

COMMITTEE OF THE WHOLE MEETING July 26, 2016:

The Committee of the Whole meeting of the Common Council of the City of Morgantown was held in the Council Chambers of City Hall on Tuesday July 26, 2016 at 7:00 p.m.

PRESENT: City Manager Jeff Mikorski, Assistant City Manager Glen Kelly, Mayor Marti Shamberger, and Council Members, Ron Bane, Deputy Mayor Bill Kawecki, Wes Nugent, Jenny Selin, Jay Redmond and Nancy Ganz. City Attorney Ryan Simonton was absent.

Deputy Mayor Kawecki called the meeting to order.

PRESENTATIONS:

1. Arts Mon Presentation – Jack Thompson

Jack Thompson informed Council that Arts Mon is an affiliation of the American of the Arts, which educates the public on the importance of the arts. He updated Council on goals, projects and grants they will be pursuing. He reminded Council that this fall in the near future Arts Mon will be announcing Morgantown being a Certified Arts Community, and Council will be invited to that event. He thanked the City Manager, Jeff Mikorski, and Council for their support of Arts Mon.

PUBLIC PORTION:

Deputy Mayor Kawecki asked if there was anyone to speak during the Public Portion.

James Craig, Vice President, spoke on behalf of Main Street Morgantown to promote an event downtown. Mr. Craig stated that he has been meeting with various City, State representatives and downtown merchants, on having an event the Friday before the first opening of the WVU Football game. He requested the approval of a permit to close High Street, between Willey & Walnut during the time of such event. He mentioned that he has secured Toni Caridi, which will be on the radio live from downtown with statewide coverage; and there will be a band set up at Massulos. He stated what Main Street Morgantown is requesting a Resolution in support of the event to the Department of Highway be addressed at the next Regular Meeting.

Council suspended the rules to ask questions.

City Manager, Jeff Mikorski, commented that to move forward the City will need a letter from Main Street and reminded Council that our Police Department resources are thin; but if Council approves this event, the City will work to make it happen.

James Kotcon, 414 Tyrone Avery Road, spoke about item number 4 on the agenda the Urban Agriculture Ordinance is restrictive and is not adequate.

Donald Ornick, 224 Greenbrier, asked Council not to restrict citizens the right to carry a concealed firearm

There being no more presenters, Deputy Mayor Kawecki closed the public portion.

ITEMS FOR DISCUSSION:

1. Implementing Senate Bill 648 Traffic Signs, Signals and Markings:(Exhibit A)

Deputy Mayor Kawecki requested City Manager, Jeff Mikorski to explain:

Councilor Nugent commented that he had requested this be placed on the agenda to address problems with traffic. This particular bill gives local authorities, during low traffic times, permission to use flashing signals between 11 p.m. and 6 a.m. After discussion, Council referred this item to the Traffic Commission.

2. BOPARC Levy Update:(Exhibit B)

Deputy Mayor Kawecki requested that City Manager, Jeff Mikorski, explain: City Manager Jeff Mikorski explained that the letter attached from Executive Director, Mel Burch explains the funding of the levy. After discussion, Council had no action on this item.

3. Care Here on-site wellness center:(Exhibit C)

Deputy Mayor Kawecki requested that City Manager, Jeff Mikorski, explain: City Manager Jeff Mikorski explained the Care Here wellness would save money for the City and employees. The City of Morgantown will see the considerable cost savings each year that the program is in place with an overall savings during the first five years totaling \$1,686,262. After discussion, Council referred this item to the Regular Agenda by consensus.

4. Urban Agricultural Ordinance: (Exhibit D)

Deputy Mayor Kawecki requested that City Manager, Jeff Mikorski, explain: City Manager Jeff Mikorski explained that administration reviewed general offenses, planning and zoning and grandfathered section to come up with an ordinance that would be agreeable for all parties involved. After discussion, Council referred Ordinance to the Regular Meeting of August 16, 2016.

5. Ordinance providing Zoning reclassification for 2 parcels in the 6th Ward from R-1 to R-1A:

Deputy Mayor Kawecki requested that City Manager, Jeff Mikorski, explain: City Manager Jeff Mikorski explained that it was the recommendation of the Planning Commission to remain R-1 Single-Family. After discussion, Council referred the Ordinance to the Regular Agenda by Consensus.

6. Ordinance amending 1329.02, 1349.08, 1365.04 of the Zoning Code as it related to Bicycle Storage:

Deputy Mayor Kawecki requested that City Manager, Jeff Mikorski, explain: City Manager Jeff Mikorski explained the ordinance code changes to encourage and facilitate bicycle use in our community. After discussion, Council referred Ordinance to the Regular Agenda by consensus.

7. Ordinance amending 1383, 1389, and 1391 of the Zoning Code as it related to Administrative Appeals and the BZA:

Deputy Mayor Kawecki requested that City Manager, Jeff Mikorski, explain: City Manager Jeff Mikorski explained that these amendments are being made to comply with State Code. Council referred Ordinance to the Regular Agenda by consensus.

8. Ordinance amending 1329.02, table 1331.05.01, 1365.04, and 1365.07 of the Zoning code as it relates to Parking Lot and Parking Structure Uses:

Deputy Mayor Kawecki requested that City Manager, Jeff Mikorski, explain: City Manager Jeff Mikorski explained that this ordinance is an amendment for a permitted land use or stand-alone projects. After discussion, Council referred Ordinance to the Regular Agenda by consensus.

9. Amending article 767 as it relates to Hotel Tax:

Deputy Mayor Kawecki requested that City Manager, Jeff Mikorski, explain: City Manager Jeff Mikorski explained that this ordinance is a modification to our City Code due to State Code revision. After discussion, Council referred Ordinance to the Regular Agenda by consensus.

Council adjourned the Committee of the Whole meeting at 9:20 p.m.

City Clerk

Mayor

A COMPREHENSIVE DVD IS AVAILABLE OF ALL COUNCIL MEETINGS ON DVD AT THE MORGANTOWN CITY LIBRARY

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Enrolled

Senate Bill 648

BY SENATOR BLAIR

[Passed March 8, 2016;

in effect 90 days from passage]

1 AN ACT to amend and reenact §17C-3-7 of the Code of West Virginia, 1931, as amended, relating
2 to allowing local authorities to permit flashing traffic signals during low traffic times.

Be it enacted by the Legislature of West Virginia:

1 That §17C-3-7 of the Code of West Virginia, 1931, as amended, be amended and
2 reenacted to read as follows:

ARTICLE 3. TRAFFIC SIGNS, SIGNALS AND MARKINGS.

§17C-3-7. Flashing signals.

1 Whenever an illuminated flashing red or yellow signal is used in a traffic sign or signal it
2 requires obedience by vehicular traffic as follows:

3 (1) Flashing red (stop signal). — When a red lens is illuminated with rapid intermittent
4 flashes, drivers of vehicles shall stop before entering the nearest crosswalk at an intersection or
5 at a limit line when marked, or, if none, then before entering the intersection, and the right to
6 proceed is subject to the rules applicable after making a stop at a stop sign.

7 (2) Flashing yellow (caution signal). — When a yellow lens is illuminated with rapid
8 intermittent flashes, drivers of vehicles may proceed through the intersection or past the signal
9 only with caution.

10 (3) Local authorities, in areas that experience low traffic times, may permit flashing signals
11 between the hours of eleven o'clock p.m. and six o'clock a.m.

Exhibit B

BOPARC

MORGANTOWN BOARD OF
PARKS AND RECREATION

P.O. Box 590 Morgantown WV 26507
304-296-8356 www.boparc.org

July 19, 2016

Jeff Mikorski, City Manager
City of Morgantown

Dear CM Mikorski:

I am submitting the following information regarding the Ice Arena levy funding and BOPARC's current plan of action for the designation of that funding. As you know, the levy funds will be used for improvements, upgrades and renovations to the Morgantown Ice Arena.

The first step in the process will be to formulate a strategic plan for this project, including visioning, diagnostics, and recommendations for the execution of a future design for the improvements and renovations. BOPARC is currently in preliminary consultation with Brailsford & Dunlavey on this portion of the process, as they are familiar with the Ice Arena and provided us with a recommendation outline involving that facility during the recreation study of 2015. I was able to meet with representatives from the firm last week and give them some initial information as well as tour the facility.

The strategic planning process will involve input from stakeholder groups, as well as include BOPARC's goals and objectives for increased usage opportunity and revenue generation. It will also take into account site analysis, community considerations, overall budgetary objectives, and any identified funding constraints.

I would not anticipate being in a design phase until sometime next year, as there is a great deal of preliminary planning to be done for such a project. We will keep all stakeholders informed as we put together official requests for proposals regarding design and for the project itself.

As to the footprint of the existing Ice Arena and how it relates to the improvements, upgrades and renovations, I would not anticipate the design infringing upon other areas of the park, such as trails and wooded spaces. The upgrades to the facility will need to meet the budgetary measures as set forth by the levy funding and we will need to adjust our expectations to accommodate those measures as we move through the process.

I will provide regular updates to your office during the planning, design and implementation. As always, thank you for your support of BOPARC and recreation within our community.



Melissa Burch, Executive Director

Exhibit C



City of Morgantown

On-Site Health & Wellness Center

Cost and Savings Analysis

June 30, 2016

CareHere!

EXECUTIVE SUMMARY

CareHere, LLC is a leader in providing exceptional on-site health centers and provider driven wellness programs. The patient-centered healthcare approach practiced by CareHere integrates a vast scope of resources such as on-site primary care, case/disease management, wellness and behavior modification programs, occupational healthcare, wellness improvement tracking applications, and much more. CareHere's on-site services provide companies with the means to significantly decrease claims cost, while improving the overall health and morale of the employees. CareHere clients are experiencing savings in industries consisting of municipalities, manufacturers, service companies, hospitals, educational institutions, and transportation entities. CareHere, LLC operates 180+ health centers nationwide.

The cost savings comes in two waves with the initial wave consisting of increased efficiency of on-site health center as opposed to the "Retail" system used by organizations today. The second wave of savings comes as the population's health improves and catastrophic claims are reduced in large part due to the wellness, disease management, and chronic care programs offered as a part of the model. In the following projections for the **City of Morgantown** you will see the considerable cost savings each year that the program is in place with an overall savings during the first five years totaling

\$1,686,262

Estimated Health Center Expenses

Medical and Wellness Cost Analysis	
Staffing (Pass-Through)	\$96,000
Pharmaceuticals (Pass-Through)	\$11,743
Laboratory/Pathology (Pass-Through)	\$5,971
Supplies (Pass-Through)	\$4,976
Administration Fee (PEPM)	\$78,384
Set-Up Estimate (Pass-Through)	\$35,000
Health Risk Assessment	Included In Admin. Fee
Wellness Coaches	Included In Admin. Fee
Electronic Medical Records (EMR)	Included In Admin. Fee
185 Wellness Programs	Included In Admin. Fee
Total Medical Cost Year One:	\$232,074

Health Center Projected Savings

Accumulative Savings (Before Productivity Savings)	
Accumulative Savings Year 1	-\$19,441
Accumulative Savings Year 3	\$337,932
Accumulative Savings Year 5	\$1,636,502

Accumulative Savings (Productivity Savings Included)	
Accumulative Savings Year 1	\$30,319
Accumulative Savings Year 3	\$387,692
Accumulative Savings Year 5	\$1,686,262

*The productivity savings is only applied to year one.

Year One Savings Detail

Medical Savings	\$82,200
Pharmaceutical Savings	\$11,743
PEPM Cost	(\$78,384)
Productivity Savings	\$49,760
Set-Up Estimate	(\$35,000)
Total Savings	\$30,319

Accumulative Employee Co-Pay Savings

Accumulative Savings Year 1	\$34,832
Accumulative Savings Year 3	\$130,619
Accumulative Savings Year 5	\$252,531

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COST BREAKDOWN: YEAR 1

Health Center Operation

			Weekly Hours	Hourly Rate (Including Benefits)	Annual Cost
Employee Total	284	Physician	4	\$150.00	\$30,000
Visit Total On-Site	995	Mid-Level Provider	8	\$85.00	\$34,000
Medical Provider Hours Per Week:	12	Nurse	16	\$40.00	\$32,000
Total Staffing Cost					\$96,000

Health Center Cost Breakdown

Staffing Cost				\$96,000
Labs	Per Visit Average:	\$6.00		\$5,971
Supplies	Per Visit Average:	\$5.00		\$4,976
Pharmaceuticals	Per Visit Average:	\$11.80		\$11,743
Administration Fee	PEPM:	\$23		\$78,384
Set-Up Cost				\$35,000
<small>Set-up cost is passed through and includes a two exam room clinic. The cost associated with each additional exam room is \$10,000.</small>				
Total Cost (Year One)				\$232,074
Total All-In PEPM Cost				\$68.10

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SAVINGS BREAKDOWN: YEAR 1

Primary Care Savings				
	Medical without CareHere	CareHere Cost	Savings	Savings PEPM
Average Cost Per Office Visit	\$190.06	\$107.46	\$82.60	
On-Site Visits (Covered Members)	995	995		
Total Cost	\$189,147	\$106,947	\$82,200	\$24.12

Pharmaceutical Savings				
	Marketplace Cost	CareHere Cost of Medication Dispensed	Savings	Savings PEPM
On-Site Dispensary	\$23,487	\$11,743	\$11,743	\$3.45

Administration and Set-Up Cost	
	CareHere Cost
Administration Fee	\$78,384
Clinic Set-Up	\$35,000
Total Cost	\$113,384

Net Savings After All Expenses				
	Medical Without CareHere	Total CareHere Cost	Savings	Savings PEPM
Total Cost/Savings	\$212,634	\$232,074	-\$19,441	-\$5.70

Net Savings (Productivity Included)				
	Medical Without CareHere	Total CareHere Cost	Savings	Savings PEPM
Total Cost	\$212,634	\$232,074		
Productivity Savings	\$49,760			
Total Cost/Savings	\$262,393	\$232,074	\$30,319	\$8.90

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EMPLOYEE CO-PAYMENT SAVINGS: YEAR 1

Office Visit Co-Pay Savings to Employees

	Visit Total	Average Co-Payment Amount*	Savings	Savings PEPM
Co-Pay Savings	995	\$25.00	\$24,880	\$7.30

Pharmacy Co-Pay Savings to Employees

	CareHere Total Scripts	Average Co-Payment Amount*	Savings	Savings PEPM
Co-Pay Savings	995	\$10.00	\$9,952	\$2.92

Total Co-Pay Savings

		Savings	Savings PEPM
Co-Pay Savings		\$34,832	\$10.22

*The co-payment totals are assumptions. The totals will be updated once the actual co-payment totals are provided.

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COST BREAKDOWN: YEARS 1 - 5

Utilization and Medical Provider Hours

	Year 1	Year 2	Year 3	Year 4	Year 5
Employee Visit % Shift from Marketplace	40%	50%	60%	70%	70%
Employee Visit Total	995	1,244	1,493	1,742	1,742
Physician Hours	4	4	4	4	4
Mid-Level Provider Hours	<u>16</u>	<u>16</u>	<u>16</u>	<u>16</u>	<u>16</u>
Total Medical Provider Hours	12	20	20	20	20
Total Nurse Hours	16	20	20	20	20

Operational Cost Breakdown

	Year 1	Year 2	Year 3	Year 4	Year 5
Staffing	\$96,000	\$167,960	\$174,678	\$181,666	\$188,932
Pharmaceuticals	\$11,743	\$16,147	\$21,314	\$27,353	\$30,088
Labs	\$5,971	\$7,763	\$9,688	\$11,754	\$12,224
Supplies	\$4,976	\$6,469	\$8,073	\$9,795	\$10,187
Set-Up Estimate: Equipment and Supplies	\$35,000				
Administration Fee (PEPM) 284 Employees at \$23 PEPM:	\$78,384	\$78,384	\$78,384	\$78,384	\$78,384
Projected Total:	\$232,074	\$276,722	\$292,137	\$308,952	\$319,816

1. Staffing assumes a 4% annual increase to account for market trends. The staffing cost is 100% pass-through, so if the trend remains flat, then there will be no requirement to pay for staffing at an increasing rate.

2. Pharmacy / Dispensary is a 100% pass-through cost. Assumes a 10% annual increase to account for market trends.

3. Labs and Supplies are a 100% pass-through cost. Assumes a 4% annual increase to account for market trends.

* CareHere provides a health risk assessment (30 panel biometric screening) to all employees. The HRA is included as part of the administration fee.



City of Morgantown

ESTIMATED RETURN ON INVESTMENT: YEARS 1 - 5

	Year 1	Year 2	Year 3	Year 4	Year 5	Total
Employee Total Visits	284 995	284 1,244	284 1,493	284 1,742	284 1,742	7,215
Medical Claims Savings	\$82,200	\$63,700	\$114,433	\$169,123	\$175,888	\$605,344
Pharmaceutical Savings	\$11,743	\$16,147	\$21,314	\$27,353	\$30,088	\$106,646
Productivity Savings	\$49,760					\$49,760
Wellness & Case/Disease Management Savings		\$81,348	\$217,199	\$415,655	\$637,231	\$1,351,432
Administration Fee (PEPM)	(\$78,384)	(\$78,384)	(\$78,384)	(\$78,384)	(\$78,384)	(\$391,920)
Set-Up Estimate: Equipment and Supplies	(\$35,000)					(\$35,000)
Annual Savings Through CareHere	\$30,319	\$82,811	\$274,562	\$533,747	\$764,823	\$1,686,262

Estimated Return on Investment Ratio: \$1 to \$1.13 \$1 to \$1.30 \$1 to \$1.94 \$1 to \$2.73 \$1 to \$3.39 \$1 to \$2.18

	Employer	Employee Co-Pay
Accumulative Savings Year 1:	\$30,319	\$34,832
Accumulative Savings Year 3:	\$387,692	\$130,619
Accumulative Savings Year 5:	\$1,686,262	\$252,531

Medical Data Collection



City of Morgantown

The data you are providing below includes costs for the health plan year ending on (mm/dd/yy):

12/31/2014

Enter the total number of months included in the current year data below:

12

Add Notes for exceptions, comments, etc.

Year Ending December-14	Year Ending December-13	Year Ending December-12	Notes
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Total Medical costs should include

All Medical, Drug, Work Comp (if applicable)

Total Medical (as given):			
Annualized Total Medical Costs:	\$ 3,845,668		

Prescription Costs (as given):			
Breakout of Prescription Costs:	\$ 874,536		
Prescription Costs PEPY:	\$ 3,016		
% of Total Medical Claims:	22.7%	0.0%	0.0%

Primary Care costs should include

Dr/Office visit, Diagnostic & Lab (DXL), ER visits, Prevention

Primary Care Costs (as given):	\$ -		
Annualized Primary Care Costs:	\$ 464,286	\$ -	
% of Total Medical Claims:	12.1%	0.0%	0.0%

Primary Care Office Visits (as given):			
CareHere Visit Total	2,541		
Average Primary Care Office Visit Cost:	\$ 182.75	\$ -	\$ -

Total Number of Employees with Medical Benefits:	290			Retirees & Actives
Total Medical Costs PEPY:	\$ 13,261	\$ -	\$ -	
% Increase YoY	0.0%	0.0%		

Year Ending
December-15

Planned number of Employees for next year: 284

Planned number of Retirees for next year:

Average hourly wage per employee: \$ 20.00

Should census vary more than 10% in a 12-month period, this projection is subject to revision.

Proposal Assumptions

Total Health Plan % Annual Increase:	3%	Estimated Avg Office Visit:	\$ 182.75
Primary Care % Annual Increase:	4%		
Prescriptions % Annual Increase:	10%		
Medical Provider Mix: Doctors	50%	Physician Extender (NP/PA)	50%

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Medical & Health Services:

- Primary Care
- Acute Care
- Episodic Care
- Patient Medication Adherence
- Pharmaceutical Dispensary
- Mail Order Medication
- Immunizations
- Sports Physicals
- Plan of Care Compliance



Wellness:

- Case Management
 - Weight Management
 - Hypertension Management
 - Addiction Intervention
 - Pre-Diabetes Management
 - Lipid Management
 - Stress Management
 - Nutritional Counseling
 - Plan of Care Compliance
 - Mental Health Management
 - Disease Management
 - Tobacco Cessation
 - Exercise Adherence
 - Cardiovascular Risk Reduction
- *Health Risk Assessments/28
Panel Biometric Blood Draw**



Staffing:

- CareHere Staffing
- Wellness Coaches
- Accounting
- Training
- Pharmacist
- Director of Client/
Clinic Operations
- Care Coordinator/
Case Manager
- Medical Staff Management
- Medical Provider Management
- Medical Staff Recruitment
- Medical Provider Recruitment
- Medical Malpractice Insurance



Technology:

- Electronic Medical Record
- CareHere Connect
- Information Technology
- Online Appointment Scheduler
- Smartphone Application
- EMR Access & Integration with Outside Specialist/PCP/ER



Clinical Outcome Services

- Self-Care Education Tools
- Reporting
- Purchasing Coordination
- Clinic Inventory Management
- Patient Survey Feedback
- Clinic Best Practices Sharing
- Integration of Services
- ROI Analysis
- Budget Adherence



Support Services

- 24/7 Call-Center
- 1-800 Customer Support
- Education Tools
- Marketing
- Information Technology Support
- HRA Employee Events

CAREHERE.COM

Features & Services

2014

Long Term Prevention Program

Population Health Management	Programs are designed specifically to target chronic health problems.
Disease/Case Management	To help patients control and manage high risk health factors, CareHere offers over 180 wellness initiatives, as well as health coaches to better educate the patient on healthy decision making.
LabInsight Health Risk Assessments	30 panel biometric screening/questionnaire
Self-Care Education Tools	Available through print material, the CareHere website, coaches, email, webinars, phone app, newsletters, etc.
Integrated Service	A unified approach to primary care, acute care, case/disease management, and wellness services provide the optimal experience for the patient.
Promotions/Incentives	Wellness promotions are conducted periodically to re-energize patients and inspire them to take the appropriate steps toward leading a healthier lifestyle. Incentive plans can be developed to further encourage participation as well.

Comprehensive Health Education Training

Weight Management	Exercise Adherence
Diabetes/Pre-Diabetes Management	Hypertension Management
Lipid Management	Stress Management
Smoking Cessation	Mental Health Management
Plan of Care Compliance	Cardiovascular Risk Reduction
Addiction Intervention	Medication Adherence

Program Enablers and Infrastructure

24/7 Nurse Telephone Line	CareHere provides a 24/7 nurse telephone line for online appointment scheduling and health related questions.
Online Scheduling System	Scheduling an appointment is only a few clicks away. Each appointment slot allows the patient to spend a full 20 minutes with the health center medical provider.
Electronic Medical Management & Tracking System	CareHere developed its own electronic medical record (EMR) system, which documents all patient activity within or outside the health center.
Best Practices Sharing Among Health Centers	Successful techniques, methods, and processes are communicated and shared with all CareHere health and wellness centers.
Health Center Inventory Management	A thorough medical inventory check is performed once a month. Any expired medications or supplies are appropriately disposed of.
Physician Recruiting	This is one of the most important tasks when implementing a health and wellness center. Success is directly related to the quality of the medical personnel. Their personality and interaction with the patient is what drives the patient to return and utilize the health center.
Staff Management	Clinical Quality Improvement (CQI) is a program integrating both physician and ancillary staff actions to provide quality healthcare. It establishes a framework for continuously improving patient care and services by encouragement. This promotes the staff to work individually and as a team, and also eliminates any barriers that affect the quality of care.
Annual Analysis, Trends, Reporting, and Survey Results	Management reports are provided by CareHere to show financial analysis, health center utilization, population health status, HRA participation, patient satisfaction, and all other ad hoc reports. Also, analysis can be provided that includes information on medications, labs, procedures, diagnosis, providers, and wellness results.

ORDINANCE NO. _____

AN ORDINANCE AMENDING SECTION 1329.02, TABLE 1331.05.01, AND SECTION 1331.06 OF THE PLANNING AND ZONING CODE AS IT RELATES TO URBAN AGRICULTURE AND ARTICLE 505 OF THE GENERAL OFFENSES CODE AS IT RELATES TO ANIMALS AND FOWL.

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 farmer's 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, Table 1331.05.01, and Section 1331.06 of the City's Planning and Zoning Code and Article 505 of the City's General Offenses Code are amended as follows (deleted matter struck through; new matter underlined):

Article 1329.02 DEFINITION OF TERMS.

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, aquaponics, 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 (with animals) –The keeping and/or production, principally for use or consumption of the resident of the premises, of certain animals and/or their products and for sale to others where such sales are incidental. Such keeping and/or production includes, as permitted, bees and apiary products, domestic poultry, and/or rabbits. Permits and/or approvals must be issued, if applicable, for an ACCESSORY STRUCTURE and/or HOME OCCUPATION.

AGRICULTURE, HOME (with no animals) – Gardening and/or production, principally for use or consumption of the resident of the premises, of plants and/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, berries, etc.; vegetables; and, floral ornamental and non-commercial greenhouse products. 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 the zoning ordinance. The keeping and/or raising of animals at a COMMUNITY GARDEN site is prohibited.

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

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.

PREMISES – An area of land occupied by the principal building(s), accessory structure(s), and/or other physical uses which are an integral part of the activity conducted upon the land and such open spaces as are arranged and designed to be used in conjunction with that activity.

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	<u>C</u>	P	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	28
Agriculture, Commercial	<u>C</u>										<u>C</u>	35
Agriculture, Home (with animals)	<u>A</u>	36										
Agriculture, Home (with no animals)	<u>A</u>	37										
Greenhouse, Noncommercial	A	A	A	A	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>PA</u>	

Article 1331.06 SUPPLEMENTAL REGULATIONS PERTAINING TO PERMITTED LAND USES TABLE.

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

- (a) The Board of Zoning Appeals must determine a 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.

(36) The following regulations are specific to HOME AGRICULTURE (with animals) uses:

- (a) The use shall not create a nuisance due to noise, dust, rodents, and/or obnoxious odor.
- (b) All HOME AGRICULTURE related animal structures and roaming areas shall be kept sanitary and free from accumulations of animal excrement and obnoxious odor.
- (c) The keeping of HOME AGRICULTURE related animals shall be permitted only on a premises where there is an occupied dwelling unit.
- (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) Pens, coops, coop fences, apiary, or similar structures are subject to applicable building code requirements and shall be well maintained.
- (f) Pens, coops, including fences for coops, apiary, or similar structures utilized for the keeping of permitted HOME AGRICULTURE related animals:
 - (i) Shall not be placed in the front yard. If placed in a side yard, shall not be located closer to the street than the building line of the principal building.
 - (ii) On corner lots, shall not be located between any portion of the principal building and either street.
 - (iii) Shall not be placed closer than ten (10) feet to the side or rear property line nor closer to the principal building(s) of adjoining premises than to the principal building to which such structures are accessory, whichever is greater.
 - (iv) In residential districts, shall comply with the provisions of Section 1331.08

governing accessory structures and fences; provided that in the case of a conflict these supplemental regulations shall apply.

- (g) Rooftop HOME AGRICULTURE (with animals) 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.
 - (h) Domestic Poultry. Ownership, care and control of domestic poultry shall be the responsibility of a resident of the premises. 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. The number of Domestic Poultry may not exceed the maximum number of animals permitted by applicable law, including but not limited to City Code Article 505.
 - (i) Rabbits. Ownership, care and control of rabbits shall be the responsibility of a resident of the premises. Free-range shall be prohibited and rabbits shall be confined to a pen and/or coop, where permitted, twenty-four (24) hours each day. The number of Rabbits may not exceed the maximum number of animals permitted by applicable law, including but not limited to City Code Article 505.
 - (j) Hoofed Animals. Hoofed animals, including but not limited to cattle, horses, goats, sheep, pigs, deer, and donkeys, may not exceed the maximum number of animals permitted by applicable law, including but not limited to City Code Article 505.
 - (k) All animal feed shall be stored in a secured, rodent-proof container and housed within an enclosed structure.
 - (l) HOME OCCUPATION approval is required for the incidental sale of HOME AGRICULTURE (with animals) production; except, that HOME OCCUPATION supplemental regulations provided in Section 1331.06(2)(c), Subsections (iv) and (v) of this Ordinance shall not apply to HOME AGRICULTURE (with animals) uses.
- (37) The following regulations are specific to HOME AGRICULTURE (with no animals) uses:
- (a) The use shall not create a nuisance due to noise, dust, rodents, and/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 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 and shall be well maintained, and the cover shall be removed and stored when plants are not being cultivated.
- (e) Structures referenced in subsection (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 building.
 - (ii) On corner lots, shall not be located between any portion of the principal building and either street.
 - (iii) Shall not be closer than five (5) feet to the side or rear property line.
 - (iv) In residential districts, shall comply with the provisions of Section 1331.08 governing accessory structures and fences; provided that in the case of a conflict these supplemental regulations shall apply.
- (f) Rooftop HOME AGRICULTURE (with no animals) 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) All seed and fertilizer shall be stored in a secured, rodent-proof container and housed within an enclosed structure.
- (h) HOME OCCUPATION approval is required for the incidental sale of HOME AGRICULTURE (with no animals) production; except, that HOME OCCUPATION supplemental regulations provided in Section 1331.06(2)(c), Subsections (iv) and (v) of this Ordinance shall not apply to HOME AGRICULTURE (with animals) uses.

505.01. DOGS AND OTHER ANIMALS RUNNING AT LARGE.

(a) No person being the owner or having charge of ~~cattle, sheep, geese, ducks, turkeys, chickens or other~~ fowl or animals shall permit them to run at large upon any public place, or upon any unenclosed lands, or upon the premises of another.

(b) ~~No person being the owner of or having charge of any dog shall permit it to run at large upon any public place or upon the premises of another.~~ Dogs not confined on the owner's property shall be maintained on a leash of a length no longer than six feet. The name and address of the owner and the City tax tag shall be attached to the collars of dogs at all times. The regulations governing the keeping of dangerous dogs as set forth in Section 505.04 shall supersede any conflicting provisions within this subsection.

(c) The running at large of any ~~such~~ animal in or upon any of the places mentioned in this section is prima-facie evidence that it is running at large in violation of this section.

(d) For purposes of this section, cats shall be permitted to run at large only if such cat is wearing identification as set forth in Section 505.15.

(e) Should any dog, while running at large, bite or otherwise inflict injury upon any person, the person or owner having charge of any such dog shall be guilty of a misdemeanor, shall be fined five hundred dollars (\$500.00), and may be ordered by the Municipal Judge to provide restitution, where appropriate. A conviction for the violation of this particular subsection shall not be a prerequisite for the filing of a civil action by the victim of any such dog incident.

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.~~

(a) Definitions. For purposes of this section, the following terms shall have the stated meanings:

(i) Commercial Agriculture means that term defined in Section 1329.02 of the Planning and Zoning Code

(ii) Commercial Kennel means that term defined in Section 1329.02 of the Planning and Zoning Code

(iii) Domestic Poultry means domesticated birds kept for eggs, meat, feathers, etc. that include chicken and duck but shall not include turkey, goose, pigeon, pheasant, partridge, guinea fowl, peafowl, quail, ratite, ostrich, emu, or rhea.

- (b) ~~Permitting Pens to Become Offensive. No person shall permit any yard, kennel, pen, coop, apiary structure or other similar structures wherein live animals may be confined, kept or housed to become or be offensive, noxious or deleterious to health.~~
- (c) ~~Chickens. No person shall confine, keep or house chickens or other domestic fowl, exceeding two in number, in any pen, coop or structure located within eighty feet of the residence or dwelling of any other person without the consent in writing of such other person; provided, that this section shall not be construed to prohibit the proprietor of any market, hotel, restaurant, boarding house or residence from keeping or confining for sale or slaughter chickens or other fowls in a pen or coop within such prescribed limit for a period not exceeding ten days; provided that such pen or coop is thoroughly cleaned at least once during each forty-eight hour period and rendered free from offensive, noxious or deleterious odors.~~
- (d) ~~Permitting Coops to Become Offensive. No person shall permit any pen, coop or other structure wherein chickens or other fowl may be confined, kept or housed, to become offensive, noxious or deleterious to health.~~
- (e) (c) ~~Stables. Whoever shall keep a stable within the City shall cause all the stable manure produced thereat 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.~~
- (d) Number and Type of Animals Permitted.
- (i) Turkey, goose, pigeon, pheasant, partridge, guinea fowl, peafowl, quail, ratite, ostrich, emu, rhea, and roosters shall not be kept as domestic animals.
- (ii) A maximum of four domestic poultry birds may be kept at any residence or structure, whichever is more restrictive.
- (iii) A maximum of three rabbits may be kept at any residence or structure, whichever is more restrictive.
- (iv) Hoofed animals – including but not limited to cattle, horses, goats, sheep, pigs, deer, and donkeys – shall not be kept as domestic animals; provided that this restriction shall not limit the otherwise lawful passage of such animals through the City.
- (e) Registration. The resident of any premises responsible for the ownership, care, and control of animals permitted by this Section 505.02 shall register with the City Manager's office on a form prescribed by the City Manager or his designee within sixty (60) days of the date of adoption of this ordinance, and, if not keeping permitted

animals at the time of adoption of this ordinance, prior to keeping or maintaining any animal permitted by this Section 505.02.

(f) Exemptions. Paragraphs (d) and (e) of this section shall not apply to

(i) COMMERCIAL AGRICULTURE uses otherwise permitted by the Planning and Zoning Code;

(ii) COMMERCIAL KENNEL uses otherwise permitted by the Planning and Zoning Code;

(iii) educational programs conducted at educational institutions owned and controlled by the State of West Virginia or the Monongalia County Board of Education; or

(iv) programs or activities operated by the Board of Park and Recreation Commissioners.

505.99 PENALTY.

(a) Whoever violates Section 505.01(b) shall be fined not more than one hundred dollars (\$100.00). Second offenders of Section 505.01(b) shall be subject to the penalty provided in Section 501.99 and also be given the alternative of paying the maximum fine under this section or present evidence of having their dogs spayed or neutered within thirty days of any violations hereof.

(b) Whoever violates Section 505.11 shall be fined not more than twenty-five dollars (\$25.00); provided, that after any violation has been called to the attention of the violator by any member of the Police Department of this City, each day on which such violation continues or is repeated shall constitute a separate offense.

(c)

(1) Whoever violates Section 505.03(a) shall be fined not less than three hundred dollars (\$300.00) nor more than two thousand dollars (\$2,000) or imprisoned not more than thirty days, or both, for a first offense. Any person convicted of a second or subsequent violation of Section 505.01(a) shall be imprisoned for not more than thirty days or fined not less than five hundred dollars (\$500.00) nor more than three thousand dollars (\$3,000), or both. The incarceration set forth in this subsection shall be mandatory unless the provisions of subsection (c)(2) are complied with.

(2)

A. Notwithstanding any provision of this Code to the contrary, no person who has been convicted of a violation of the provisions of Section 505.03(a) may

be granted probation until the defendant has undergone a complete psychiatric or psychological evaluation and the court has reviewed such evaluation. Unless the defendant is determined by the court to be indigent, he or she shall be responsible for the cost of said evaluation.

B. For any person convicted of a violation of subsection (c) of this section, the court may, in addition to the penalties provided in this section, impose a requirement that he or she complete a program of anger management intervention for perpetrators of animal cruelty. Unless the defendant is determined by the court to be indigent, he or she shall be responsible for the cost of the program.

(3) In addition to any other penalty which can be imposed for a violation of Section 505.03, a court shall prohibit any person so convicted from possessing, owning or residing with any animal or type of animal for a period of five years following entry of a conviction. A violation under this subsection is punishable by a fine not exceeding two thousand dollars (\$2,000) and forfeiture of the animal.

(d) Whoever violates Section 505.03(b) shall be fined not less than five hundred dollars (\$500.00) nor more than two thousand dollars (\$2,000).

(e) Whoever violates Section 505.031 shall be fined not more than one thousand dollars (\$1,000) or imprisoned not more than thirty days, or both. In addition, the Humane Officer may remove the dog or cat involved and place it in the pound and such dog or cat shall not be returned to the owner or perpetrator of the act of cruelty, but shall be put up for adoption to a desirable home, or given into the care of a humane society or upon the recommendation of a licensed veterinarian shall be humanely destroyed.

(f) In addition to any other penalty provided by law, any animal kept in violation of Section 505.02 or on premises in violation of Section 505.02 may be impounded, sold, or destroyed.

This ordinance shall be effective upon date of adoption.

FIRST READING:

Mayor

ADOPTED:

FILED:

RECORDED:

City Clerk

