the above recitals are incorporated and integrated into this Ordinance by this reference and adopted, confirmed, and affirmed as findings and legislative determinations of the Council.

Section 2. The Exhibit Plat is incorporated and integrated into this Ordinance by this reference.

Section 3. The Vacated Parcels are described as follows:

678 Square Foot +/- Parcel:

Beginning at a point at the intersection of the southern right of way line of Quay Street and the northern right of way line of Overhill Street, thence running with the existing right of way line of said Quay Street

N25°08'39"W, 211.83 feet to a point, thence leaving said existing right of way line of Quay Street and running through and across said Quay Street

N46°14'33"W, 9.03 feet to a point, thence

S25°14'16"E, 48.13 feet to a point, thence

S24°44'56"E, 36.18 feet to a point, thence

S25°20'23"E, 66.46 feet to a point, thence

S25°13'10"E, 42.61 feet to a point, thence

S28°30'35"E, 9.24 feet to the existing northern right of way line of said Overhill Street,  
thence with said Overhill Street

S53°18'33"W, 4.04 feet to the point of beginning containing 678 square feet more or less.

32 Square Foot +/- Parcel:

Commencing at a point at the intersection of the southern right of way line of Quay Street  
and the northern right of way line of Overhill Street, thence S27°11'31"W, 282.35 feet to  
the TRUE POINT OF BEGINNING of the herein described 32 Square Foot Annulment,  
thence

N25°08'39"W, 234.83 feet to a point, thence

N25°34'06"W, 48.31 feet to a point, thence

S58°55'49"W, 9.78 feet to the TRUE POINT OF BEGINNING of the herein described 32  
Square Foot Annulment, thence

N25°06'04"W, 19.40 feet to a point, thence leaving said existing right of way line of Quay  
Street and running through and across said Quay Street

S55°52'13"E, 3.44 feet to a point, thence

S25°06'04"E, 16.25 feet to a point, thence

S58°55'49"W, 1.77 feet to the TRUE POINT OF BEGINNING, containing 32 square feet  
more or less.

Section 4. Upon the Effective Date of this Ordinance, for the reasons set forth and contained in the  
above recitals, the easement and right-of-way of the City for street purposes and any and all other public  
uses or purposes in, of, and to the Vacated Parcels are and shall be vacated, abandoned, and annulled  
by the City, with the intent and effect that subsequent to the Effective Date of the adoption of this  
Ordinance, the Vacated Parcels shall cease to be a part or portion of a public easement and right-of-way  
or public street.

Section 5. Upon the Effective Date of this Ordinance, any and all right, title, interest, claim, and  
estate of the City, of any and every nature, kind, character, manner, and description, in, of, and to the  
Vacated Parcels are and shall be cancelled, terminated, vacated, abandoned, annulled, released, and  
relinquished in favor of and for the benefit of WVU and its successors and assigns.

Section 6. The City shall not keep, except, reserve, or retain any utility easements or rights-of-way  
in, on, over, upon, under, through, or across the Vacated Parcels of any nature, kind, character, manner,  
or description.

Section 7. The acceptance of the Quay Street Improvements, including the portion of the Quay  
Street Improvements located on the Dedicated Parcel, upon completion thereof by DCPA in accordance  
with the plans therefor, and dedication of the Dedicated Parcel and the Quay Street Improvements to the  
City for, among other purposes, street purposes, is accepted by the City and no subsequent or further  
acts other than (1) the adoption of this Ordinance by the City, and (2) the execution, recordation, and

delivery by ACC of the Quitclaim Deed, shall be requisite to effect such acceptance, even in the event that the Quitclaim Deed shall be executed, delivered, or placed of record subsequent to the adoption of this Ordinance.

Section 8. Within ten (10) days of the adoption of this Ordinance, ACC shall execute and cause to be recorded in the Clerk's Office and subsequently deliver to the City the Quitclaim Deed substantially identical in form, substance, and content to the quitclaim deed appended to this Ordinance as Exhibit No. 3 and incorporated into this Ordinance by this reference.

Section 9. The Dedicated Parcel is described as follows:

Beginning at a 5/8 inch rebar with plastic cap found at the intersection of the northern right of way line of Overhill Street and the eastern right of way line of Quay Street, thence leaving said Overhill Street and running with said Quay Street

N25°08'39"W, 231.87 feet to a 5/8 inch rebar with plastic cap found at the common corner to Eugene J. Stout, recorded in Deed Book 1082 at page 461, thence leaving said Quay Street and running through and across the property from which this conveyance is a part of

Around a curve to the right, having an arc length of 36.71 feet, a radius of 102.17 feet and a chord bearing and distance of S44°43'20"E, 36.51 feet to a 5/8 inch rebar with plastic cap set, thence

S25°08'39"E, 194.97 feet to a 5/8 inch rebar with plastic cap set on the northern right of way line of said Overhill Street, thence with said right of way line

S53°18'33"W, 12.48 feet to the POINT OF BEGINNING, containing ±2,651 square feet, 0.06 acres more or less.

Section 10. Upon the adoption of this Ordinance, the City Clerk shall provide a certified photocopy of this Ordinance to counsel for WVU and ACC for the purpose of such counsel admitting the same of record in the Clerk's Office as evidence of, among other matters, the vacation, abandonment, and annulment of a part or portion of the Street.

Section 11. This Ordinance shall be effective upon the Adopted Date set forth below (the "Effective Date").

First Reading: \_\_\_\_\_, 2015

Second Reading: \_\_\_\_\_, 2015

Adopted: \_\_\_\_\_, 2015

Filed: \_\_\_\_\_, 2015

Recorded: \_\_\_\_\_, 2015

\_\_\_\_\_

Mayor

\_\_\_\_\_

City Clerk

**EXHIBIT NO. 1  
PLAT**

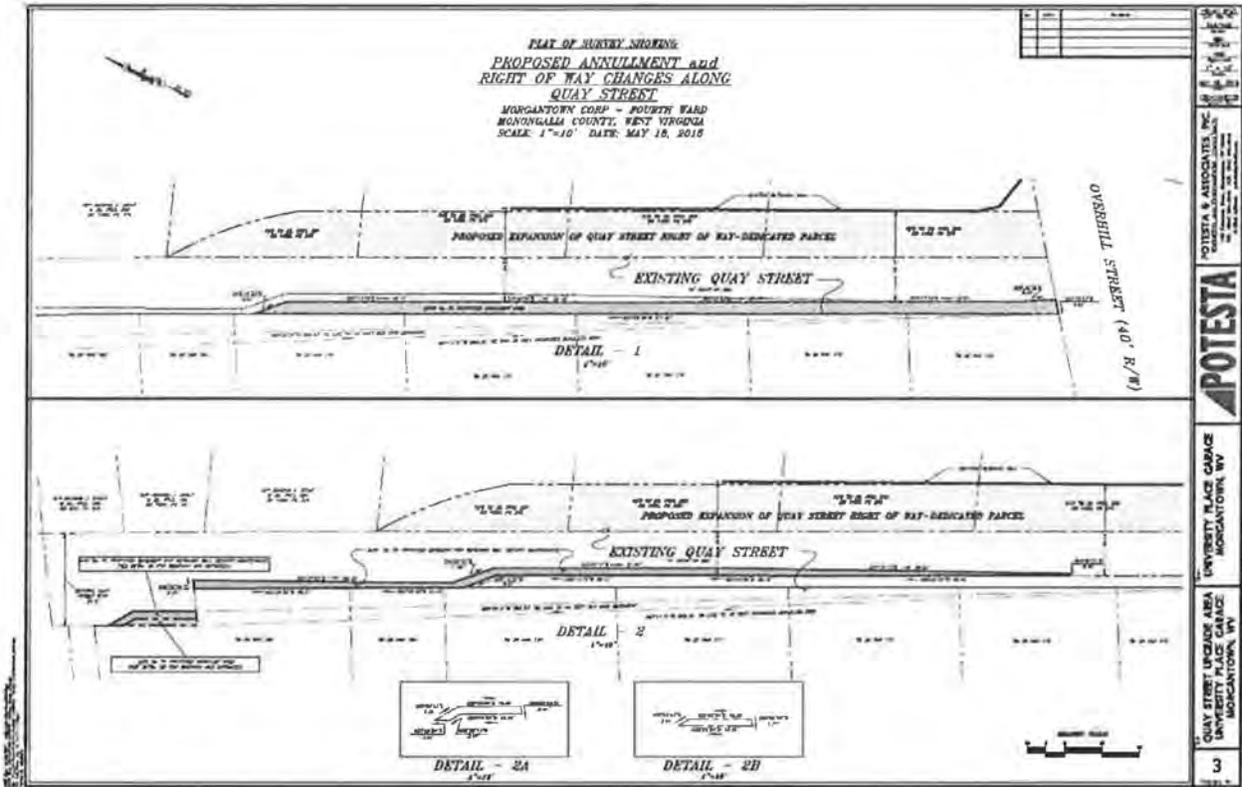


EXHIBIT NO. 2

QUAY STREET IMPROVEMENTS

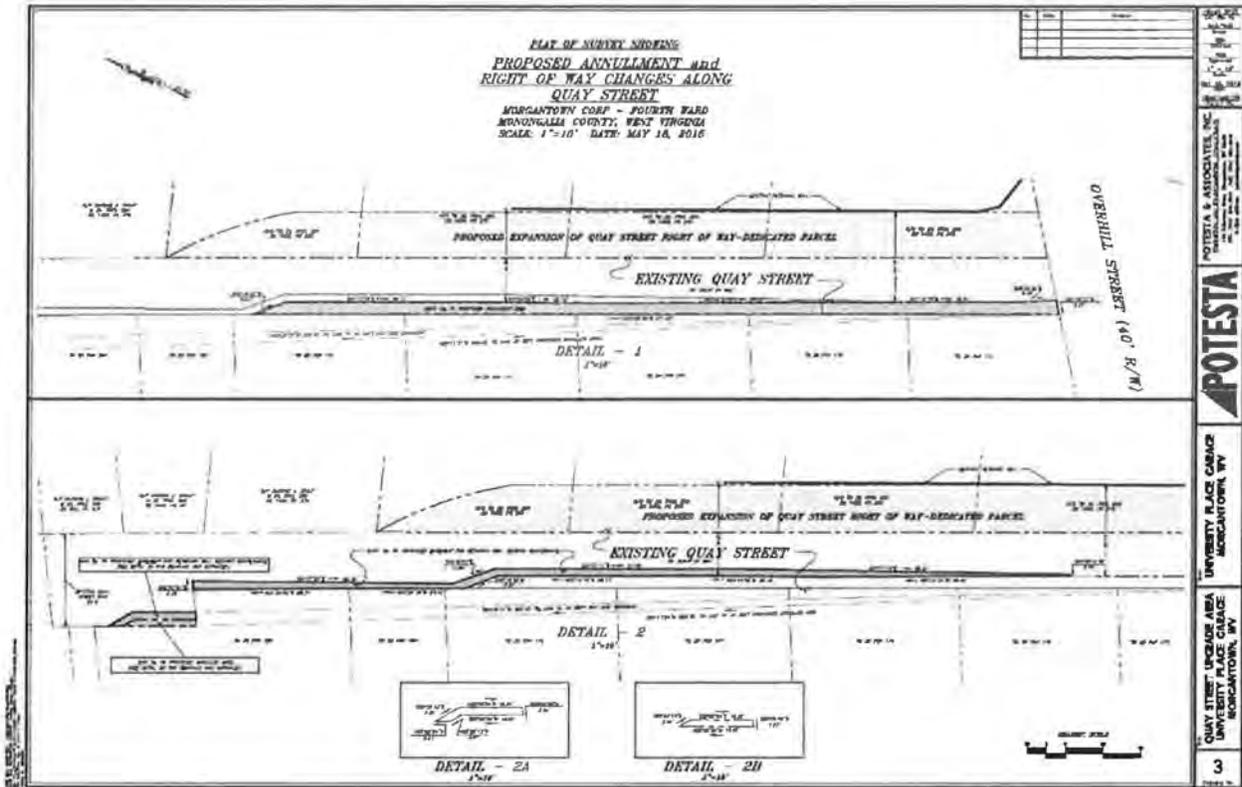


EXHIBIT NO. 3

FORM OF QUITCLAIM DEED

This instrument was collectively prepared without title examination by:

Ryan Simonton  
The City of Morgantown, West Virginia  
389 Spruce Street Morgantown, West Virginia 26505

Heather Gentile  
Jackson Kelly PLLC  
P.O. Box 619  
Morgantown, West Virginia 26507-0619

Laura M. Keith  
Glast, Phillips & Murray  
14801 Quorum Drive  
Suite 500  
Dallas, Texas 75254-1449

THIS QUITCLAIM DEED, Made this \_\_\_\_ day of June, 2015, by and between AMERICAN CAMPUS COMMUNITIES OPERATING PARTNERSHIP, LP, a Maryland limited partnership, "GRANTOR," and THE CITY OF MORGANTOWN, West Virginia, a municipal corporation, "GRANTEE".

WITNESSETH: That for and in consideration of the sum of Ten Dollars (\$10.00) and upwards, cash in hand paid, and other good and valuable consideration, the sum, sufficiency and receipt of which is hereby acknowledged, the GRANTOR, does hereby release and forever quitclaim unto the GRANTEE, all of its right, title and interest in and to the following tract or parcel of real estate together with any and all improvements thereon, situate and located in the Fourth Ward of the City of Morgantown, Monongalia County, West Virginia, which real estate is more particularly bounded and described as follows, to wit:

Beginning at a 5/8 inch rebar with plastic cap found at the intersection of the northern right of way line of Overhill Street and the eastern right of way line of Quay Street, thence leaving said Overhill Street and running with said Quay Street, N25°08'39"W, 231.87 feet to a 5/8 inch rebar with plastic cap found at the common corner to Eugene J. Stout, recorded in Deed Book 1082 at page 461, thence leaving said Quay Street and running through and across the property from which this conveyance is a part of,

Around a curve to the right, having an arc length of 36.71 feet, a radius of 102.17 feet and a chord bearing and distance of S44°43'20"E, 36.51 feet to a 5/8 inch rebar with plastic cap set, thence S25°08'39"E, 194.97 feet to a 5/8 inch rebar with plastic cap set on the northern right of way line of said Overhill Street, thence with said right of way line S53°18'33"W, 12.48 feet to the POINT OF BEGINNING, containing ±2,651 square feet, 0.06 acres more or less, all as more particularly shown and depicted upon the plat of survey dated April 10, 2015 and revised May 19, 2015, titled ALTA/ACSM Title Survey Sunnyside Commons 0.51 Acres, prepared by Potesta and Associates, Inc., and made a part hereof for all pertinent purposes, to be recorded in the Office of the Clerk of the County Commission of Monongalia County, West Virginia, immediately prior to this Deed.

BEING, a part of the same property conveyed to American Campus Communities Operating Partnership, LP, a Maryland limited partnership, from West Virginia University Board of Governors on Behalf of West Virginia University, an agency and higher education institution of the State of West Virginia, by deed dated June 3, 2015, to be recorded in the aforesaid County Clerk's Office immediately prior to this deed.

The real estate herein conveyed is entered upon Land Books for the Fourth Ward of the City of Morgantown, Monongalia County, West Virginia for 2014 as part of the following: Tax Map 20, Parcel 201, Tax Map 20, Parcel 202, Tax Map 20, Parcel 205 and Tax Map 20, Parcel 206.

This conveyance is made subject to any and all covenants, restrictions, easements and reservations which may be a matter of record in said Clerk's Office and running with the land.

This conveyance is not subject to the withholding tax on West Virginia source income of nonresidents as a result of the provisions of West Virginia Code §11-21-71b(d)(6).

DECLARATION OF CONSIDERATION OR VALUE

Under, in accordance with, and pursuant to the provisions of Article 22 of Chapter 11 of the West Virginia Code, ACC declares that the transfer made and effected by this Declaration is exempt from the applicable excise taxes on the basis that City is a political subdivision of the State of West Virginia.

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WITNESS the following signature:

AMERICAN CAMPUS COMMUNITIES OPERATING  
PARTNERSHIP, LP, a Maryland limited partnership

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

STATE OF \_\_\_\_\_  
COUNTY OF \_\_\_\_\_, to wit:

I, \_\_\_\_\_, a Notary Public in and for the County and State aforesaid do  
certify that \_\_\_\_\_, who signed the foregoing writing bearing date the \_\_\_\_ day  
of \_\_\_\_\_ 2015, for AMERICAN CAMPUS COMMUNITIES OPERATING PARTNERSHIP, LP, a  
Maryland limited partnership, has this day in my said County before me acknowledged the said writing  
to be the act and deed of said limited partnership.

Given under my hand and notarial seal this \_\_\_\_ day of \_\_\_\_\_ 2015.

{seal}

My commission expires: \_\_\_\_\_

\_\_\_\_\_  
Notary Public



**AN ORDINANCE PROVIDING FOR EXECUTION OF A RIGHT-OF-WAY AND  
EASEMENT AGREEMENT WITH WEST VIRGINIA UNIVERSITY RELATING TO A  
PORTION OF QUAY STREET IN THE FOURTH WARD**

The City of Morgantown hereby ordains:

That the City Manager is hereby authorized to execute, on behalf of the City of Morgantown, the "Right-of-Way and Easement Agreement" attached to, and made a part of, this ordinance.

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

First Reading:

Adopted:

\_\_\_\_\_  
Mayor

Filed:

Recorded:

\_\_\_\_\_  
City Clerk

## RIGHT-OF-WAY AND EASEMENT AGREEMENT

THIS RIGHT-OF-WAY AND EASEMENT AGREEMENT, made and executed in duplicate this \_\_\_\_ day of \_\_\_\_\_, 2015, by and between THE CITY OF MORGANTOWN, West Virginia, a municipal corporation, party of the first party, GRANTOR, and WEST VIRGINIA UNIVERSITY BOARD OF GOVERNORS ON BEHALF OF WEST VIRGINIA UNIVERSITY, an agency and higher education institution of the State of West Virginia, party of the second part, GRANTEE.

WITNESSETH: That for and in consideration of the payment of One Dollar (\$1.00), cash in hand paid, the receipt of which is hereby acknowledged, and other good and valuable consideration hereinafter detailed, GRANTOR does now hereby bargain, sell, grant, and convey unto the GRANTEE, its contractors, licensees, lessees, sublessees, successors and/or assigns, a non-exclusive right-of-way and easement for the laying, relaying, constructing, reconstructing, placing, replacing, repairing, maintaining, and removing a retaining wall and geogrid situate, lying and being within the public right of way known as Quay Street, located in the Fourth Ward of the City of Morgantown, Monongalia County, West Virginia.

The location of said right-of-way and easement is more particularly shown upon the plat of survey entitled Proposed Annulment and Right of Way Changes Along Quay Street, dated May 18, 2015, prepared by Victor M. Dawson, P.S. No. 956, of Potesta and Associates, Inc., on Detail – 2 of said plat and depicted in green, consisting of 381 square feet, more or less, and 44 square feet, more or less, to be recorded in the Office of the clerk of the County Commission of Monongalia County, West Virginia, immediately prior to this Agreement, and being more particularly described as follows:

381 SQUARE FOOT +/- EASEMENT AREA:

Commencing at a point at the intersection of the southern right of way line of Quay Street and the northern right of way line of Overhill Street, thence running with the line of said Overhill Street N53°18'33"E, 4.04 feet to a point at the intersection of said Overhill Street and the proposed new southern right of way line of said Quay Street, thence running with said new Quay Street right of way line N28°30'35"W, 9.24 feet to a point, thence N35°13'10"W, 42.61 feet to the TRUE POINT OF BEGINNING of the herein described Geogrid Easement, thence N25°20'23"W, 66.46 feet to a point, thence N24°44'56"W, 36.18 feet to a point, thence N25°14'16"W, 48.13 feet to a point, thence N46°14'33"W, 9.03 feet to a point on the original southern right of way line of said Quay Street, thence with said original right of way line N25°08'39"W, 23.05 feet to a point, thence N25°34'06"W, 48.31 feet to a point, thence leaving said original right of way line and running through and across said Quay Street N58°55'49"E, 2.29 feet to a point, thence S24°37'25"E, 68.35 feet to a point, thence S44°40'07"E, 11.80 feet to a point, thence S25°07'11"E, 61.40 feet to a point, thence S24°14'12"E, 89.93 feet to a point, thence S64°49'31"W, 0.48 feet to TRUE POINT OF BEGINNING, containing 381 square feet more or less.

44 SQUARE FOOT +/- EASEMENT AREA:

Commencing at a point at the intersection of the southern right of way line of Quay Street and the northern right of way line of Overhill Street, thence N26°25'37"W, 282.63 feet to the TRUE POINT OF BEGINNING of the herein described 44 Square Foot Annulment, thence N25°06'04"W, 16.25 feet to a point, thence N55°52'13"W, 3.44 feet to a point, thence N25°06'04"W, 3.91 feet to a point, thence S55°52'13"E, 7.35 feet to a point, thence S25°06'04"E, 16.59 feet to a point, thence S58°55'49"W, 2.01 feet to the TRUE POINT OF BEGINNING, containing 44 square feet more or less.

381 Square Foot +/- Easement Area and the 44 Square Foot +/- Easement Area collectively referred to herein as the "Easement Area".

For the consideration aforesaid, GRANTOR does now also hereby grant and convey unto the GRANTEE, its contractors, licensees, lessees, sublessees, successors and/or assigns, the right of ingress, egress, and regress to and from the Easement Area, and a temporary construction right-of-way and easement of such width as is reasonable and necessary for the purposes of laying, relaying, constructing, reconstructing, placing, replacing, repairing, maintaining, and removing the retaining wall and geogrid.

The retaining wall and geogrid shall be constructed, maintained and repaired at Grantee's, or its contractors, licensees, lessees, sublessees, successors and/or assigns, sole cost and expense. All work to construct, install, maintain and/or repair the retaining wall and geogrid (the "Work") shall be subject to the following additional conditions:

(a) all Work shall be performed by Grantee, or its contractors, licensees, lessees, sublessees, successors and/or assigns, as expeditiously as possible in accordance with good construction practices and so as to minimize interference with the use of the Grantor's property, including the flow of pedestrian and vehicular traffic;

(b) any surface or subsurface damage to paved areas or other improvements on the Grantor's property known as Quay Street caused by Grantee, or its contractors, licensees, lessees, sublessees, successors and/or assigns, in connection with the Work shall be promptly repaired by Grantee to a condition equal to that existing before any such Work or actions were undertaken, or as directed by the City Engineer; and

(c) Whenever entry onto Grantor's property is required for maintenance or repairs to the retaining wall or geogrid, Grantee, or its contractors, licensees, lessees, sublessees, successors and/or assigns, shall provide the Grantor with not less than twenty-four (24) hours prior notice except when access is required in the case of emergency repairs;

(d) Whenever Grantor conducts any repairs, maintenance, alterations, reconstruction or improvements to Grantor's property known as Quay Street that is adjacent to Grantee's property and/or the retaining wall and over the geogrid, Grantor agrees to provide Grantee with not less than twenty-four (24) hours prior notice of same, except when access is required in the case of emergency repairs; and

(e) In the event damage to the retaining wall or geogrid would compromise the safety of life/property upon Grantor's property known as Quay Street, at the direction of the City Engineer, Grantee shall promptly repair the damage to the retaining wall or geogrid and restore the surface or subsurface damage to paved areas or other improvements of Grantor's property to a condition equal to that existing before any such Work or actions were undertaken.

The GRANTOR does grant and convey said right-of-way and easement unto the GRANTEE, its contractors, licensees, lessees, sublessees, successors and/or assigns, upon the following terms and conditions:

In accordance with the City Charter of the City of Morgantown, this conveyance of an interest in real property is subject to approval and acceptance by the Morgantown City Council, which approval and acceptance has been duly granted.

Grantee shall name Grantor as an additional insured on its insurance policy covering the Work and shall provide evidence of the same upon demand by Grantor.

This Agreement shall be binding upon the parties and their respective successors and/or assigns. The rights of way and easements granted herein shall be appurtenant to and run with the land thereby benefited and burdened.

This Agreement may be executed in multiple counterparts, each of which shall, for all purposes, be deemed an original and all of which, taken together, shall constitute one and the same agreement.

#### **DECLARATION OF CONSIDERATION**

Under the penalties of fine and imprisonment as provided by law,, the undersigned hereby declares that the transfer involved in the document to which this Declaration is appended is a transfer to or from the State of West Virginia, or to or from any of its instrumentalities,

agencies or political subdivisions, and therefore is not subject to West Virginia excise tax and is exempt under the provisions of Chapter 11, Article 22, Section 1 of the West Virginia Code, 1931, as amended.

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WITNESS the following signature and seal:

**THE CITY OF MORGANTOWN**, West Virginia,  
a municipal corporation

By: \_\_\_\_\_  
Jeffrey Mikorski  
Its: City Manager

STATE OF WEST VIRGINIA

COUNTY OF MONONGALIA, TO-WIT:

The undersigned, a Notary Public in and for the County and State aforesaid, does hereby CERTIFY that Jeffrey Mikorski, The City Manager of City of Morgantown, West Virginia, a municipal corporation, whose name is signed to the foregoing agreement, have this day sworn to, affirmed, subscribed and acknowledged the same before me in said County, as the free act and deed of said corporation, upon authority duly granted.

Given under my hand this \_\_\_\_ day of \_\_\_\_\_, 2015.

My commission expires: \_\_\_\_\_.

{SEAL}

\_\_\_\_\_  
Notary Public

Prepared without title examination on behalf of Grantee by Heather Gentile, Jackson Kelly PLLC, P.O. Box 619, Morgantown, West Virginia 26507-0619.

**EXHIBIT  
ORDINANCE**

**AN ORDINANCE AUTHORIZING THE CITY TO SUBMIT AN AMENDMENT TO ITS WRITTEN  
PLAN TO THE HOME RULE BOARD**

The City of Morgantown hereby ordains that its City Manager is authorized to submit the attached "Proposed Amendment to the City of Morgantown Home Rule Application" to the Municipal Home Rule Board.

FIRST READING:

\_\_\_\_\_  
Mayor

ADOPTED:

FILED:

\_\_\_\_\_  
City Clerk

RECORDED:

## Proposed Amendment to the City of Morgantown Home Rule Application

### **I. Introduction**

The City of Morgantown (the “City”) has been approved to participate in West Virginia’s Municipal Home Rule Pilot Program, Phase II (“Home Rule Program”) and its initial written plan has been approved by the Municipal Home Rule Board (the “Board”).

Pursuant to *W. Va. Code* § 8-1-5a(l), “[a] municipality selected to participate in the Municipal Home Rule Pilot Program may amend its written plan at any time.” The Board has provided guidance for municipalities proposing plan amendments. The guidance requires a public hearing and statement of the reasons for amendment similar to those required in an initial plan under *W. Va. Code* § 8-1-5a(f) and (g).<sup>1</sup>

The City seeks to amend its written plan to propose an ordinance granting its fire marshals additional authority – including the authority to make arrests for certain specific violations of the Fire Prevention Code – to effectively address ongoing problems with fire prevention. The applicable laws and reasons for amendment are set out below.

### **II. Specific Laws Applicable**

West Virginia Code sections 8-15-1, 29-3A-1 to -3, 29-3-12, and 8-14-3.

### **III. Limitations Presented by Applicable Law**

The City’s large population of university students – equivalent in number to full-time residents – creates difficulties enforcing the Fire Prevention Code prohibition against overcrowded structures; fire marshals are faced with numerous bars and house parties that create unsafe structural loads, and the occupants are often combative and unwilling to obey orders to restore proper occupancy levels. In addition, the City suffers incidents of street and dumpster fires on par with large cities such as Columbus and Los Angeles.<sup>2</sup> These problems require the fire prevention expertise of the City’s fire marshals<sup>3</sup> and more enforcement officers than are available in a police force in a city the size of Morgantown.

The City’s power to extinguish and prevent fire is created by *W. Va. Code* § 8-15-1, which states, “The governing body of every municipality shall have plenary power and authority to provide for the prevention and extinguishment of fires[.]” The section provides a

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<sup>1</sup> [http://www.wvcommerce.org/App\\_Media/assets/images/commerce/wvhomerule/forms/2014\\_MHR\\_Amend\\_Plan\\_Procedure091714.pdf](http://www.wvcommerce.org/App_Media/assets/images/commerce/wvhomerule/forms/2014_MHR_Amend_Plan_Procedure091714.pdf)

<sup>2</sup> See National Fire Incident Reporting System summary and Morgantown Fire Department statistics, attached as Exhibit 1.

<sup>3</sup> The position of fire marshal and deputy fire marshal of the City is defined in City Code § 1511.02, a part of the proposed ordinance amendment attached as Exhibit 5.

nonexclusive list of actions the City may take but no specific statement that fire marshals may make arrests.<sup>4</sup> In response to a State Fire Commission inquiry, the West Virginia Attorney General's office construed *W. Va. Code* § 8-15-1, standing alone, to permit the City to grant fire marshals limited law enforcement authority.<sup>5</sup> However, the opinion is limited to consideration of *W. Va. Code* § 8-15-1 and expressly does not address the impact of other statutory or constitutional provisions.

Other statutory provisions provide specific powers to local firefighters, *W. Va. Code* § 29-3A-1 to -3, and allow the State Fire Marshal the authority to make arrests, obtain arrest warrants, and grant certain arrest powers to deputized fire marshals, *W. Va. Code* § 29-3-12, but neither specifies that local firefighters may arrest based upon municipal authorization.<sup>6</sup> In addition, *W. Va. Code* § 8-14-3 may be construed to vest all municipal arrest powers in the police department. It provides as follows:

The chief and any member of the police force or department of a municipality and any municipal sergeant shall have all of the powers, authority, rights and privileges within the corporate limits of the municipality with regard to the arrest of persons, the collection of claims, and the execution and return of any search warrant, warrant of arrest or other process, which can legally be exercised or discharged by a deputy sheriff of a county.

*Id.* The City recognizes that where a reasonable doubt exists as to the City's authority, the courts will find the authority does not exist. *Hyre v. Brown*, 102 W. Va. 505, 135 S.E. 656 (1926). Because the statutory provisions granting the City's power to prevent and extinguish fire and the firefighters' powers and duties do not specifically grant arrest powers, and because other statutory provisions do specifically grant police arrest powers, the City could be found not to have the authority to grant fire marshals arrest powers – although solely related to violations of the Fire Prevention Code – under current law. The City wishes to avoid the threat of litigation and assure its fire marshals can act with sound authority by seeking approval of the Board.

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<sup>4</sup> The full text of *W. Va. Code* § 8-15-1 is as follows:

The governing body of every municipality shall have plenary power and authority to provide for the prevention and extinguishment of fires, and, for this purpose, it may, among other things, regulate how buildings shall be constructed, procure proper engines and implements, provide for the organization, equipment and government of volunteer fire companies or of a paid fire department, prescribe the powers and duties of such companies or department and of the several officers, provide for the appointment of officers to have command of fire fighting, prescribe what their powers and duties shall be, and impose on those who fail or refuse to obey any lawful command of such officers any penalty which the governing body is authorized by law to impose for the violation of an ordinance. It may give authority to any such officer or officers to direct the pulling down or destroying of any fence, house, building or other thing, if deemed necessary to prevent the spreading of a fire.

*Id.*

<sup>5</sup> See West Virginia Attorney General Opinion dated December 5, 2014, attached as Exhibit 2.

<sup>6</sup> Copies of these provisions are attached as Exhibits 3 and 4, respectively.

#### **IV. Proposed solution**

Upon approval of the Board, the City will adopt an ordinance permitting fire marshals to arrest any individual disobeying lawful orders at the scene of a fire and any individual who violates the Fire Prevention Code prohibitions against malicious burning, obstructing a fire marshal, or failure to obey orders. Incident to the arrest powers, the fire marshals would have authority to obtain and serve warrants for violations of these provisions. A copy of the proposed ordinance is attached as Exhibit 5. The Morgantown Fire Department and Morgantown Police Department have made arrangements for the fire marshals to be given initial and annual training that will comply with *W. Va. Code* §§ 30-29-1 *et seq.*, if the written plan amendment and ordinance are approved by the Board.

Adoption of the ordinance is expected to allow the City's fire marshals to better prevent chronic overcrowding conditions that endanger individuals' safety and to enforce Fire Prevention Code provisions designed to inhibit furniture and street fires. Limiting these fires and overcrowding will prevent property damage suffered by City residents and preserve City resources for other important municipal services.

**AN ORDINANCE AMENDING CITY CODE SECTION 507.04 AND 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 section 507.04 is amended and sections 507.11 and 507.12 are repealed in their entirety as follows:

**507.04 NOTIFICATION OF DANGEROUS DOG DECLARATION.**

(a) Within five (5) business days after declaring a dog dangerous, the City Manager or his/her designee shall notify the owner by certified mail of the dog's designation as a dangerous dog and any specific restrictions and conditions for keeping the dog, as set for in Section 507.06. The City Manager also shall notify the Police Department and the City's Animal Control Officer of the designation of any dog as a dangerous dog. Such notification shall describe the dog and specify any particular requirements or conditions placed upon the dog owner.

(b) If the City Manager or his/her designee cannot with due diligence locate the owner of a dog that has been seized pursuant to this article, the City Manager shall may cause the dog to be impounded ~~for not less than five (5) business days. pending identification of the owner, cause the dog to be transferred to a shelter for unclaimed dogs, or initiate legal proceedings to cause the dog to be humanely destroyed. If after five (5) days, the owner fails to claim the dog, the City Manager may cause the dog to be humanely destroyed.~~

**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 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 southeast 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 a southeasterly 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:

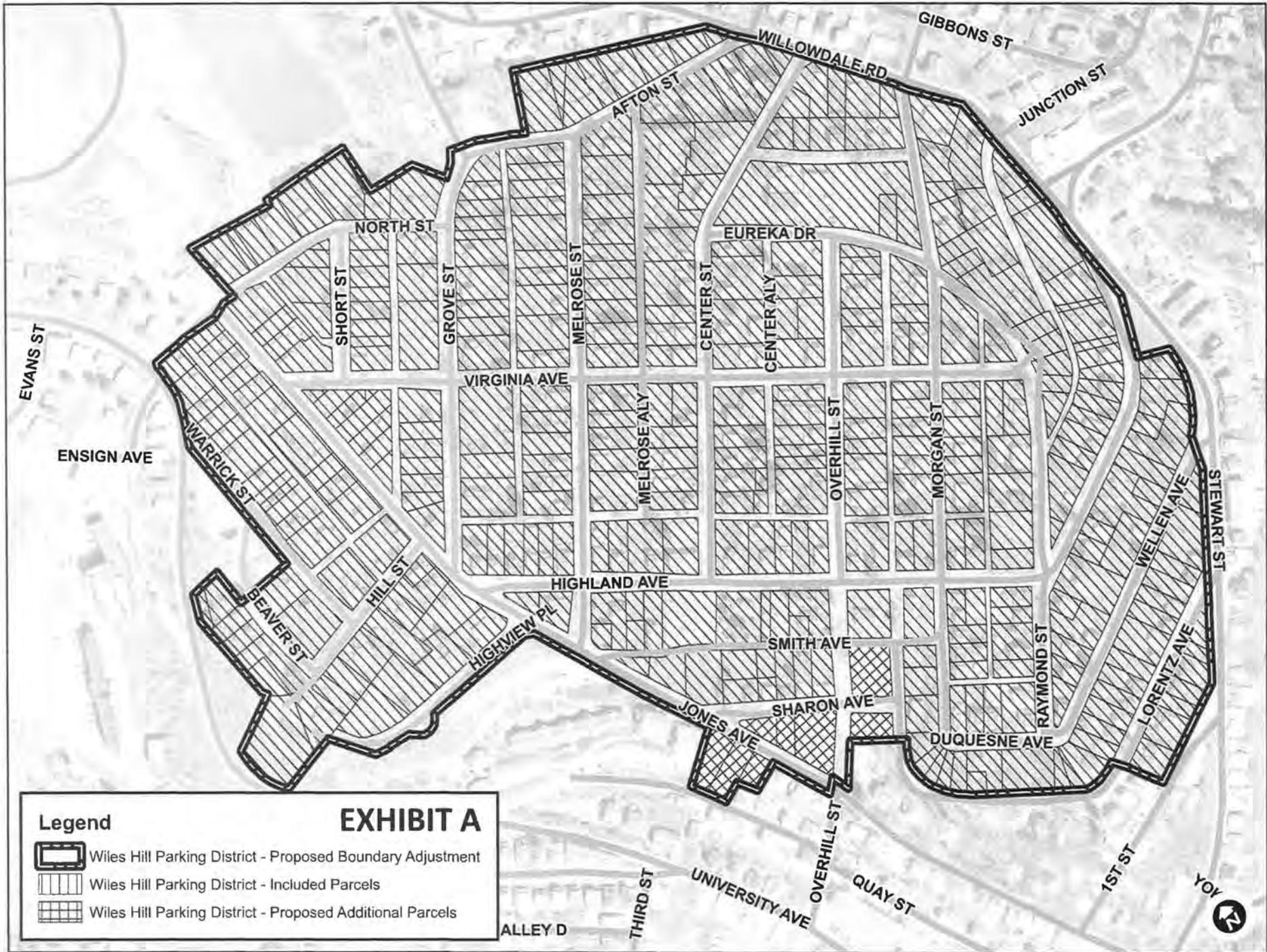
\_\_\_\_\_  
Mayor

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 has considered, with respect to the Sunnyside Designated Parking District defined in this Ordinance, the degree to which traffic congestion and demand for on-street parking is generated by nonresidents of the district, the existence of nearby facilities that generate increased traffic and on-street parking demand in the district; and the existence of a parking shortage evidenced by a utilization rate above seventy-five percent of on-street parking spaces in the district, all as required by City Code Section 367.03; 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 8<sup>th</sup> 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 McLane 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 8<sup>th</sup> Street, then southwest along 8<sup>th</sup> 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 8<sup>th</sup> Street, then southwest along 8<sup>th</sup> Street to the intersection of 8<sup>th</sup> 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

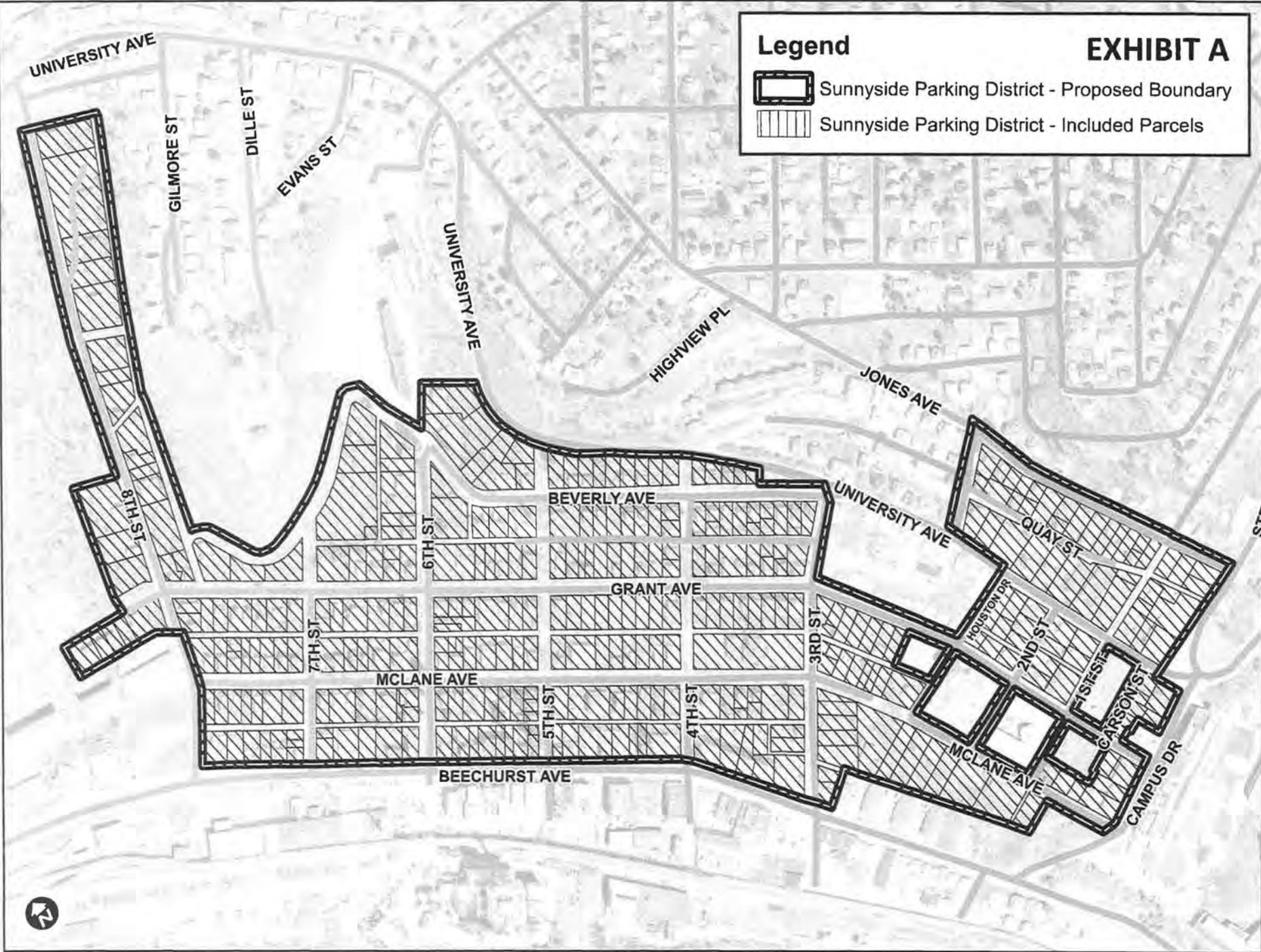
RECORDED:

## BOUNDARIES OF DISTRICT:

The District shall be bounded as follows:

Beginning at the east corner of the intersection of Beechurst Avenue and 8<sup>th</sup> 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 8<sup>th</sup> Street, then southwest along 8<sup>th</sup> 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 8<sup>th</sup> Street, then southwest along 8<sup>th</sup> Street to the intersection of 8<sup>th</sup> Street and Beechurst Avenue to the point of beginning,

Properties excluded within the above boundary are as follows; Assessor's tax map 20 parcels 87, 88, 89, 90, and 91 (commonly referred to as WVU Honors Dorm), Assessor's tax map 20 parcels 92, 93, 94, 95, 96, 97 (commonly referred to as WVU Summit Hall), Assessor's tax map 20 parcels 39 and 40 (commonly referred to as WVU lot 39), Assessor's tax map 20 parcels 82, 85.01, and 86 (commonly referred to as WVU lot 22), Assessor's tax map 20 parcels 138, 138.01, 139, 140, 141, 142, and 143 (commonly referred to as WVU lot ST5), Assessor's tax map 20 parcels 149 and 150 (commonly referred to as WVU lot ST7), and Assessor's tax map 20 parcel 77 (commonly referred to as WVU lot 27).





**AN ORDINANCE AMENDING CITY CODE SECTIONS 305.01 AND 305.03  
PROVIDING POWER TO REGULATE STREET TRAFFIC AND PARKING DURING  
REPAIRS OR EMERGENCIES**

WHEREAS, the City's Traffic Code provides the City Manager, the Fire Department, and the Police Department with the power and duty to regulate the use of streets to effectively manage traffic flow and parking in emergency situations and in the case of major repairs and projects; and

WHEREAS, the effective performance of this duty sometimes requires redirection of traffic as well as closure of streets and prohibition of parking; and

WHEREAS, City Council intends to clarify the text of the Traffic Code to show that the authority and duty of the City Manager, the Fire Department, and the Police Department includes redirection of traffic in appropriate instances;

NOW, THEREFORE, the City of Morgantown hereby ordains that City Code Sections 305.01 and 305.03 are amended as follows:

**305.01 MANAGER'S POWERS GENERALLY.**

The City Manager shall place and maintain traffic control signs, signals and devices as required under the provisions of this Traffic Code and other traffic ordinances of the City to make effective such provisions of this Traffic Code and other traffic ordinances, and may place and maintain such additional traffic control devices as Council may from time to time direct or as required for management of cleaning, repair, or emergencies on public ways pursuant to City Code section 305.03.

**305.03 CLEANING OR REPAIRING STREETS; EMERGENCIES; CLOSING STREETS.**

The City Manager, without the approval of Council, shall have the power and authority in his sole discretion to prohibit or limit parking on either or both sides of any street, alley or public way, or any part thereof, within the City, for any period not to exceed one week, at any one time, for the purpose of cleaning the same, collecting leaves or other debris therefrom, making repairs thereto, or in any emergency situation. The City Manager shall be the sole judge of the necessity of such prohibition or limitation.

The City Manager, without the approval of Council, shall likewise have the power and authority to prohibit or limit parking on either or both sides of any street, alley or public way, or any part thereof, within the City, or he may close to traffic or redirect traffic upon any street, alley or public way, or any part thereof, within the City, for such period of time as may be necessary for the purpose of making major repairs, improvements or construction or the paving of any such street, alley or public way, or any part thereof.

The Police Department or the Fire Department in the event of fire, riot, civil disturbance or other public emergency shall have the power and authority to prohibit parking along, or close to traffic or redirect traffic upon any street, alley or public way, or any part thereof, so long as such prohibition may be reasonably necessary but not to exceed a period of forty-eight hours at any one time.

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~~ 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 may be issued only upon completion of an application form prescribed by the City Manager or City Manager's designee and shall be required prior to placing tables, chairs, or any other equipment on any public sidewalk right-of-way. Each initial or modified application form shall be submitted with an administrative review fee of twenty-five dollars (\$25.00). Renewal applications shall not require an administrative review fee. Permits issued hereunder shall be valid from January 1 through December 31. The permit fee for a ~~an~~ non-partitioned Outdoor Dining Permit shall be fifty dollars (\$50.00) for each year the

permit is obtained. The permit fee for a partitioned Outdoor Dining Permit shall be two hundred dollars (\$200.00) 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 and any applicable federal, state, or local law.

(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 in the right-of-way.~~ The applicant shall furnish all floor plans and approvals required by the City, including Health Department or West Virginia Alcoholic Beverage Control Administration approvals if applicable. Outdoor dining permits shall not be allowed issued for an area within ten feet of that would obstruct access to 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). All equipment used to partition an area shall be sufficient to control access to the permitted area, must be removable by the permittee during non-operating hours, and must be of a design and construction acceptable to the City.

(e) The permittee shall ~~prohibit the~~ ensure that any consumption and possession of alcoholic beverages in the area for which an Outdoor Dining Permit has been issued complies with all applicable laws and regulations, including those of the West Virginia Alcoholic Beverage Control Administration (WVABCA). An area for which

an Outdoor Dining Permit that allows sales and consumption of alcoholic beverages has been issued, and which is in compliance with all WVABCA laws and regulations, shall be exempt from the prohibition on possession, consumption, or sale of alcohol in public places stated in City Code section 521.06 during the lawful hours of operation of the permitted area. Consumption and possession of alcoholic beverages shall only be permitted with a partitioned Outdoor Dining Permit.

(f) In order to serve any beverage regulated by the WVABCA in an outdoor dining permit area, the designated area must be included in the floor plan for the licensed premises as approved by the WVABCA. Any beverage regulated by the WVABCA shall be served and consumed only on the enclosed or bounded portion of the public right-of-way designated as an outdoor dining permit area. Patrons may not carry any beverage regulated by the WVABCA out of the outdoor dining permit area.

~~(f)~~ (g) 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)~~ (h) 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)~~ (i) Permittees shall be responsible for emptying ~~the any~~ 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)~~ (j) 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)~~ (k) No tables, chairs, or other equipment shall be permanently attached or affixed to the sidewalk, poles or any other public facilities. No equipment shall be placed in the permit area except as specifically approved in the permit application.

~~(k)~~ (l) 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. If a permittee serves any beverage regulated by the WVABCA in an outdoor dining permit area, all laws and regulations of the WVABCA regarding permitted days and hours of service shall be followed.

(H) (m) 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)~~ (n) 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)~~ (o) 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~~ right-of-way 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~~ right-of-way, 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; any federal, state, or local law; 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:



**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.

C .....Use is allowed only as a conditional use in a particular zone subject to the limitations and conditions specified; a permit is required.

The uses listed in the Permitted Land Use Table are defined in the Definitions section (Article 1329).

A description of the supplemental regulations immediately follows the Permitted Land Use Table.

Table 1331.05.01 Permitted Land Uses

Uses	R-1	R-1A	R-2	R-3	PRO	B-1	B-2	B-4	OI	B-5	I-1	Supplemental Regulations
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.

- (i) 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.~~
  
- (e) ~~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

The City of Morgantown  
Combined Utility System Revenue Bonds, Series 2015 E  
(West Virginia SRF Program)

SUPPLEMENTAL RESOLUTION

SUPPLEMENTAL RESOLUTION PROVIDING AS TO PRINCIPAL AMOUNTS, DATES, MATURITY DATES, REDEMPTION PROVISIONS, INTEREST RATES, INTEREST AND PRINCIPAL PAYMENT DATES, SALE PRICES AND OTHER TERMS OF THE COMBINED UTILITY REVENUE BONDS, SERIES 2015 E (WEST VIRGINIA SRF PROGRAM) OF THE CITY OF MORGANTOWN; APPROVING AND RATIFYING THE BOND PURCHASE AGREEMENT RELATING TO SUCH BONDS AND THE SALE AND DELIVERY OF SUCH BONDS TO THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY; DESIGNATING A REGISTRAR, PAYING AGENT AND DEPOSITORY BANK; APPROVING A CONFORMED ORDINANCE AND MAKING OTHER PROVISIONS AS TO THE BONDS.

WHEREAS, the City council (the "Governing Body") of The City of Morgantown (the "Issuer" or "Governmental Agency") has duly and officially adopted and enacted a bond ordinance, effective November 5, 2013 (the "Bond Ordinance"), entitled:

ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF EXTENSIONS, ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE WASTEWATER PORTION OF THE EXISTING PUBLIC COMBINED WATERWORKS, SEWERAGE AND STORMWATER SYSTEM OF THE CITY OF MORGANTOWN AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF THROUGH THE ISSUANCE BY THE CITY OF NOT MORE THAN \$1,250,000 IN AGGREGATE PRINCIPAL AMOUNT OF COMBINED UTILITY SYSTEM REVENUE BONDS, SERIES 2014 A (WEST VIRGINIA SRF PROGRAM); PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE OF SUCH BONDS; APPROVING, RATIFYING AND CONFIRMING A BOND PURCHASE AGREEMENT RELATING TO SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO.

WHEREAS, the Governing Body desires to redesignate the Combined Utility System Revenue Bonds, Series 2014 A (West Virginia SRF Program) as Combined Utility System Revenue Bonds, Series 2015 E (West Virginia SRF Program);

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF MORGANTOWN:

Section 1. The Combined Utility System Revenue Bonds, Series 2014 A (West Virginia SRF Program) are hereby redesignated as Combined Utility System Revenue Bonds, Series 2015 E (West Virginia SRF Program).

Section 2. The Issuer hereby approves the Conformed Bond Ordinance attached hereto as Exhibit A.

Section 3. Pursuant to the Bond Ordinance and the Act, this Supplemental Resolution is adopted and there are hereby authorized and ordered to be issued the Combined Utility Revenue Bonds, Series 2015 E (West Virginia SRF Program), of the Issuer, originally represented by a single bond, numbered ER-1, in the original aggregate principal amount of \$662,300. The Series 2015 E Bonds shall be dated the date of delivery thereof, shall finally mature \_\_\_\_\_, 20\_\_ and shall bear no interest. The principal of the Series 2015 E Bonds shall be payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing \_\_\_\_\_ 1, 20\_\_ to and including \_\_\_\_\_ 1, 20\_\_ and in the amounts as set forth in the "Schedule Y" attached to the Bond Purchase Agreement for the Series 2015 E Bonds and incorporated in and made a part of the Series 2015 E Bonds. The Series 2015 E Bonds shall be subject to redemption upon the written consent of the Authority and the DEP, and upon payment of the interest and redemption premium, if any, and otherwise in compliance with the Bond Purchase Agreement, so long as the Authority shall be the registered owner of the Series 2015 E Bonds. The Issuer does hereby approve and shall pay the annual SRF Administrative Fee equal to 0.50% as set forth in "Schedule Y" attached to the Bond Purchase Agreement.

Section 4. The Issuer does hereby authorize, approve, ratify and accept the Bond Purchase Agreement, a copy of which is incorporated herein by reference, and the execution and delivery of the Bond Purchase Agreement by the Mayor, and the performance of the obligations contained therein, on behalf of the Issuer, are hereby authorized, directed, ratified and approved. The Issuer hereby affirms all covenants and representations made in the Bond Purchase Agreement and in the applications to the DEP and the Authority. The price of the Series 2015 E Bonds shall be 100% of par value, there being no interest accrued thereon, provided that the proceeds of the Series 2015 E Bonds shall be advanced from time to time as requisitioned by the Issuer.

Section 5. The Issuer does hereby appoint and designate United Bank, Inc., Charleston, West Virginia, to serve as Registrar (the "Registrar") for the Series 2015 E Bonds under the Bond Ordinance and does approve and accept the Registrar's Agreement to be dated the date of delivery of the Series 2015 E Bonds, by and between the Issuer and the Registrar, and the execution and delivery of the Registrar's Agreement by the Mayor, and the performance of the obligations contained therein, on behalf of the Issuer, are hereby authorized, approved and directed.

Section 13. This Supplemental Resolution and Conformed Ordinance shall be effective immediately following adoption hereof.

Adopted this 2nd day of June, 2015.

THE CITY OF MORGANTOWN

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Mayor

EXHIBIT A  
Conformed Bond Ordinance  
(See Tab 1 of Transcript)

**RESOLUTION**

*The City of Morgantown met on June 2, 2015, with a quorum present and passed the following resolution:*

***Be It Resolved that the City of Morgantown hereby authorizes its City Manager, Jeff Mikorski, to act on its behalf to enter a contractual agreement with the Department of Justice, Office of Justice Programs, to receive and administer grant funds from the 2015 Edward Byrne Memorial Justice Assistance Grant (JAG) Program for Equipment Upgrades for the City of Morgantown.***

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**MAYOR**

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**CITY CLERK**

2015 WEST VIRGINIA LOCAL JAG ALLOCATIONS

Listed below are all jurisdictions in the state that are eligible for FY 2015 JAG funding, as determined by the JAG formula. For additional details regarding the JAG formula and award calculation process, with examples, please refer to the updated JAG Technical report: <https://www.bja.gov/Publications/JAGTechRpt.pdf>. For JAG Frequently Asked Questions, please refer to BJA's JAG webpage: <https://www.bja.gov/Funding/JAGFAQ.pdf>.

Finding your jurisdiction: (1) Disparate jurisdictions are listed in shaded groups below, in alphabetic order by county. (2) Eligible individual allocations are listed alphabetically below the shaded, disparate groupings. Counties that have an asterisk (\*) under the "Eligible Individual Allocation" column did not submit the level of violent crime data to qualify for a direct award from BJA, but are in the disparate grouping indicated by the shaded area. The JAG legislation requires these counties to remain a partner with the local jurisdictions receiving funds and must be a signatory on the required Memorandum of Understanding (MOU). A sample MOU is provided online at: <https://www.bja.gov/Funding/JAGMOU.pdf>. Disparate jurisdictions do not need to abide by the listed individual allocations, which are provided for information only. Jurisdictions in a funding disparity are responsible for determining individual amounts within the Eligible Joint Allocation and for documenting individual allocations in the MOU.

State	Jurisdiction Name	Government Type	Direct Allocation	Joint Allocation
WV	CABELL COUNTY	County	*	
WV	HUNTINGTON CITY	Municipal	\$36,299	\$36,299
WV	HARRISON COUNTY	County	*	
WV	CLARKSBURG CITY	Municipal	\$13,053	\$13,053
WV	KANAWHA COUNTY	County	\$33,199	
WV	CHARLESTON CITY	Municipal	\$86,425	\$119,624
WV	MERCER COUNTY	County	*	
WV	PRINCETON CITY	Municipal	\$11,980	\$11,980
WV	OHIO COUNTY	County	*	
WV	WHEELING CITY	Municipal	\$39,040	\$39,040
WV	RANDOLPH COUNTY	County	*	
WV	ELKINS CITY	Municipal	\$10,252	\$10,252
WV	WOOD COUNTY	County	\$16,749	
WV	PARKERSBURG CITY	Municipal	\$31,590	\$48,339
WV	BECKLEY CITY	Municipal	\$26,226	
WV	BERKELEY COUNTY	County	\$14,007	
WV	FAYETTE COUNTY	County	\$11,742	
WV	HAMPSHIRE COUNTY	County	\$13,947	
WV	LOGAN COUNTY	County	\$12,219	
WV	MARION COUNTY	County	\$11,623	
WV	MARTINSBURG CITY	Municipal	\$14,186	
WV	MONONGALIA COUNTY	County	\$17,464	
WV	MORGANTOWN CITY	Municipal	\$17,583	
WV	NICHOLAS COUNTY	County	\$26,524	
WV	PUTNAM COUNTY	County	\$18,775	
WV	RALEIGH COUNTY	County	\$22,053	
WV	SOUTH CHARLESTON CITY	Municipal	\$13,590	
	<b>Local total</b>		<b>\$498,526</b>	

**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