



Hazel Ruby McQuain Park – Ruby Amphitheater

RENTAL AGREEMENT

This Rental Agreement (the “Agreement”), is executed by and between the Renter identified on the attached Rental Application, which is incorporated into this Agreement by reference, and The City of Morgantown, West Virginia, upon the following terms and conditions:

1. Rules. This Agreement is subject to the published Rules for the Ruby Amphitheater and Hazel Ruby McQuain Park, and to rules and regulations established by The City of Morgantown, Morgantown Board of Parks and Recreation Commissioners, and the Monongalia Health Department.
2. Facility; Purpose; Date and Time. This Agreement authorizes Renter’s use of the Ruby Amphitheater, including the fenced area of the amphitheater and any additional areas of the Hazel Ruby McQuain Park identified and approved in the Rental Application (the “Facilities”), for the sole purpose identified in the Rental Application and at the dates and times shown in the approved Rental Application.
3. Fees and Charges. Renter will pay the fees established for Facility rental established by The City of Morgantown (“City”) and shown on **Schedule A – Fee Schedule**. Fees and charges will be due with and payable as outlined in **Schedule A – Fee Schedule**, attached with this agreement.
4. Access. City will provide Renter access to the Facility in a condition fit for its intended purpose in the following manner: If Renter is using third party ticketing, security, or vendors, City will work with these persons or entities to provide access, but access to the Facility remains under the control of City.
5. Renter Obligations (COVID-19).
 - a. Renter shall ensure that its participants and guests utilize appropriate personal protective equipment (“PPE”) at all times in compliance with all applicable laws and orders of public health authorities and in accordance with any rules established by City.
 - b. Renter shall notify City in the event it becomes aware that a person who has entered the Facility is infected or may have been infected with COVID-19 and shall fully participate and cooperate in efforts to perform contact tracing to promote public health and safety.
 - c. Should Renter, or any entrant associated with Renter’s operations, fail to follow these requirements, City may immediately terminate Renter’s use of the Facility and order all Renter’s participants and guests to leave the Facility without refund of any fees or charges.
6. Damages and Indemnity. Renter agrees to make all reasonable efforts to avoid damages in excess of ordinary wear to the Facility, furniture, equipment, or other fixtures. Renter shall be responsible for any and all loss, damage, or injury to any property of City and for all claims for injuries or other damages arising in any way out of Renter’s use of the Facility except those alleging the sole negligence of City. To the fullest extent permitted by law, Renter and its agents agree to indemnify, defend, and save the City, its officers, agents, employees, and affiliate organizations and their officers, employees, and agents, harmless from and against any and all claims, demands, damages, or causes of action arising out of this Agreement.
7. Insurance. Renter shall maintain at its sole cost and expense, at all times during the term hereof appropriate insurance coverages pertaining to its use of the Facility that will insure against personal injury, bodily injury, and property damage in a sum not less than Two Million Dollars (\$2,000,000.00). Such insurance coverage shall be obtained from a reputable insurer licensed to do business in the State of West Virginia and shall name City as an additional insured party. Renter will provide proof of such coverage to owner upon delivery of this Agreement and on demand. Renter’s insurance policy required by this Section shall provide primary coverage to City for any claims covered under this Agreement and is designed to secure Renter’s obligation to protect City against damages, claims, and costs pursuant to Section 6 of this Agreement. **If a separate Insurance Waiver Agreement is executed by Renter and City, the terms of the Insurance Waiver Agreement shall replace the terms of this Section 7.**
8. Electric. The Renter is responsible for all electric issues and connections during event. Renter must use a Certified Electrician to make all connections. Permission must be granted by City prior to the event before making a box connection. All boxes and breakers are to be left in as-found condition. The Facility speakers are not to be used by any group unless given permission by the City Director of Arts & Cultural Development. **City staff will not be available to repair equipment, reset breakers, or perform other repairs that result from Renter’s improper use of standard electrical service.**



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9. Trash. All trash pick-up and removal is Renter's responsibility. This includes proper disposal of food vendor material and any other vendor or patron material and debris. Dumping hot coals or fluids is prohibited. Renter agrees to pay an additional charge for labor and materials if City is required to collect and remove any trash or debris following Renter's event. Republic Services (Phone: 304-366-8900) will provide trash boxes and dumpsters for a fee.
10. Licenses, Taxes, and Fees. Renter is the responsible party for contacting the City of Morgantown's Finance Department for any license which may be required by Renter and any or all vendors taking part in the event, including any state and federal requirements. In addition, Renter must contact the Monongalia County Health Department for any necessary health permits. Renter is responsible for all taxes and fees, including business and occupation taxes, amusement taxes, and sales taxes, owed to the City for the event, and Renter will cooperate with City in ensuring they are received. **City Amusement Tax of 2% is owed on each admission ticket or fee and must be collected by the admission/ticket vendor.**
11. Amplified sound; Event time. Amplified music or other sound cannot begin before 8:00 AM and must stop at 10:00 PM. All events will end and Renter and patrons must leave the Facility at 11:00 PM. Sound levels may not exceed those established by *City Code* Article 527 unless Renter obtains a waiver under Article 527.
12. Public Trail and other amenities. The Ruby Amphitheater adjoins the Caperton Trail, a public rail-trail used by walkers, runners, cyclists, and commuters. It will remain open during the event but may be routed around the gated portion of the Facility. The Ruby Amphitheater is within a public park: the Hazel Ruby McQuain Park. Space within the park that is not rented will remain open to the public during the event. Renter and its patrons must not interfere with public trail and parks users' enjoyment of public space.
13. Promotions; advertising. Promotions/advertising and announcements shall not be made public prior to approval of the Agreement by the City. Tickets will not be sold prior to approval of the Agreement. All advertisements will mention the "Ruby Amphitheater" and include approved City of Morgantown and Ruby Amphitheater logos.
14. Copyrights; royalties. Renter agrees, represents and warrants that nothing contained in the program, performance, and exhibition or in any other way connected with Renter's Activities under the Agreement shall violate or infringe upon any copyright, patent, right of privacy or other statutory or common law right of any person, firm or corporation. Further, Renter warrants that all programs, performances, concerts, etc., to be performed under the Agreement involving works protected by statutory or common law copyrights or other proprietary law have been duly licensed or otherwise authorized by the owners of such works or legal representatives thereof. Renter further agrees to indemnify and hold harmless the City its agents, officers, and employees, and affiliated entities, from any and all claims, fees, expenses or costs including legal fees asserted or incurred with regard to such warranty.
15. Weather. It will be the responsibility of the Renter to make provisions for rain or severe weather. However, the City has the right to terminate an activity due to inclement weather that could pose a hazard to the guests, performers, staff or the Facility.
16. Conduct. a) The City through its representatives, agents, and employees, reserves the right to control all Activities at the Amphitheater and to eject any person(s) who is objectionable and causes disfavor to the rules and regulations; b) The City through its representatives, agents, and employees, may revoke any permit previously granted at any time if it is determined that the application for permit contained any misrepresentation or false statement, or that any condition set forth in the policies governing the permit requested is not being complied with, or that the safety of the participants in the Activities of the applicant or other patrons of or visitors to the Amphitheater is endangered by the continuation of such Activity; c) Renters, its agents, servants, employees, assigns, successors, invitees, and licensees at all times agree to fully abide by City rules and regulations; d) Renter is responsible to see that all Activities are properly controlled; all rules are enforced, and must have a designated person(s) of authority on site at all times and be readily accessible to City staff; e) Renter agrees that he/she will, to the extent possible, take every action necessary to prevent any and all disorderly or boisterous conduct or immoral practices of any kind and/or about the premises by its agents, servants, employees, assigns, successors, invitees and licensees.



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- 17. Security. The Facility is an open-air, unsecured, public facility, although a gated fence surrounding the Amphitheater can establish a closed event area. The City is not responsible for restricting access during activities. Renter will be responsible for all access restrictions and security, subject to the right of the City through its agents to make appropriate determinations regarding safety or other public use practices. Renter may be required by the City to retain Morgantown Police Department officers as security for an event as determined by MPD. Renter will be provided cost information based on event scheduling. If Renter experiences uninvited guests or other unauthorized occupancy of rented space, Renter should contact emergency services by dialing 911 or call Morgantown Police dispatch.
- 18. Nondiscrimination. The City requires that all parties conducting business within the City, and with which the City enters contracts, abide by its Nondiscrimination Ordinance, as codified at Article 153 of the Codified Ordinances of the City. Renter shall not discriminate with regard to race, religion, color, national origin, ancestry, sex, age, blindness, disability, sexual orientation, gender identity, familiar status, or veteran status in the performance of its duties, and Renter shall obligate its agents, subcontractors, and all other related parties performing work or services in the City to comply with this policy and the Nondiscrimination Ordinance.
- 19. Notice. All notices, requests, demands and other communications which are required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been duly given if delivered personally or sent by U.S. registered or certified mail, return receipt requested, postage prepaid:

To Renter: At the contact person identified in the Rental Application

To City:
The City of Morgantown
c/o Vincent Kitch, Director of Arts & Cultural Development
389 Spruce Street
Morgantown, WV 26505

or to such other address as a party shall hereafter specify by notice in writing to the other.

- 20. Entire Agreement; Amendment. This is the full and complete agreement of the parties with respect to the subject matter hereof and supersedes and replaces any prior agreements and understandings regarding the same subject matter. This Agreement may be modified only by a writing signed by duly authorized representatives of both parties.

I, the undersigned, have read and clearly understand the terms and conditions governing the use of the Facility as set in this agreement. I agree to follow these terms and regulations:

Printed Name	Signature	Date
Organization		

ACCEPTED BY THE CITY OF MORGANTOWN:

Printed Name	Signature	Date
City of Morgantown		
