



Office of the City Clerk

# The City of Morgantown

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## AGENDA MORGANTOWN CITY COUNCIL REGULAR MEETING

August 2, 2016

7:00 p.m.

1. **CALL TO ORDER**
2. **ROLL CALL**
3. **PLEDGE TO THE FLAG**
4. **APPROVAL OF MINUTES: SPECIAL MEETING MINUTES JULY 19, 2016, REGULAR MEETING MINUTES JULY 19, 2016, SPECIAL MEETING MINUTES JULY 26, 2016, AND COW MEETING MINUTES JULY 26, 2016.**
5. **CORRESPONDENCE:**
6. **PUBLIC HEARINGS:**
  - A. AN ORDINANCE AMENDING SECTIONS 1329.02, 1331.05, 1331.06 AND 1331.07 OF THE CITY OF MORGANTOWN PLANNING AND ZONING CODE AS THEY RELATE TO CONSUMER FIREWORKS RETAIL SALES AND CONSUMER FIREWORKS WHOLESALE ESTABLISHMENTS.
  - B. AN ORDINANCE AMENDING THE FY 2016 – 2017 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 COAL SEVERANCE FUND.
  - C. AN ORDINANCE AMENDING THE FY 2016 – 2017 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.
7. **UNFINISHED BUSINESS:**
  - A. Consideration of **APPROVAL** of (**SECOND READING**) and (**ADOPTION**) of AN

**ORDINANCE AMENDING SECTIONS 1329.02, 1331.05, 1331.06 AND 1331.07 OF THE CITY OF MORGANTOWN PLANNING AND ZONING CODE AS THEY RELATE TO CONSUMER FIREWORKS RETAIL SALES AND CONSUMER FIREWORKS WHOLESALE ESTABLISHMENTS. (First reading July 5, 2016)**

**B. Consideration of APPROVAL of (SECOND READING) and (ADOPTION) of AN ORDINANCE AMENDING THE FY 2016 – 2017 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 COAL SEVERANCE FUND. (First reading July 19, 2016)**

**C. Consideration of APPROVAL of (SECOND READING) and (ADOPTION) of AN ORDINANCE AMENDING THE FY 2016 – 2017 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. (First reading July 19, 2016)**

**D. 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 PROVIDING FOR THE ZONING RECLASSIFICATION OF TWO (2) PARCELS OF REAL ESTATE IN THE SIXTH WARD OF THE CITY OF MORGANTOWN FROM R-1, SINGLE-FAMILY RESIDENTIAL DISTRICT TO R-1A, SINGLE-FAMILY RESIDENTIAL DISTRICT BY AMENDING ARTICLE 1331 OF THE PLANNING AND ZONING CODE OF THE CITY OF MORGANTOWN AS SHOWN ON THE EXHIBIT HERETO ATTACHED AND DECLARED TO BE A PART OF THIS ORDINANCE AS IF THE SAME WAS FULLY SET FORTH HEREIN.**

**B. Consideration of APPROVAL of (FIRST READING) of AN ORDINANCE AMENDING SECTIONS 1329.02, 1349.08, AND 1365.04 OF THE CITY OF MORGANTOWN PLANNING AND ZONING CODE AS THEY RELATE TO BICYCLE STORAGE REQUIREMENTS.**

C. Consideration of **APPROVAL** of (FIRST READING) of **AN ORDINANCE AMENDING ARTICLES 1383, 1389, AND 1391 OF THE CITY'S PLANNING AND ZONING CODE GOVERNING ADMINISTRATIVE APPEALS AND THE ESTABLISHMENT, POWERS AND DUTIES, AND JUDICIAL REVIEW OF THE BOARD OF ZONING APPEALS.**

D. Consideration of **APPROVAL** of (FIRST READING) of **AN ORDINANCE AMENDING ARTICLE 1329.02, TABLE 1331.05.01, ARTICLE 1365.04, AND ARTICLE 1365.07 OF THE CITY'S PLANNING AND ZONING CODE AS THEY RELATE TO PARKING LOT AND PARKING STRUCTURE USES.**

E. Consideration of **APPROVAL** of (FIRST READING) of **AN ORDINANCE AMENDING ARTICLE 767 OF THE CITY CODE PROVIDING FOR A HOTEL TAX.**

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

**New Business:**

1. City Garage cleanup remediation
2. Main Street Morgantown request

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)

Thursday, July 14, 2016

## **City Manager's Report for City Council Meeting on August 2, 2016**

### **New Business:**

#### **1. City Garage cleanup remediation**

Attached is a memo from Damien Davis, City Engineer and Public Works Director regarding the final phase of a cleanup site at the City Garage. The City has been working with DEP on this issue for many years. We are coming to the end of the remediation and need to finance the final phase of the cleanup. I agree with the memo and recommend budgeting \$15,000 from Capital Escrow contingency to pay for the final phase of cleanup at the City Garage.

#### **2. Main Street Morgantown request**

Attached is a letter from Main Street Morgantown requesting the closure of two City Streets, the waiver of a City Ordinance, approval of eight floor plan extensions for a four-hour period on September 2, 2016 leading up to the home football games, 6pm to 10pm.

Jeff Mikorski ICMA-CM,  
Morgantown City Manager

# Memo

## City of Morgantown Department of Public Works and Engineering

**To:** Jeff Mikorski, City Manager  
**From:** Damien Davis, Public Works Director *DD*  
**Subject:** Request Additional Funds for Public Works-Cleanup, Budget No. 63.631.59.35  
**Date:** July 26, 2016

Jeff,

I am requesting \$15,000 be added to the Public Works-Cleanup budget line. This budget line is used for the remediation efforts at the City Garage site due to a fuel tank leak in 1989. Last year we contracted with Environmental Standards to help the City work with WV DEP to achieve a certificate of Completion. This work was broken into two phases. Environmental Standards has completed work on the first phase. The additional funds requested are to pay for the 2<sup>nd</sup> and final phase.

The total estimated cost for the 2<sup>nd</sup> phase is \$24,880. \$11,890 of which will be paid from a reimbursement for previous work completed by the City from the WV DEP LUST (Leaking Underground Storage Tank) account. Work to be completed in this final phase includes:

1. Updating the Risk Assessment report submitted to WV DEP in 2013
2. Creation of a Remedial Action Work Plan
3. Drafting Land Use Covenant
4. A Final Report requesting a No Further Action decision



# MAIN STREET morgantown

[downtownmorgantown.com](http://downtownmorgantown.com) ♦ [director@downtownmorgantown.com](mailto:director@downtownmorgantown.com)

Main Street Morgantown, Inc. ♦ 201 High St., Suite 2 ♦ Morgantown, WV 26505 ♦ (304) 292-0168

July 27, 2016

Dear Mr. Mikorski-

I am writing in regard to a proposed forthcoming event to be held on **September 2, 2016**. The name of the event is High Street Fanfair, and will take place from **6-10 pm** on 9/2. For the event, the section of High Street from Willey Street to Walnut Street will be closed during the proposed event time. That section of High Street from Fayette Street to Walnut Street will be cordoned off with barriers/fencing during that time so that the 300 block can be used for a concert and outside alcoholic beverages (beer). We will have security stationed at the access/egress points in this section to monitor for the alcohol, along with signage indicating the area for alcohol (NO ALCOHOL BEYOND THIS POINT). We are applying to the ABCA for floor plan extensions for those participating businesses that will serve alcohol for the event. All participating businesses will have plastic cups for the alcoholic beverages and will have wristbands to place on those who order alcohol and have their identification checked inside the establishments. In considering these items, we are formally requesting the following permissions and approvals from the City of Morgantown:

- 1) A waiver of the city ordinance prohibiting open containers for alcohol in the prescribed area (300 block) from 6-10 pm.
- 2) Approval of the ABCA floor plan extension for the participating businesses in the 300 block- Jameson's Pub and Grill, Gibbie's Pub and Eatery, Jo Mama's, Boston Beanery, Sports Page, Big Time's, The Bank, Chaang Thai Restaurant.
- 3) Closure of Forest Avenue from Chestnut Street to Spruce Street from 6-10 pm.
- 4) Closure of Fayette Street from Don Knotts Blvd. to Spruce Street from 6-10 pm.

Please let us know if you should have any questions or require anything further for this request. We greatly appreciate your attention to this matter.

Sincerely,

Travis Henline

Director, Main Street Morgantown

**SPECIAL MEETING July 19, 2016:**

The Special Meeting of the Common Council of the City of Morgantown was held in the Council Chambers on Tuesday, July 19, 2016 at 5:48 p.m.

**PRESENT:** City Clerk Linda Tucker, Mayor Marti Shamberger, Deputy Mayor Bill Kawecki and Council Members, Wes Nugent, Jenny Selin, Jay Redmond, Nancy Ganz. (Ron Bane Absent)

The meeting was called to order by the Mayor.

**INTERVIEWS FOR VARIOUS BOARDS AND COMMISSIONS:**

Questions were posed to the following candidates from Council:

David Saville – Human Rights Commission  
Charlie Byrer – Museum Commission  
Nick Wright – 1<sup>st</sup> Ward Traffic Commission  
Patrick Hathaway – 1<sup>st</sup> Ward Traffic Commission & Fire Code Board of Appeals  
Paul Steel – 2<sup>nd</sup> Ward Traffic Commission  
Kyle Haugh – 5<sup>th</sup> Ward Traffic Commission & Fire Code Board of Appeals

**EXECUTIVE SESSION:** Pursuant to WV State Code Section 6-9A-4(b) (2) (A) motion by Ganz, second by Selin to go into executive session in order to discuss personnel matters in considering appointments to Human Rights Commission, Museum Commission, Traffic Commission and Fire Code Board of Appeals. Present: Council. Time: 6:50 p.m.

**ADJOURNMENT:**

There being no further business, Council adjourned the Special Meeting at 7:00 p.m.

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City Clerk

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Mayor

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

**REGULAR MEETING JULY 19, 2016:** The regular meeting of the Common Council of the City of Morgantown was held in the Council Chambers of City Hall on Tuesday, July 19, 2015 at 7:04 p.m.

**PRESENT:** City Manager Jeff Mikorski, Assistant City Manager & Airport Director Glen Kelly, City Attorney Ryan Simonton, City Clerk Linda Tucker, Council Members: Ron Bane, Deputy Mayor Bill Kaweck, Wes Nugent, Jenny Selin, Mayor Marti Shamberger, Jay Redmond, and Nancy Ganz.

The meeting was called to order by Mayor Shamberger.

**APPROVAL OF MINUTES:** Special Meeting Minutes for June 21 & 28, 2016 were approved by acclamation. COW Minutes for June 28, 2016 & Regular Meeting Minutes for July 5<sup>th</sup>, 2016 were approved by acclamation. June 21<sup>st</sup>, 2016 were approved as corrected.

**CORRESPONDENCE:** No correspondence.

**PUBLIC HEARING – AN ORDINANCE AMENDING CHAPTER SEVEN OF THE TRAFFIC CODE GOVERNING PARKING WITHIN THE CITY, CREATING REGULATIONS AND CHARGES FOR DISPLAY OF PERMITS, MODIFYING PARKING ZONES AND RATES, AND AUTHORIZING IMMOBILIZATION OF CERTAIN VEHICLES IN METERED SPACES:**

Mayor Shamberger declared the Public Hearing open.

Tom Arnold, Parking Authority Director, explained that coins can still be used in the meters and that the change is a way to get those that are parking all day at one meter to move to open up spaces for those that want to shop downtown.

Charles McEwuen, Chair of Parking Authority, stated that raising the parking rates is not to raise revenue but instead is a parking management tool.

Kyle McAvoy, 814 Clinton Avenue, stated that this raise in the parking fee will turn people away from the downtown, and encouraged Council not to pass the Ordinance.

There being no more appearances, Mayor Shamberger declared the Public Hearing closed.

**PUBLIC HEARING – AN ORDINANCE AMENDING ARTICLES 1713 AND 1717 OF THE CITY CODE AND ADOPTING THE 2015 STATE BUILDING CODE.**

There being no appearances, Mayor Shamberger declared the Public Hearing closed.

**PUBLIC HEARING – AN ORDINANCE REPEALING ORDINANCES 2014-38 AND 2014-39 PROVIDING FOR A DOWNTOWN BUSINESS DISTRICT HEAVY TRUCK LIMITATION.**

There being no appearances, Mayor Shamberger declared the Public Hearing closed.

**PUBLIC HEARING – AN ORDINANCE AMENDING CITY CODE ARTICLE 545 RELATING TO GENERAL OFFENSES INVOLVING WEAPONS.**

There being no appearances, Mayor Shamberger declared the Public Hearing closed.

**PUBLIC HEARING – AN ORDINANCE AMENDING CITY CODE SECTION 545.10 REGULATING SALE, POSSESSION, AND USE OF FIREWORKS; REPEALING ARTICLE 752 ESTABLISHING A NOVELTY AND SPARKLER FEE; AND AMENDING SECTION 1511.02 TO PRESERVE FIRE MARSHALS ENFORCEMENT OF FIREWORKS REGULATIONS.**

There being no appearances, Mayor Shamberger declared the Public Hearing closed.

**PUBLIC HEARING – AN ORDINANCE AMENDING ARTICLE 149 OF THE CITY CODE RELATING TO THE BOARD OF PARKS AND RECREATION COMMISSIONERS.**

There being no appearances, Mayor Shamberger declared the Public Hearing closed.

**PUBLIC HEARING – AN ORDINANCE AMENDING ARTICLE 941.**

There being no appearances, Mayor Shamberger declared the Public Hearing closed.

**UNFINISHED BUSINESS:**

**AN ORDINANCE AMENDING CHAPTER SEVEN OF THE TRAFFIC CODE GOVERNING PARKING WITHIN THE CITY:** The below entitled Ordinance was presented for second reading

AN ORDINANCE AMENDING CHAPTER SEVEN OF THE TRAFFIC CODE GOVERNING PARKING WITHIN THE CITY, CREATING REGULATIONS AND CHARGES FOR DISPLAY OF PERMITS, MODIFYING PARKING ZONES AND RATES, AND AUTHORIZING IMMOBILIZATION OF CERTAIN VEHICLES IN METERED SPACES.

Council suspended the rules by acclamation to have Tom Arnold, Parking Authority answer questions. After discussion, motion by Kawecki, second by Selin, to adopt the above entitled Ordinance. Motion carried 7-0.

**AN ORDINANCE AMENDING ARTICLES 1713 AND 1717 OF THE CITY CODE AND ADOPTING THE 2015 STATE BUILDING CODE:** The below entitled Ordinance was presented for second reading.

AN ORDINANCE AMENDING ARTICLES 1713 AND 1717 OF THE CITY CODE AND ADOPTING THE 2015 STATE BUILDING CODE.

After discussion, motion by Ganz, second by Kawecki, to adopt the above entitled Ordinance. Motion carried 7-0.

**AN ORDINANCE REPEALING ORDINANCES 2014-38 AND 2014-39 PROVIDING FOR A DOWNTOWN BUSINESS DISTRICT HEAVY TRUCK LIMITATION:** The below entitled Ordinance was presented for second reading.

AN ORDINANCE REPEALING ORDINANCES 2014-38 AND 2014-39 PROVIDING FOR A DOWNTOWN BUSINESS DISTRICT HEAVY TRUCK LIMITATION.

Motion by Redmond, second by Kawecki, to adopt the above entitled Ordinance. After discussion, motion by Kawecki, second by Ganz to amend the local permit portion. Ordinance amended with the following language: "For each such permit, the City Manager shall charge twenty-five dollars and for each hour of time and part thereof spent by each police officer in supervising the movement of such vehicle, the applicant shall pay thirty-six dollars and eighty-three cents." Motion carried 7-0 for amendment. Question was called on the main motion. Motion carried 7-0.

**AN ORDINANCE AMENDING CITY CODE ARTICLE 545 RELATING TO GENERAL OFFENSES INVOLVING WEAPONS:** The below entitled Ordinance was presented for second reading.

AN ORDINANCE AMENDING CITY CODE ARTICLE 545 RELATING TO GENERAL OFFENSES INVOLVING WEAPONS.

City Manager explained, motion by Selin, second by Kawecki, to adopt the above entitled Ordinance. Motion carried 7-0.

**AN ORDINANCE AMENDING CITY CODE SECTION 545.10 REGULATING SALE, POSSESSION, AND USE OF FIREWORKS:** The below entitled Ordinance was presented for second reading.

AN ORDINANCE AMENDING CITY CODE SECTION 545.10 REGULATING SALE, POSSESSION, AND USE OF FIREWORKS; REPEALING ARTICLE 752 ESTABLISHING A NOVELTY AND SPARKLER FEE; AND AMENDING SECTION 1511.02 TO PRESERVE FIRE MARSHALS ENFORCEMENT OF FIREWORKS REGULATIONS.

City Manager explained, motion by Kawecki, second by Ganz, to adopt the above entitled Ordinance. Motion carried 7-0.

**AN ORDINANCE AMENDING ARTICLE 149 OF THE CITY CODE RELATING TO THE BOARD OF PARKS AND RECREATION COMMISSIONERS:** The below entitled Ordinance was presented for second reading.

AN ORDINANCE AMENDING ARTICLE 149 OF THE CITY CODE RELATING TO THE BOARD OF PARKS AND RECREATION COMMISSIONERS.

After discussion, motion by Selin, second by Ganz, to adopt the above entitled Ordinance. Motion carried 7-0.

**AN ORDINANCE AMENDING ARTICLE 941:** The below entitled Ordinance was presented for second reading.

AN ORDINANCE AMENDING ARTICLE 941.

City Manager explained, motion by Selin, second by Kawecki, to adopt the above entitled Ordinance. Motion carried 7-0.

**BOARDS AND COMMISSIONS:** By acclamation, the following were appointed: David Saville, Human Rights Commission; Charlie Byrer, Museum Commission; Nick Wright, Ist Ward Traffic Commission; Patrick Hathaway, Fire Code Board of Appeals; Paul Steel, 2<sup>nd</sup> Ward Traffic Commission and Kyle Haugh, 5<sup>th</sup> Ward Traffic Commission & Fire Board of Appeals.

**PUBLIC PORTION:**

Mayor Shamberger declared the Public Portion open.

William Dulin, 488 Hidden Valley Road, stated that in July 8<sup>th</sup> edition of the Dominion Post there was an article on the changes that the Parks were going to make with their restrooms. He noted that one of the rule changes was to designate for the opposite sex, which he was upset and questioned the intent of this change. He stated the City has opened a Pandora's Box and not only is he concerned, but others in the community feel the same and this needs more consideration.

**SPECIAL COMMITTEE REPORTS:** Mayor Shamberger announced that the I-79 Stakeholder Committee would meet on 8-1-2016.

**NEW BUSINESS:**

**AN ORDINANCE AMENDING THE FY 2016 – 2017 ANNUAL BUDGET REVISED AND ATTACHED HERETO AND MADE A PART OF THIS ORDINANCE AS THE SAME APPLIES TO THE COAL SEVERANCE FUND:** The below entitled Ordinance was presented for the first reading.

AN ORDINANCE AMENDING THE FY 2016 – 2017 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 COAL SEVERANCE FUND.

City Manager explained, motion by Selin, second by Ganz, to approve the above entitled Ordinance to second reading. Motion carried 7-0.

**AN ORDINANCE AMENDING THE FY 2016 – 2017 ANNUAL BUDGET REVISED AND ATTACHED HERETO AND MADE A PART OF THIS ORDINANCE AS THE SAME APPLIES TO THE GENERAL FUND:** The below entitled Ordinance was presented for the first reading.

AN ORDINANCE AMENDING THE FY 2016 – 2017 ANNUAL BUDGET REVISED AND ATTACHED HERETO AND MADE A PART OF THIS ORDINANCE AS THE SAME APPLIES TO THE GENERAL FUND.

After discussion, motion by Selin, second by Ganz, to approve the above entitled Ordinance to second reading. Motion carried 6-1 with Nugent voting no.

**A RESOLUTION AUTHORIZING THE CITY MANAGER 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 2016 EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT (JAG) PROGRAM FOR EQUIPMENT ENHANCEMENT FOR THE CITY OF MORGANTOWN:**

City Manager explained, motion by Bane, second by Ganz, to approve the above entitled Resolution. Motion carried 7-0.

**CITY MANAGER'S REPORT:**

**New Business:**

**1. Capital Escrow budget modifications**

With the introduction of additional funding, City Manager, Jeff Mikorski requested the following modifications to the Capital Escrow budget:

- A. Currently \$232,113.47 remains in the Access Road budget line, City Manager, Jeff Mikorski recommends the transfer of funds to the Airport Support (Fuel Farm upgrades, and runway extension property acquisition) budget to keep Airport and the runway extension project moving forward.
  
- B. Main Street Morgantown funding was reduced due to expected carryover from last fiscal year. Invoices for funding have caught up and no carryover is now expected. City Manager, Jeff Mikorski is recommending an increase of \$15,000 to make a total of \$50,000 for the FY 2017 contribution from contingency.
  
- C. Increase the Public Safety Plaza building project line by \$19,000 to cover change orders to the project and landscaping material costs from Capital Escrow contingency.

Motion by Bane, second by Selin to approve the above modifications to the Capital Escrow Budget. Motion carried 7-0.

**2. Home Rule Amendment**

Attached is the proposed Home Rule amendment that will increase the time alcohol can be purchased on Sundays. The attached notice will be published and available for thirty days and a public hearing is requested for Tuesday, September 6, 2016 at 7:00 pm. First reading of the ordinance will take place prior to the September 6, 2016 meeting.

After discussion, motion by Kawecki, second by Redmond to approve the Home Rule Amendment public hearings and first reading of ordinance in September. Motion carried 7-0.

**3. Fire Code Board of Appeals**

The Fire Code Board of Appeals Chairman, Pat Esposito, has requested that two additional alternates be added to the Board so that a quorum can be maintained and new appointments can be a part of the upcoming Board work session. City Manager recommended Patrick Hathaway and Kyle Haugh both be appointed to the Fire Code Board of Appeals. Both has shown interest in serving on a City Board or Commission and were interviewed on Tuesday, July 19, 2016. Council approved both candidates be appointed during Boards and Commissions to serve on Board.

4. City Attorney Ryan Simonton explained the changes with the restrooms at the Parks were done to comply with Federal Laws.

**REPORT FROM CITY CLERK:** No report.

**REPORT FROM CITY ATTORNEY:** No report.

**REPORT FROM COUNCIL MEMBERS:**

Councilor Bane:

Councilor Bane commented that when as he was vacationing in St. Louis, a Police Officer gunned down. He stated that on his way back that a Fire Fighter helped him change a flat tire in Missouri. He challenged everyone to say Thank You to our Police Officers, Fire Fighters and Public Employee for protecting our communities. He wished the City Manager Jeff Mikorski the Best in his new position and noted he has known the City Manager for 30 years and wished him the best.

Councilor Kawecki:

Councilor Kawecki wished the City Manager Jeff Mikorski the best and appreciated his activities in addition, to his initiatives as City Manager. He announced two events: Arts Mon Business After Hours at 5:30 pm on July 20, 2016 and Historic Landmark Commission Report on Downtown and Sunnyside-Up at 7 p.m. at the Public Safety Building.

Councilor Nugent:

Councilor Nugent thanked the City Manager Jeff Mikorski and what he brought to the job as Manager. He thanked Pam Ball & Ian Gray are history of Railroads at the Museum. He announced that the Wiles/Hill Highland Park Neighborhood Meeting is on 7/20/16 at BOPARC Senior Center at 7 p.m. and National Night Out plans will be discussed.

Councilor Selin:

Councilor Selin stated that Verona, Wisconsin is gaining a good City Manager in Jeff Mikorski and thanked him for his dedication, creativity, professionalism and neutrality in all matters. She asked the City Manager what the status was with the bridge in Greenmont. City Manager responded that paperwork for project is at the DOH right now for bidding for construction; we should know something in a couple months. She requested the Manager to follow-up on Greenmont Bridge project and any other projects before he leaves for Verona. Announced the Don Knott's Statue event on 7-27-16 at 10am; 11:30am Comedy Show with Memorabilia in the Met Theatre. She reminded everyone that

Farmers Market and High Street Bazaar will be in downtown Morgantown on 7-27-16. She said that residents have said that Channel 15 is sounding better, but that Council should speak into their mikes. She mentioned that the dumpster by Golds Gym is looking better. She asked when the announcement would be about the new Airlines at the Airport. Glen Kelly, Airport Director stated that when it becomes official there would be an announcement.

Councilor Redmond:

Councilor Redmond thanked City Manager Jeff Mikorski for his 16 years of service to the City and wished him and his family lots of luck. He asked the residents to try to accept the parking changes; this change is for a small percentage of people that are taking up prime spaces to let residents shop downtown. He requested a clarification on the issue of the bathrooms at the park for the citizens.

Councilor Ganz:

Councilor Ganz thanked Councilor Redmond for mentioning the bathroom issue; she stated she is on the BOPARC Board and the decision was made to comply with State and Federal laws. She mentioned that 1.3 million dollars from the City taxes were put into parks and nothing from the County. She mentioned that the City needs to discuss more equity with the County on funding of parks. She announced that Suncrest Neighborhood Association would not meet this month, because of its picnic at Krepps Park. Councilor Ganz thanked the Firefighters and Police Officers for helping with the SCNH picnic at Krepps Park. She announced that MRTC is taking matching donations to place a parking area at end of Collins Ferry Road. She stated that anyone wanting to donate could contact Your Community Foundation or the City Manager's office. She congratulated City Manager Jeff Mikorski on his new job in Verona and wished him and family the best and God speed.

Mayor Shamberger:

Mayor Shamberger that at the Mon Com meeting that they had requested to come to the COW to discuss TIFS and Downtown issues. By consensus, these items will be placed on the COW. Councilor Bane requested discussion of taxing Cats with the County and as Councilor Ganz suggested BOPARC funding. Mayor Shamberger mentioned "Kids Day" that she

worked a booth and what wonderful event it was; and gave compliments to Main Street Morgantown. She stated that the City has received many compliments about the Zacquill Morgan statue. She mentioned how grateful she was to the City Manager Jeff Mikorski for moving our town forward and that Verona, Wisconsin is very lucky.

**EXECUTIVE SESSION:** Pursuant to WV STATE CODE SECTION 6-9A-4(b) (2) (A) motion by Selin, second by Kawecki to go into Executive Session in order to discuss Personnel Matters in considering recruitment for a new employee. Motion carried 7-0. Present: City Council and City Manager Time: 8:55 p.m.

**ADJOURNMENT:** There being no further items of business or discussion, the meeting adjourned by unanimous consent at 9:50 p.m.

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

\_\_\_\_\_  
Mayor

**\*A FULL TRANSCRIPT OF ALL COUNCIL MEETINGS ARE AVAILABLE ON DVD AT THE MORGANTOWN CITY LIBRARY\***

**SPECIAL MEETING July 26, 2016:**

The Special Meeting of the Common Council of the City of Morgantown was held in the Council Chambers on Tuesday, July 26, 2016 at 6:04 p.m.

**PRESENT:** City Clerk Linda Tucker, Mayor Marti Shamberger, Deputy Mayor Bill Kawecki and Council Members, Ron Bane, Wes Nugent, Jenny Selin, Jay Redmond, Nancy Ganz.

The meeting was called to order by the Mayor.

**EXECUTIVE SESSION:** Pursuant to WV State Code Section 6-9A-4(b) (2) (A) motion by Kawecki, second by Ganz to go into executive session in order to discuss personnel matters in considering recruitment for a new City Manager. Present: Council. Time: 6:05 p.m.

**ADJOURNMENT:**

There being no further business, Council adjourned the Special Meeting at 7:08 p.m.

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City Clerk

\_\_\_\_\_  
Mayor

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

**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 6<sup>th</sup> 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](http://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



# 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
<b>Total Medical Cost Year One:</b>	<b>\$232,074</b>

### 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)
<b>Total Savings</b>	<b>\$30,319</b>

### Accumulative Employee Co-Pay Savings

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

# CareHere!

## 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
<hr/>					
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>				
<hr/>				
<b>Total Cost (Year One)</b>				<b>\$232,074</b>
<b>Total All-In PEPM Cost</b>				<b>\$68.10</b>

# CareHere!

## 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

# CareHere!

## 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.

# CareHere!

## 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	16	16	16	16	16
<b>Total Medical Provider Hours</b>	<b>12</b>	<b>20</b>	<b>20</b>	<b>20</b>	<b>20</b>
<b>Total Nurse Hours</b>	<b>16</b>	<b>20</b>	<b>20</b>	<b>20</b>	<b>20</b>

### 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
<b>Projected Total:</b>	<b>\$232,074</b>	<b>\$276,722</b>	<b>\$292,137</b>	<b>\$308,952</b>	<b>\$319,816</b>

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**

	<b>Year 1</b>	<b>Year 2</b>	<b>Year 3</b>	<b>Year 4</b>	<b>Year 5</b>	<b>Total</b>
<b>Employee Total</b>	<b>284</b>	<b>284</b>	<b>284</b>	<b>284</b>	<b>284</b>	
<b>Visits</b>	<b>995</b>	<b>1,244</b>	<b>1,493</b>	<b>1,742</b>	<b>1,742</b>	<b>7,215</b>
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)
<b>Annual Savings Through CareHere</b>	<b>\$30,319</b>	<b>\$82,811</b>	<b>\$274,562</b>	<b>\$533,747</b>	<b>\$764,823</b>	<b>\$1,686,262</b>
<b>Estimated Return on Investment Ratio:</b>	<b>\$1 to \$1.13</b>	<b>\$1 to \$1.30</b>	<b>\$1 to \$1.94</b>	<b>\$1 to \$2.73</b>	<b>\$1 to \$3.39</b>	<b>\$1 to \$2.18</b>

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

**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
<i>Total Medical costs should include</i>				
<i>All Medical, Drug, Work Comp (if applicable)</i>				
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%	
<i>Primary Care costs should include</i>				
<i>Dr/Office visit, Diagnostic &amp; Lab (DXL), ER visits, Prevention</i>				
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:	8%	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%

# SERVICES *Care Here!*



## 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

CareHere

# 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  
Diabetes/Pre-Diabetes Management  
Lipid Management  
Smoking Cessation  
Plan of Care Compliance  
Addiction Intervention

Exercise Adherence  
Hypertension Management  
Stress Management  
Mental Health Management  
Cardiovascular Risk Reduction  
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.

Exhibit D

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>P A</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

**AN ORDINANCE AMENDING SECTIONS 1329.02, 1331.05, 1331.06 and 1331.07 OF THE CITY OF MORGANTOWN PLANNING AND ZONING CODE AS THEY RELATE TO CONSUMER FIREWORKS RETAIL SALES AND CONSUMER FIREWORKS WHOLESALE ESTABLISHMENTS.**

WHEREAS, the sale of consumer fireworks permitted pursuant to House Bill 2852 and subsequently vested as a State of West Virginia Statute shall be subject to additional standards within the corporate limits of the City of Morgantown to ensure public health, safety and welfare and the compatibility of adjacent land uses.

NOW THEREFORE BE IT ORDAINED, by the City of Morgantown that Sections 1329.02, 1331.05, 1331.06 and 1331.07 of the City's Planning and Zoning Code are amended as follows (deleted matter struck through; new matter underlined):

**1329.02 DEFINITIONS OF TERMS**

CONSUMER FIREWORKS – Small fireworks devices that are designed to produce visible effects by combustion that are required to comply with the construction, chemical composition and labeling regulations promulgated by the United States Consumer Product Safety Commission under 16 C.F.R. (Code of Federal Regulations) Parts 1500 and 1507 (2014), and that are listed in American Pyrotechnics Association (APA) Standard 87-1. Consumer fireworks do not include sparking devices, novelties, toy caps or model rockets.

CONSUMER FIREWORKS RETAIL SALES – A retailer who purchases consumer fireworks for resale to consumers.

CONSUMER FIREWORKS RETAIL SALES ESTABLISHMENT – A retail sales establishment having as its primary function the supply of consumer fireworks to the end consumer. Such sales constitute the "primary function" of the business when such sales equal at least eight (80) percent of the gross sales of the business.

WHOLESALE ESTABLISHMENT, CONSUMER FIREWORKS – A wholesale establishment that sells consumer fireworks to a retailer or any other persons for resale and any establishment selling articles of pyrotechnics, display fireworks, and special effects to a person licensed to possess and use those devices.

### 1331.05 PERMITTED LAND USES

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
<u>Consumer Fireworks Retail Sales</u>							<u>C</u>			<u>P</u>	<u>P</u>	<u>33</u>
<u>Consumer Fireworks Retail Sales Establishment</u>							<u>C</u>			<u>P</u>	<u>P</u>	<u>33</u>
<u>Consumer Fireworks Wholesale Establishment</u>											<u>P</u>	<u>34</u>

### 1331.06 SUPPLEMENTAL REGULATIONS PERTAINING TO PERMITTED LAND USES TABLE

- (33) CONSUMER FIREWORKS RETAIL SALES shall comply with the following regulations:
- (a) Consumer fireworks retail sales intended to remain for thirty (30) days or less may be located within a permanent building or a temporary stand, tent, canopy or membrane structure meeting all applicable safety standards and regulations required by the State of West Virginia and rules and regulations promulgated by the West Virginia State Fire Marshal or designee; provided, a Temporary Use Permit is issued in accordance with Section 1331.07 for the sale of consumer fireworks.
  - (b) Permanent consumer fireworks retail sales and consumer fireworks retail sales establishments intended to remain for more than thirty (30) consecutive days shall be located within a permanent building meeting all applicable safety standards and regulations required by the State of West Virginia and rules and regulations promulgated by the West Virginia State Fire Marshal or designee.
  - (c) All applicable local and state permits, registration and licenses must be conspicuously and permanently displayed.
- (34) CONSUMER FIREWORKS WHOLESALE ESTABLISHMENTS shall comply with the following regulations:
- (a) The wholesale establishment shall be limited in its sale of consumer fireworks to a retailer or any other person for the purpose of resale.
  - (b) The wholesale establishment shall be limited in its sale of articles of pyrotechnics, display fireworks, and special effects to a person licensed to possess and use those devices.

- (c) The wholesale establishment shall only be located in and the sale of all consumer fireworks and articles of pyrotechnics, display fireworks, and other special effects items shall only be made from and within a permanent free standing (detached) principal building dedicated solely for the sale of consumer fireworks and articles of pyrotechnics, display fireworks, and other special effects.
- (d) The wholesale establishment may include the retail sales of consumer fireworks, provided:
  - a. The area directly devoted to consumer fireworks retail sales is subordinate in gross floor area to the wholesale establishment, excluding related storage; and,
  - b. Temporary retail sales of consumer fireworks from an on-site temporary stand, tent, canopy or membrane structure may be permitted as set forth in Section 1331.07 for the sale of consumer fireworks.
  - c. The retail sale of articles of pyrotechnic articles, display fireworks and special effects is prohibited;
- (e) All buildings permitted to sell consumer fireworks and articles of pyrotechnics, display fireworks, and other special effects items shall meet all applicable safety standards and regulations required by the State of West Virginia and rules and regulations promulgated by the West Virginia State Fire Marshal or designee.
- (f) All applicable local and state permits, registration and licenses must be conspicuously and permanently displayed.

### 1331.07 TEMPORARY USES

- (A) Intent. Temporary Uses shall be permitted in all districts by the grant of a Temporary Use Permit issued by the City Manager, or his/her designee, in accordance with the requirements of this section.
- (B) General Provisions.
  - (1) The duration of the temporary period is stated hereinafter, provided, however, renewal of such permit may be requested. ~~The Planning Director~~ City Manager, or his/her designee, shall is not be obligated to renew such permits.
  - ~~(2) Temporary Uses shall be subject to all the regulations of the applicable district in which they are located.~~
  - ~~(2)(3) Temporary Use permit applications shall be categorized as Type II Site Plan Submissions and shall require a public hearing before the Planning Commission.~~

(C) Permitted Temporary Uses.

- (1) Temporary office, model home or model apartment, and incidental signs thereof, both incidental and necessary for the sale, rental, or lease of real property in the Zoning District. Maximum time permitted: eighteen (18) consecutive months.
- (2) Bazaars, carnivals, and similar temporary uses. Maximum time permitted: ten (10) consecutive days.
- (3) Sale of Christmas trees, outdoor tent theater, sale of seasonal fruits and vegetables from roadside stands, tent sales. Maximum time permitted: sixty (60) consecutive days and no more than four (4) sales per year.
- (4) Sale of consumer fireworks, where permitted under Table 1331.05.01; except, conditional use approval shall not be required in the B-2 District. Maximum time permitted: thirty (30) consecutive days between June 7 and July 6.
- ~~(4)~~(5) Freestanding canopies or awnings used to enclose permitted outdoor seating areas of restaurants and/or private clubs and taverns. Maximum time permitted: four and one-half (4.5) months between April 15 to September 1. Such canopies or awnings shall be designed to withstand a wind load of ~~thirty (30) pounds per square foot~~ prescribed in the West Virginia State Building Code.
- ~~(5)~~(6) Other similar uses deemed temporary by the ~~Planning Commission~~ City Manager and attached with such maximum time period, conditions and safeguards as the ~~Board~~ City Manager, or his/her designee, may deem necessary.

(D) Standards.

- (1) Adequate access and off-street parking facilities shall be provided which shall not interfere with traffic movement on adjacent streets nor utilize or obstruct minimum required parking stalls for existing principal and accessory uses on the site.
- (2) Any flood lights or other lighting shall be ~~directed upon the premises and shall not be detrimental to adjacent properties~~ designed, located, installed and directed in such a manner as to prevent glare from encroaching onto adjoining properties or public rights-of-way.
- (3) No commercial banners shall be permitted in a residential district.
- (4) Signs shall not flash or blink or resemble traffic and emergency warning signals, and shall be limited in size to twenty (20) square feet each and in number to three (3) signs.
- (5) The lot shall be put in clean condition devoid of temporary use remnants upon termination of the temporary period.

This ordinance shall be effective upon date of adoption.

FIRST READING:

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Mayor

ADOPTED:

FILED:

RECORDED:

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City Clerk

**AN ORDINANCE AMENDING THE FY 2016-2017 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 COAL SEVERANCE FUND.**

The City of Morgantown hereby ordains:

That the FY 2016-2017 Annual Budget of the Coal Severance Fund of the City of Morgantown is amended as shown in the revised budget (Revision 01) 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: **2016-2017**  
 Fund: **Coal Sev.**  
 Rev. No. **1**  
 Pg. of No. **1 of 1**

City of Morgantown  
 GOVERNMENT ENTITY

Person To Contact Regarding Request:

Name: **James Goff**  
 Phone: **304-284-7407**  
 Fax: **304-284-7418**

389 Spruce Street  
 STREET OR PO BOX

Municipality  
 Government Type

Morgantown  
 CITY ZIP CODE 26505

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

ACCOUNT NUMBER	ACCOUNT DESCRIPTION	PREVIOUSLY APPROVED AMOUNT	(INCREASE)	(DECREASE)	REVISED AMOUNT
298	Assigned Fund Balance	11,086	6,685		17,771
310	Coal Severance Tax	80,000		20,000	60,000
	#N/A				

**NET INCREASE/(DECREASE) Revenues (ALL PAGES)** -13,315

**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
699	Contingencies*	11,286		5,815	5,471
444	Contributions / Transfers to Other Funds	80,000		7,500	72,500
	#N/A				

**NET INCREASE/(DECREASE) Expenditures** -13,315

APPROVED BY THE STATE AUDITOR  
 BY: \_\_\_\_\_ Date \_\_\_\_\_  
 Deputy State Auditor, Local Government Services Division

AUTHORIZED SIGNATURE OF ENTITY \_\_\_\_\_ APPROVAL DATE \_\_\_\_\_

**AN ORDINANCE AMENDING THE FY 2016-2017 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 2016-2017 Annual Budget of the General Fund of the City of Morgantown is amended as shown in the revised budget (Revision 01) attached hereto and made a part of this ordinance.

First Reading:

Adopted:

\_\_\_\_\_  
Mayor

Filed:

Recorded:

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

# *City of Morgantown*

## *Finance Department*

*389 Spruce Street*

*Morgantown, WV 26505*

*Phone (304) 284-7407/Fax 7418*

*[jgoff@morgantownwv.gov](mailto:jgoff@morgantownwv.gov)*

# MEMO

**DATE:** July 13, 2016

**TO:** Jeff Mikorski, City Manager

**FROM:** James Goff, Finance Director

**RE:** Budget Revisions for FY 2017

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Attached are the ordinances and supporting documentation to amend the General Fund and the Coal Severance Fund for FY 2017. The revisions are briefly explained as follows:

### General Fund

The carryover fund balance is estimated to be \$4,543,283 higher than anticipated. This is primarily due to B&O tax revenues, fire fees, certain other revenues coming in higher than budgeted, and expenditures coming in less than budgeted. Based on these FY 2016 results and on improved revenue collection efforts, regular B&O taxes not including construction B&O taxes are expected to generate additional revenue of \$900,000 and fire fees are expected to generate an additional \$100,000 in FY 2017. Some budgeted B&O construction tax revenue for FY 2017 came in sooner than anticipated driving these revenues over the adopted budget for FY 2016. As a result of receiving payment on multiple projects earlier than anticipated, B&O Construction tax estimates are being lowered by \$1,000,000 in FY 2017.

Proposed revisions to expenditures are detailed on the attached spreadsheet. Some of the highlights include the addition of a new Public Works Director, the addition of a new GIS/Traffic Engineer, extra funding contributions to the Police and Fire Pension plans, and additions to the Rainy Day Fund and General Fund contingency account.

### Coal Severance Fund

The carryover fund balance is expected to be \$17,771 based on an estimate of the tax revenue due to the City for the quarter ended June 30, 2016. Coal severance tax revenue continues to decline and came in below budget. As a result of the declining revenues, the coal severance tax, the contribution to the General Fund, and the contingency account have been reduced for FY 2017.

Please let me know if you have any questions.

CITY OF MORGANTOWN  
GENERAL FUND - REVISION 01  
FY 2016-2017

ACCT NO	REVENUES	PROPOSED BUDGET FY17	PROPOSED REV 01	PROPOSED AMENDED BUDGET	EXPLANATION
299	Fund Balance Unassigned	650,000	4,503,283	5,153,283	Adjust to actual estimate as of 7/11/16
305	B & O Taxes	12,336,000	900,000	13,236,000	Result of increase in service revenue, contracting revenue and collections
305	B & O - Construction	3,310,000	(1,000,000)	2,310,000	Projects completed in 2016 that were budgeted in 2017
352	Fire Fees	3,161,600	100,000	3,261,600	Increase in collections
369	Contributions from Other Funds	120,000	(25,100)	94,900	Reduced coal severance revenue
			4,478,183		

ACCT NO	EXPENDITURES	PROPOSED BUDGET FY17	Personnel Adjustments	Other	PROPOSED REV 01	PROPOSED AMENDED BUDGET	EXPLANATION OF PERSONNEL ADJUSTMENTS AND OTHER
409	Mayor	10,163		1,000	1,000	11,163	Increase in training expense for National League of Cities conference
410	City Council	55,097		6,000	6,000	61,097	Increase in training expense for National League of Cities conference
414	Finance	870,220	2,500	36,500	39,000	909,220	New World .Net licensing fee and staff OT during go-live on .Net system
415	City Clerk	191,250		10,000	10,000	201,250	Increase for additional civil service hiring cost for added user fee police jobs
417	City Attorney	285,066		15,000	15,000	300,066	Additional outside legal services
420	Engineering	514,755	86,629		86,629	601,384	Addition of GIS/Traffic Engineer
422	Human Resources	108,972		11,000	11,000	119,972	Increase in job posting costs and Affordable Care Act consulting
439	Information Technology	236,638		25,000	25,000	261,638	Additional Microsoft 365 license fees, consulting services, and IT equipment
700	Police	8,685,545	182,943	20,000	202,943	8,888,488	Additional pension contribution, officer supplies, and vehicle maintenance
706	Fire	5,129,122	236,547	20,000	256,547	5,385,669	Addition of Lieutenant, additional pension contribution and vehicle maintenance
750	Streets	3,250,671	121,800		121,800	3,372,471	Addition of Public Works Director
758	Airport	30,000		100,000	100,000	130,000	Increase in operational support of airport
901	Contribution to CVB	437,500		13,000	13,000	450,500	Increase CVB contribution to 50% of budgeted Hotel/Motel Taxes
900	Contribution to BOPARC	1,304,559		25,130	25,130	1,329,689	Net adjustment to support payment
444	Contribution to Other Funds	3,310,000		(1,000,000)	(1,000,000)	2,310,000	Reduction in B&O Construction tax revenue transferred to Capital Escrow
444	Contribution to Other Funds	2,103,200		1,535,100	1,535,100	3,638,300	Additional transfer to Capital Escrow Fund and MET Theatre support
444	Contribution to Other Funds	-		500,000	500,000	500,000	Contribution to the City's Rainy Day Fund
500	Other buildings	892,188		(47,000)	(47,000)	845,188	Reduction of amount budgeted for lease payments
699	Contingency	657,382		2,577,034	2,577,034	3,234,416	Difference between revenue and expenditures revisions
				4,478,183			

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: **2016-2017**  
 Fund: **General**  
 Rev. No. **1**  
 Pg. of No. **1 of 2**

522  
 GOVERNMENT ENTITY  
 389 Spruce Street  
 STREET OR PO BOX  
 Morgantown CITY 26505 ZIP CODE

Municipality  
 Government Type

Person To Contact Regarding Request:  
 Name: **James Goff**  
 Phone: **304-284-7407**  
 Fax: **304-284-7430**

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

ACCOUNT NUMBER	ACCOUNT DESCRIPTION	PREVIOUSLY APPROVED AMOUNT	(INCREASE)	(DECREASE)	REVISED AMOUNT
299	Unassigned Fund Balance	650,000	4,503,283		5,153,283
305	Business and Occupation Tax	15,646,000		100,000	15,546,000
352	Fire Protection Fees	3,161,600	100,000		3,261,600
369	Contributions from other Funds - Must Provide Explanation below	120,000		25,100	94,900
	#N/A				
	#N/A				

**NET INCREASE/(DECREASE) Revenues (ALL PAGES)** 4,478,183

**Explanation for Account # 378, Municipal Specific:**  
**Explanation for Account # 369, Contributions from Other Funds:** From Coal Severance Fund and TIF Fund

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

(WV CODE 7-1-9)

ACCOUNT NUMBER	ACCOUNT DESCRIPTION	PREVIOUSLY APPROVED AMOUNT	(INCREASE)	(DECREASE)	REVISED AMOUNT
699	Contingencies*	657,382	2,577,034		3,234,416
414	Finance Office	870,220	39,000		909,220
415	City Clerk	191,250	10,000		201,250
417	City Attorney	285,066	15,000		300,066
420	Engineering	514,755	86,629		601,384
422	Personnel Office	108,972	11,000		119,972
439	Data Processing	236,638	25,000		261,638
700	Police Department	8,685,545	202,943		8,888,488
706	Fire Department	5,129,122	256,547		5,385,669
750	Streets and Highways	3,250,671	121,800		3,372,471
901	Visitors Bureau	437,500	13,000		450,500

**NET INCREASE/(DECREASE) Expenditures** 4,478,183

**APPROVED BY THE STATE AUDITOR**  
 BY: \_\_\_\_\_ Date \_\_\_\_\_  
 Deputy State Auditor, Local Government Services Division

AUTHORIZED SIGNATURE OF ENTITY \_\_\_\_\_ APPROVAL DATE \_\_\_\_\_



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

AN ORDINANCE PROVIDING FOR THE ZONING RECLASSIFICATION OF TWO (2) PARCELS OF REAL ESTATE IN THE SIXTH WARD OF THE CITY OF MORGANTOWN FROM R-1, SINGLE-FAMILY RESIDENTIAL DISTRICT TO R-1A, SINGLE-FAMILY RESIDENTIAL DISTRICT BY AMENDING ARTICLE 1331 OF THE PLANNING AND ZONING CODE OF THE CITY OF MORGANTOWN AS SHOWN ON THE EXHIBIT HERETO ATTACHED AND DECLARED TO BE A PART OF THIS ORDINANCE AS IF THE SAME WAS FULLY SET FORTH HEREIN.

Property included in this consideration is identified in the Monongalia County Assessor's records as Parcels 25.1 and 26 of County Tax Map 22; Morgantown Corporation District.

THE CITY OF MORGANTOWN HEREBY ORDAINS:

1. That the zoning designation for Parcels 25.1 and 26 of County Tax Map 22 of the Monongalia County tax assessment as described herein and illustrated on the exhibit hereto attached and declared to be a part of this Ordinance to be read herewith as if the same was fully set forth herein are reclassified from R-1, Single-Family Residential District to R-1A, Single-Family Residential District.
2. That the Official Zoning Map be accordingly changed to show said zoning classification.

This Ordinance shall be effective from the date of adoption.

FIRST READING:

\_\_\_\_\_

Mayor

ADOPTED:

FILED:

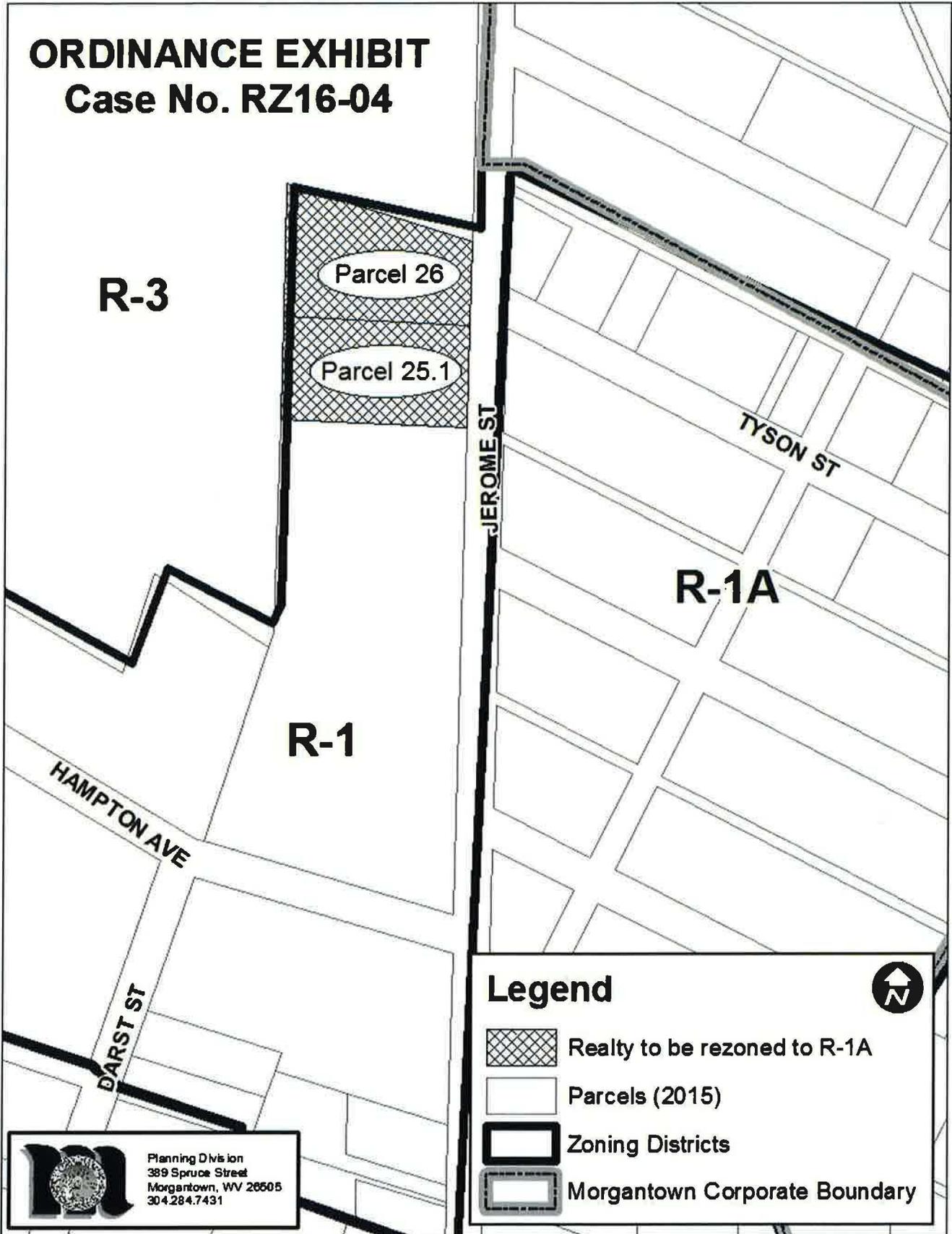
RECORDED:

\_\_\_\_\_

City Clerk

# ORDINANCE EXHIBIT

## Case No. RZ16-04



**AN ORDINANCE AMENDING SECTIONS 1329.02, 1349.08, AND 1365.04 OF THE CITY OF MORGANTOWN PLANNING AND ZONING CODE AS THEY RELATE TO BICYCLE STORAGE REQUIREMENTS.**

WHEREAS, the Morgantown Bicycle Board's 2012 Greater Morgantown Bicycle Plan, the City of Morgantown's 2013 Comprehensive Plan Update, and the Morgantown-Monongalia Metropolitan Planning Organization's 2040 Long Range Transportation Plan encourage the expanded use of the bicycles as a mode of transportation, necessitating increased infrastructure to include bicycle storage; and,

WHEREAS, bicycle storage standards are not unique to the City of Morgantown and are utilized throughout the United States to encourage and facilitate bicycle use; and,

WHEREAS, bicycle storage standards, which have been recommended by the Morgantown Bicycle Board, the Morgantown Traffic Commission, and the Morgantown Planning Commission, will provide flexibility for developers to deliver bicycle storage amenities at a level that is of minimal disturbance.

NOW, THEREFORE, the City of Morgantown hereby ordains that Sections 1329.02, 1349.08, and 1365.04 of the City's Planning and Zoning Code are amended as follows (deleted matter struck through; new matter underlined and bolded):

**1329.02 DEFINITION OF TERMS**

AMENITY – Aesthetic or other characteristics of a development that increase its desirability to a community or its marketability to the public. Amenities may differ from development to development but may include such things as a unified building design, recreational facilities (e.g. swimming pool, walking trails, bicycle trails, lakes, tennis courts, picnic areas, playgrounds, fitness center, etc.), views, landscaping, bicycle storage, etc.

~~BICYCLE STORAGE – An indoor, secure, and sheltered storage space for bicycles, which is provided as an amenity for residents, tenants, etc. of a development.~~

BICYCLE STORAGE, SHORT-TERM – A secure storage space for bicycles, which is provided as an amenity for residents, tenants, etc. of a development for temporary purposes.

BICYCLE STORAGE, LONG-TERM – An indoor, secure, and sheltered storage space for bicycles, which is provided as an amenity for residents, tenants, etc. of a development.

~~PARKING, BICYCLE – Parking of bicycles on a temporary basis with a minimum width of three (3) feet, a minimum length of six (6) feet, and a means of securing individual bicycles.~~

## 1349.08 PARKING AND LOADING STANDARDS

- ~~(C) Bicycle Storage — For all Developments of Significant Impact in this district, the following minimum bicycle storage amenities must be provided:~~
- ~~(1) One (1) indoor, secure, 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.~~

## 1365.04 DETERMINING THE NUMBER OF SPACES REQUIRED.

- (C) Shared Parking Facilities in the B-4 District.
- (2) Shared parking facilities for two or more uses, whose main traffic generation peak times do not substantially overlap, may be approved as a conditional use provided that:
    - (c) This reduction may, with the approval of the Board of Zoning Appeals, be in addition to the reductions allowed for proximity to public transit; and/or motorcycle parking, ~~and/or bicycle parking.~~
  - (3) Shared parking facilities for two or more uses, whose main traffic generation peak times substantially overlap, may be approved as a conditional use provided that:
    - (c) This reduction may, with the approval of the Board of Zoning Appeals, be in addition to the reductions allowed for proximity to public transit; and/or motorcycle parking, ~~and/or bicycle parking.~~
- (P) In the B-4 district, minimum parking requirements may be reduced as a conditional use under one or more of the following provisions:
- ~~(4) By a factor of one (1) automobile parking space for every three (3) bicycle parking spaces provided, up to a maximum reduction of three (3) automobile parking spaces. This reduction shall not be permitted for uses that are required to provide six (6) or fewer parking stalls. Nor shall this reduction be permitted for uses that primarily sell large, bulky merchandise not typically transported via bicycle. Required bicycle storage may not be used to reduce minimum parking requirements.~~
- (Q) Bicycle Storage – Long-term bicycle storage and short-term bicycle storage shall be provided in all Developments of Significant Impact.
- (1) For all Developments of Significant Impact, the minimum Long-term bicycle storage amenities described in this Subsection must be provided. The minimum Long-term bicycle storage amenities are as follows:

- (a) For residential uses and for residential use components of mixed-used development, one (1) long-term bicycle storage space per dwelling unit.
- (b) For non-residential uses and for non-residential use components of mixed-used development, one (1) Long-term bicycle storage space increasing by one (1) additional space for every twenty (20) automobile parking spaces as required in accordance with Table 1365.04.01: Minimum Off-Street Parking Requirements.
- (c) Long-term bicycle storage is required to be covered and shall include use of one of the following:
  - (i) A locked room;
  - (ii) An area enclosed by a fence with a locked gate;
  - (iii) An area within view of an attendant or security guard or monitored by a security camera; or,
  - (iv) An area visible from employee work areas.
- (d) The long-term bicycle storage area should be located within fifty (50) feet of the primary entrance of the building it serves and shall be in a location that can be reached by an accessible route. Long-term bicycle storage must be located either:
  - (i) On the same site as the use it serves; or,
  - (ii) Off-site within 300 feet of the use it serves; provided, conditional use approval is granted by the Board of Zoning Appeals. Conditional use approval shall include a condition that the off-site long-term bicycle storage amenity is encumbered by an easement or similar agreement duly executed and acknowledged, which specifies that the land upon which the off-site long-term bicycle storage amenity is located is encumbered by the bicycle storage use. Said instrument shall specify and bind the time period to the anticipated life of the building or use to which the long-term bicycle storage amenity are accessory. Said instrument shall be filed with the applicable Building Permit files of the Department of Planning, and placed on public record in the Office of the Clerk of the County Commission of Monongalia County, WV. Further, if the pedestrian access between the off-site long-term bicycle storage amenity and the use(s) it serves is to cross an arterial street, appropriate safety measures, as determined by the Planning Director and City Engineer, must be in place to ensure pedestrian safety.
- (e) If the long-term bicycle storage is provided in an auto storage garage, the bicycle storage spaces shall be clearly marked as such and shall be separated from automobile parking.
- (f) Long-term bicycle storage designs must adhere to the design standards in section 1365.04(Q)(3), Bicycle Rack Requirements.

(2) For all Developments of Significant Impact, the minimum short-term bicycle storage amenities described in this Subsection must be provided. The minimum short-term bicycle storage amenities are as follows:

(a) One (1) short-term bicycle storage space increasing by one (1) additional space for every twenty (20) automobile parking spaces as required in accordance with Table 1365.04.01: Minimum Off-Street Parking Requirements.

(b) Each short-term bicycle storage space shall be located:

(i) Outside a building, but not within the public right-of-way, or within an automobile garage; provided, that in the B-4 District where the public right-of-way may also be used with the approval of the City Engineer.

(ii) Within fifty (50) feet of a main building entrance; and

(iii) At the same grade as the sidewalk or at a location that can be reached by an accessible route.

(c) Short-term bicycle storage space designs must adhere to the design standards in 1365.04(Q)(3): Bicycle Rack Requirements.

(d) Short-term bicycle storage spaces should be placed under roof to encourage cycling and bicycle rack use.

(e) Short-term bicycle storage shall consist of a physical improvement that is installed on a permanent foundation (e.g., concrete pad) to ensure stability; is securely anchored into or on the foundation with tamper-proof nuts if surface mounted; provides support for an upright bicycle by its frame horizontally in two (2) or more places; keeps both bike wheels on the ground; is designed to prevent the bicycle from tipping over; is able to support a variety of bicycle sizes and frame shapes; provides space to secure the frame and one or both wheels to the rack with a cable, chain, or u-lock; and has a locking pole with a diameter of no more than 1.5 inches.

(3) Bicycle Rack Requirements. Long-term and short-term bicycle storage spaces using bicycle rack facilities shall observe the following design standards:

(a) Each bicycle storage space shall a minimum dimension of three (3) feet in width by six (6) feet in length by four (4) feet in height.

(b) Bicycle storage areas shall include a minimum of three (3) feet of clearance around racks or lockers to give cyclists room to maneuver and to prevent conflicts with pedestrians or parked automobiles.

(c) Adequate lighting (no less than 2.0 footcandles) must be provided for a bicycle storage area and the route from the storage area to the nearest building entrance intended for the cyclist.

(d) Racks shall conform to Americans with Disabilities Act (ADA) standards for protrusions in the right-of-way including the ability to detect the rack with a white cane. To be detected by a white cane the protruding or leading edge

of the rack shall be 27" or less above the sidewalk surface. Between 27" and 80" above the sidewalk surface, protruding or leading edges may overhang a maximum of 12".

- (e) The top of the bicycle rack design shall be a minimum of 36 inches tall. Except for the bicycle rack supporting brackets, the shortest section of the bicycle rack must be a minimum of 27 inches tall to be perceived by pedestrians and avoid tripping hazards.
- (f) The space between rack features shall be larger than 9" and smaller than 3.5" to avoid children trapping their heads.
- (g) The design shall not include sharp edges.
- (h) Areas having more than one row of racks shall be separated by aisles. An aisle is measured from tip to tip of the bicycle storage spaces between racks. The minimum separation between aisles shall be a minimum of four (4) feet.
- (i) Racks near walls should be placed so the rack's two (2) bicycle connection points are perpendicular to such wall. Racks placed near walls shall maintain a four (4) foot minimum separation between the edge of the bicycle storage space and the wall.
- (j) Racks placed near curbs should maintain a minimum separation between the edge of the bicycle storage space of four (4) feet.
- (k) Racks should have protective coatings designed to protect bicycle frames from scratching and damage.
- (l) Racks should be able to resist being cut or detached using common hand tools, such as bolt cutters, pipe cutters, wrenches, and pry bars.

This ordinance shall be effective upon date of adoption.

FIRST READING:

\_\_\_\_\_  
Mayor

ADOPTED:

FILED:

RECORDED:

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

**AN ORDINANCE AMENDING ARTICLES 1383, 1389, AND 1391 OF THE CITY'S PLANNING AND ZONING CODE GOVERNING ADMINISTRATIVE APPEALS AND THE ESTABLISHMENT, POWERS AND DUTIES, AND JUDICIAL REVIEW OF THE BOARD OF ZONING APPEALS.**

WHEREAS, the City of Morgantown Board of Zoning Appeals is established pursuant to West Virginia Code Chapter 8A, Article 8; and

WHEREAS, the mandatory provisions of West Virginia Code Chapter 8A, Article 8 establish the jurisdiction and certain duties of the Board;

NOW, THEREFORE, the City of Morgantown hereby ordains that Articles 1383, 1389, and 1391 of the City Code are amended as follows:

**ARTICLE 1383  
Administrative Appeals**

**1383.01 ~~AUTHORITY~~ APPLICATION FOR APPEAL.**

~~The Board of Zoning Appeals shall hear and determine appeals from any order, requirement, decision or determination made by an administrative official, board, or staff member charged with the enforcement of this Zoning Ordinance.~~

- (A) An appeal from any order, requirement, decision or determination made by an administrative official or board charged with the enforcement of the zoning ordinance, or rule and regulation adopted pursuant to the zoning ordinance, shall be filed with the Board of Zoning Appeals.
- (B) The appeal shall:
- (1) Specify the grounds of the appeal;
  - (2) Be filed within thirty (30) days of the original order, requirement, decision or determination made by an administrative official or board charged with the enforcement of the zoning ordinance; and,
  - (3) Be on a form prescribed by the Board of Zoning Appeals.

- (C) Upon request of the Board of Zoning Appeals, the administrative official or board shall transmit all documents, plans and papers constituting the record of the action from which the appeal was taken.

~~1383.02 INITIATION.~~

~~An appeal may be filed with the Board of Zoning Appeals by any person aggrieved by the order, requirement, decision or determination described in Section 1383.01. An appeal filed with the Board must specify the grounds of the appeal, be filed in the form established by rules of the Board, and be filed within 30 days of the original order, requirement, decision or determination.~~

1383.032 PROCESSING FILING AND NOTICE OF APPEAL.

- (A) An appeal shall be filed with the Planning staff, who shall forward such appeal to the Board of Zoning Appeals.
- (B) Within 10 days of receipt of the appeal by the Board of Zoning Appeals, the Board shall set a date and time for the public hearing of the appeal and give notice. The public hearing on the appeal shall must be held within forty-five (45) days of receipt of the appeal by the Board.
- (C) At least 15 days prior to the date set for the public hearing on the appeal, the Board of Zoning Appeals shall publish a notice of the date, time and place of the hearing on the appeal as a Class I legal advertisement in compliance with the provisions of West Virginia Code Chapter 59, Article 3, and written notice shall be given to interested parties. The publication area shall be the area covered in the appeal.
- (D) The Board of Zoning Appeals may require the party taking the appeal to pay for the cost of public notice and written notice to interested parties.

1383.043 PUBLIC HEARING.

- (A) A public hearing on the appeal shall be conducted by the Board of Zoning Appeals in conformance with the West Virginia Code and the Morgantown City Board of Zoning Appeals Rules of Procedure. ~~The party making the appeal shall be required to pay any fee established by City Council.~~
- (B) At the hearing, any party may appear in person, by agent or by an attorney licensed to practice in the State of West Virginia.

1383.054 DECISIONS.

~~The Board of Zoning Appeals shall hear testimony and evidence concerning appeals, and prepare findings of fact and conclusions of law and shall render a final decision on all appeals. A written copy of such decision, as described in the Rules of Procedure, shall be available in the Planning Department within five (5) days after making such decision.~~

- (A) Every decision by the Board of Zoning Appeals must be in writing and state findings of fact and conclusions of law on which the Board based its decision. If the Board fails to provide findings of fact and conclusions of law adequate for decision by the Circuit Court and as a result of the failure , the Circuit Court returns an appeals matter to the Board and dismisses jurisdiction over an applicant's appeal without deciding the matter, whether the Court returns the matter with or without restrictions, the Board shall pay any additional costs for court filing fees, service of process and reasonable attorney's fees required to permit the person appealing the Board's decision to return the matter to the Circuit Court for completion of the appeal.
- (B) The written decision by the Board of Zoning Appeals shall be rendered within thirty (30) days after the hearing. If the Board fails to render a written decision within thirty (30) days after the hearing, then any party may pursue additional legal remedies to obtain a decision, including, but not limited to, seeking a writ of mandamus.
- (C) Any appeal determined by the Board of Zoning Appeals shall be particular to that case and site, and shall not be applied to the entire Ordinance, except as noted in Section 1375.05, Administrative Interpretations.

1383.065 APPEAL OF DECISIONS STAYS; EXCEPTION.

~~Every decision or order of the Board of Zoning Appeals shall be subject to review by certiorari. Any person or persons jointly or severally aggrieved by any decision or order of the Board of Zoning Appeals may present to the Circuit Court of Monongalia County a petition duly verified, setting forth that such decision or order is illegal in whole or in part, and specifying the grounds of the alleged illegality. The petition must be presented to the Court within thirty days after the date of the decision or the order of the Board of Zoning Appeals complained of. In the event that an appeal is filed to the Circuit Court, the City, upon receiving notice of such appeal from the Court, shall send written notification of said appeal to the same property owners that were originally notified during initial consideration of the case.~~

- (A) When an appeal has been filed with the Board of Zoning Appeals, all proceedings and work on the premises in question shall be stayed, except as provided in subsection (b) of this section.
- (B) A stay may not be had:
- (1) If the official or board from where the appeal was taken certifies in writing to the Board of Zoning Appeals that a stay would cause imminent peril to life or property;
  - (2) Upon further administrative proceedings, including, but not limited to, submissions to and reviews by the staff or any administrative body; or
  - (3) Upon engineering or architectural work that does not disturb the real estate beyond what is necessary to complete engineering, survey work or other tests.
- (C) If the written certification is filed pursuant to subdivision (1), subsection (b) of this section, then proceedings or work on the premises shall not be stayed.
- (D) Nothing in this section prevents a party from obtaining a restraining order.

**ARTICLE 1389**  
**Board of Zoning Appeals**

1389.01 ESTABLISHMENT.

- (A) The Board of Zoning Appeals is hereby established and shall consist of five (5) members to be appointed by City Council, all of ~~which~~ whom shall be residents of the City and ~~three-fifths~~ each of such members shall have been a residents of the City for at least three (3) years prior to the time of ~~their~~ his or her appointment.
- (B) No member of the Board of Zoning Appeals shall be a member of the Planning Commission nor shall any member hold any other elective or appointive office in the municipal government of the City of Morgantown.
- (C) The members of the Board shall serve without compensation, but shall be reimbursed for actual expenses incurred in the performance of their official duties. If a vacancy occurs by resignation or otherwise among the members of the Board of Zoning Appeals, City Council shall appoint a member for the unexpired term.

- (D) City Council may appoint up to three additional members to serve as alternate members of the Board who shall meet the same eligibility requirements as regular Board members. The term for an alternate Board member shall be three years and Council may appoint alternate members on a staggered term schedule.
- (E) An alternate Board member shall serve on the Board when one of the regular members is unable to serve. The alternate Board member shall serve until a final determination is made in the matter to which the alternate member was initially called on to serve.
- (F) The Board of Zoning Appeals shall establish rules and procedures for designating an alternate member who shall have the same powers and duties as a regular Board member.
- (G) ~~Any decision of the City Manager in the enforcement of this ordinance may be appealed to the Board by any person claiming to be adversely affected by such decision.~~ City Council shall provide the Board of Zoning Appeals with suitable offices for the holding of meetings and the preservation of plans, maps, documents and accounts; and appropriate money to defray the reasonable expenses of the Board.

1389.02 POWERS AND DUTIES.

The Board shall have the following powers ~~and it shall be its duty to:~~

- (A) Hear, review and determine appeals from any order, requirement, decision or determination made an administrative official or board charged with the enforcement of the zoning ordinance or rules and regulations adopted pursuant thereto ~~by the City Manager in the enforcement of this ordinance;~~
- (B) Authorize exceptions to the district rules and regulations only in the classes of cases or in particular situations, as specified in this ordinance;
- (C) Hear and decide conditional uses upon which the Board is required to act under ~~this~~ the zoning ordinance;
- (D) Authorize, upon appeal in specific cases, a variance from the terms of ~~this~~ the zoning ordinance;

- (E) Reverse, affirm or modify the order, requirement, decision or determination appealed from and have all the powers and authority of the ~~City Manager~~ official or board charged with enforcement of the zoning ordinance from ~~whom~~ which the appeal was taken;
- (F) Adopt rules and regulations concerning:
  - (1) The filing of appeals, including the process and forms for the appeal;
  - (2) Applications for variances and conditional uses;
  - (3) The giving of notice;
  - (4) The conduct of hearings necessary to carry out the Board's duties as authorized by State law;
- ~~(G) (5)~~ Keep minutes of its proceedings;
- ~~(H) (6)~~ Keep an accurate and complete audio record of all the Board's proceedings and official actions and keep the audio record in a safe manner, accessible within twenty-four hours of demand, for three years;
- ~~(I) (7)~~ Record the vote on all actions taken;
- ~~(J) (8)~~ Take responsibility for the custody and preservation of all papers and documents of the Board, which shall be filed in the Planning Office and made public record;
- ~~(K) (9)~~ With consent from City Council, hire employees necessary to carry out the duties and responsibilities of the Board, provided that Council sets the salaries; and
- ~~(L) (G)~~ Supervise the fiscal affairs and responsibilities of the Board.

1389.05 JUDICIAL REVIEW.

Every decision or order of the Board of Zoning Appeals ~~shall be~~ is subject to review by certiorari. ~~Any person or persons jointly or severally aggrieved by any decision or order of the Board of Zoning Appeals may present to the Circuit Court of the County of Monongalia a petition duly verified, setting forth that such decision or order is illegal in whole or in part, and specifying the grounds of the alleged illegality. The petition must be presented to the Court within thirty (30) days after the date of the decision or the order of the Board of Zoning Appeals complained of.~~

Within thirty (30) days after the decision or order, any aggrieved person may present to the Monongalia County Circuit Court a duly verified petition for a writ of certiorari setting forth:

- (1) That the decision or order of the Board of Zoning Appeals is illegal in whole or in part;  
and,
- (2) Specify the grounds of the alleged illegality.

**ARTICLE 1391**

**Permit, Certificate, and Approval Revocation**

1391.04 APPEAL OF REVOCATION.

The revocation of any permit or approval issued pursuant to ~~this~~ the zoning ordinance may be appealed to the Board of Zoning Appeals ~~by any person claiming to be adversely affected by the revocation,~~ under the processes set forth for administrative appeals in Article ~~1374~~ 1383, ~~Administrative Appeals.~~

This ordinance shall be effective upon date of adoption.

FIRST READING:

\_\_\_\_\_  
Mayor

ADOPTED:

FILED:

RECORDED:

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

**AN ORDINANCE AMENDING ARTICLE 1329.02, TABLE 1331.05.01, ARTICLE 1365.04, AND ARTICLE 1365.07 OF THE CITY'S PLANNING AND ZONING CODE AS THEY RELATE TO PARKING LOT AND PARKING STRUCTURE USES.**

The Morgantown City Council hereby ordains that Article 1329.02, Table 1331.05.01, Article 1365.04, and Article 1365.07 of the City's Planning and Zoning Code are amended as follows (deleted matter struck through; new matter underline):

**1329.02 DEFINITIONS OF TERMS.**

PARKING LOT, ACCESSORY – An off-street, ground level facility including paved parking spaces and adjacent drives and aisles for maneuvering, access, entrance, and exit; improved in a way to accommodate the parking of four (4) or more motor vehicles for the use of the owners, tenants, lessees, occupants, customers, and/or visitors of the principal use of premises on which the parking lot is located. This term includes deck parking and underground or under-building parking areas; provided, no more than one (1) level of parking area is provided. Accessory parking lot facilities shall be considered a part of the principal use to which it is accessory and, where applicable, shall be restricted by the maximum parking standards of the zoning ordinance.

~~PARKING LOT, COMMERCIAL – A private parking lot that is the stand-alone use of a parcel, and whose stalls are leased to individuals for any length of time.~~

PARKING LOT, PRINCIPAL USE – An off-street, ground level facility including paved parking spaces and adjacent drives and aisles for maneuvering, access, entrance, and exit; improved in a way to accommodate the parking of four (4) or more motor vehicles where the parking lot is either the principal use of the premises or the stand-alone use of the parcel.

~~PARKING LOT, PRIVATE – An open area, other than a street or alley, designed to be used for the temporary parking of more than four motor vehicles, whether free or for compensation, and available for private use or as an accommodation for clients or customers.~~

~~PARKING STRUCTURE – A structure designed to accommodate vehicular parking spaces that are fully or partially enclosed or located on the deck surface of a building. This definition includes parking garages, deck parking and underground or under-building parking areas.~~

PARKING STRUCTURE, ACCESSORY – Parking spaces and adjacent access drives, aisles, and ramps that are located in a structure with two (2) or more levels for the use of the owners, tenants, lessees, occupants, customers, and/or visitors of the principal use of premises on which the parking structure is located and where the parking structure is not the principal use of the premises or the stand-alone use of the parcel. A parking structure may be totally below grade (as in an underground parking garage) or either partially or totally above grade with those levels being either open or enclosed. This term includes parking spaces that are integrated into a larger structure that houses the principal use of the premises. Accessory parking structure facilities

shall be considered a part of the principal use to which it is accessory and, where applicable, shall be restricted by the maximum parking standards of the zoning ordinance.

PARKING STRUCTURE, PRINCIPAL USE – Parking spaces and adjacent access drives, aisles, and ramps that are located in a structure with two (2) or more levels, where the parking structure is the principal use of the premises or the stand-alone use of the parcel. A parking structure may be totally below grade (as in an underground parking garage) or either partially or totally above grade with those levels being either open or enclosed.

**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
Parking Lot, Commercial				C		P	P	P				28
Parking Lot, Private			C	C	C	C						
Parking Lot, Principal Use				C		P	P	C		P	P	
Parking Structure, Principal Use				C		P	P	C		P	P	28

**1365.04 DETERMINING THE NUMBER OF SPACES REQUIRED.**

(B) Shared Parking Facilities.

- (1) Shared parking facilities for two or more separate but adjacent buildings or mixed uses may be permitted as a conditional use provided that:
  - (a) The total number of spaces used is not less than the sum required for various buildings or uses if computed separately.
  - (b) That the lot is in the same zoning district as the principal use, or in a district that permits ~~commercial parking lots~~ principal use parking lots or principal use parking structures as a principal or conditional use.
  - (c) Each use of the shared spaces shall function as if having been provided separately.

**1365.07 OFF-STREET PARKING FACILITIES.**

- (A) In Business, Industrial and Multi-Family Districts, the Board of Zoning Appeals may grant Conditional Use Approval to provide required spaces on a site that is:
  - (1) Within 300 feet of the principal use, and
  - (2) Within a district that permits ~~commercial parking lots~~ principal use parking lots or principal use parking structures as a principal or conditional use.

- (3) B-4 District - within 500 feet of the principal use, but not within a residential district or within the B-4 Neighborhoods Preservation Overlay District (B-4NPOD).
  
- (D) It is the responsibility of the business owner to maintain current and valid parking as required by this Ordinance. Evidence of such parking is required prior to approval and proof of current leases shall be made available at the request of the Planning Director. Each leased space shall have a sign noting the business for which the space is reserved. Signs shall be 12 inches wide by 18 inches tall and shall be mounted between three feet and five feet above the finished surface of the parking stall. The text on the sign shall state "This space is reserved for patrons of [name of the business] only, per City Code 1365.07(D)." All leased stalls shall be improved, paved, and striped. ~~No unimproved stalls shall be used for commercial parking.~~ Leasing of stalls shall not reduce the available parking below the minimum requirement for uses sharing the lot, except in conditions of shared parking as described in Section 1365.04(B) of the City Code.

This ordinance shall be effective upon date of adoption.

FIRST READING:

\_\_\_\_\_  
Mayor

ADOPTED:

FILED:

RECORDED:

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

**AN ORDINANCE AMENDING ARTICLE 767 OF THE CITY CODE PROVIDING FOR  
A HOTEL TAX.**

The City of Morgantown hereby ordains that Article 767 of the City Code is amended as follows:

**767.01 DEFINITIONS.**

~~Unless the content hereof requires otherwise, all terms used herein shall have the same meanings as set forth in West Virginia Code Article 7-18, as last amended.  
(Ord. 3-4-86.)~~

For the purposes of this article:

(a) "Consideration paid" or "consideration" means the amount received in money, credits, property or other consideration for or in exchange for the right to occupy a hotel room as herein defined.

(b) "Consumer" means a person who pays the consideration for the use or occupancy of a hotel room. The term "consumer" does not mean the government of the United States of America, its agencies or instrumentalities, or the government of the State of West Virginia or political subdivisions thereof.

(c) "Hotel" means any facility, building or buildings, publicly or privately owned (including a facility located in a state, county or municipal park), in which the public may, for a consideration, obtain sleeping accommodations. The term includes but is not limited to, boarding houses, hotels, motels, inns, courts, condominiums, lodges, cabins and tourist homes. The term "hotel" includes state, county and city parks offering accommodations as herein set forth. The term "hotel" does not mean a hospital, sanitarium, extended care facility, nursing home or university or college housing unit, or any facility providing fewer than three rooms in private homes, not exceeding a total of ten days in a calendar year, nor any tent, trailer or camper campsites: Provided, That where a university or college housing unit provides sleeping accommodations for the general nonstudent public for a consideration, the term "hotel" does, if otherwise applicable, apply to those accommodations for the purposes of this tax.

(d) "Hotel operator" means the person who is proprietor of a hotel, whether in the capacity of owner, lessee, mortgagee in possession, licensee, trustee in possession, trustee in bankruptcy, receiver, executor or in any other capacity. Where the hotel operator performs his or her functions through a managing agent of any type or character other than an employee, the managing agent is a hotel operator for the purposes of this article and has the same duties and liabilities as his or her principal. Compliance with the provisions of this article by either the principal or the managing agent is, however, considered to be compliance by both.

(e) "Hotel room" means any room or suite of rooms or other facility affording sleeping accommodations to the general public and situated within a hotel. The term "hotel room" does not include:

(1) A banquet room, meeting room or any other room not primarily used for, or in conjunction with, sleeping accommodations; or

(2) Sleeping accommodations rented on a month-to-month basis or other rental arrangement for thirty days or longer at the inception at a boarding house, condominium, cabin, tourist home, apartment or home.

(3) Sleeping accommodations rented by a hotel operator to those persons directly employed by the hotel operator for the purposes of performing duties in support of the operation of the hotel or related operations.

(f) "Person" means any individual, firm, partnership, joint venture, association, syndicate, social club, fraternal organization, joint stock company, receiver, corporation, guardian, trust, business trust, trustee, committee, estate, executor, administrator or any other group or combination acting as a unit.

(g) "State park" means any state-owned facility which is part of this state's park and recreation system established pursuant to this code. For purposes of this article, any recreational facility otherwise qualifying as a "hotel" and situated within a state park is considered to be solely within the county in which the building or buildings comprising the facility are physically situated, notwithstanding the fact that the state park within which the facility is located may lie within the jurisdiction of more than one county.

(h) "Tax," "taxes" or "this tax" means the hotel occupancy tax authorized by this article.

(i) "Taxing authority" means the City of Morgantown.

(j) "Taxpayer" means any person liable for the tax authorized by this article.

### **767.03 COLLECTION OF TAX.**

(a) The tax shall be collectiable by the hotel operator, who shall account for, and remit to the City, all taxes paid by the consumer. The hotel operator shall separately state the tax on all bills, invoices, accounts, books of account and records relating to consideration paid for occupancy or use of a hotel room.

(b) A hotel or hotel operator shall not represent to the public, in any manner, directly or indirectly, that it will absorb all or any part of the tax or that the tax is not to be considered an element in the price to be collected from the consumer.

(c) A hotel operator doing business wholly or partly on a credit basis shall require the consumer to pay the full amount of tax due upon the credit sale at the time such sale is made or within thirty days thereafter.

(d) Notwithstanding that the total amount of such taxes collected by a hotel operator may be in excess of the amount of which a consumer would be liable by application of the levy provided under Section 767.02 for the occupancy of a hotel room or rooms, the total amount of all taxes collected by any hotel operator shall be remitted to the City.

### **767.06 EXCEPTIONS.**

The tax imposed by this article shall not be collected in the following instances:

~~—(a) For any consumer occupying a hotel room for thirty or more consecutive days.~~

~~—(b) (a) When the hotel room occupancy is billed directly to the United States of America or any agency thereof.~~

~~(e) (b) When the hotel room occupancy is billed directly to the State of West Virginia or any political subdivision thereof.~~

This ordinance shall be effective upon date of adoption.

FIRST READING:

\_\_\_\_\_

MAYOR

ADOPTED:

FILED:

\_\_\_\_\_

CITY CLERK

RECORDED: