



Office of the City Clerk

# The City of Morgantown

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

**AGENDA  
MORGANTOWN CITY COUNCIL  
REGULAR MEETING  
July 5, 2016  
7:00 p.m.**

1. **CALL TO ORDER**
2. **ELECTION OF MAYOR AND DEPUTY MAYOR**
3. **OATH OF OFFICE FOR MAYOR AND DEPUTY MAYOR**
4. **ROLL CALL BY MAYOR**
5. **PLEDGE TO THE FLAG**
6. **APPROVAL OF MINUTES: Special and Regular Meeting Minutes for June 21, 2016 will be available at the July 19<sup>th</sup> meeting.**
7. **CORRESPONDENCE:**
8. **PUBLIC HEARINGS:**
  - A. **AN ORDINANCE AMENDING ARTICLES 1329.02, 1369.07, AND 1369.11 OF THE PLANNING AND ZONING CODE AS THEY RELATE TO WALL SIGNS.**
  - B. **AN ORDINANCE AUTHORIZING THE SALE OF COAL NEAR THE MORGANTOWN MUNICIPAL AIRPORT TO THE MONONGALIA COUNTY DEVELOPMENT AUTHORITY.**
9. **UNFINISHED BUSINESS:**
  - A. **Consideration of APPROVAL of (SECOND READING) and (ADOPTION) of AN ORDINANCE AMENDING ARTICLES 1329.02, 1369.07, AND 1369.11 OF THE PLANNING AND ZONING CODE AS THEY RELATE TO WALL SIGNS. (First reading June 7, 2016)**
  - B. **Consideration of APPROVAL of (SECOND READING) and (ADOPTION) of AN**

**ORDINANCE AUTHORIZING THE SALE OF COAL NEAR THE MORGANTOWN MUNICIPAL AIRPORT TO THE MONONGALIA COUNTY DEVELOPMENT AUTHORITY. (First reading June 21, 20126)**

**C. BOARDS AND COMMISSIONS**

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

**11. SPECIAL COMMITTEE REPORTS:**

**12. NEW BUSINESS:**

- A. Consideration of APPROVAL of (FIRST READING) of 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.**
- B. Consideration of APPROVAL of (FIRST READING) of AN ORDINANCE AMENDING ARTILCES 1713 AND 1717 OF THE CITY CODE AND ADOPTING THE 2015 STATE BUILDING CODE.**
- C. Consideration of APPROVAL of (FIRST READING) of AN ORDINANCE REPEALING ORDINANCES 2014-38 AND 2014-39 PROVIDING FOR A DOWNTOWN BUSINESS DISTRICT HEAVY TRUCK LIMITATION.**
- D. Consideration of APPROVAL of (FIRST READING) 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.**
- E. Consideration of APPROVAL of (FIRST READING) of AN ORDINANCE AMENDING CITY CODE ARTICLE 545 RELATING TO GENERAL OFFENSES INVOLVING WEAPONS.**
- F. Consideration of APPROVAL of (FIRST READING) of 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.**

- G. Consideration of APPROVAL of (FIRST READING) of AN ORDINANCE AMENDING ARTICLE 149 OF THE CITY CODE RELATING TO THE BOARD OF PARKS AND RECREATION COMMISSIONERS.**
- H. Consideration of APPROVAL of (FIRST READING) of AN ORDINANCE AMENDING ARTICLE 941.**
- I. Consideration of APPROVAL of A RESOLUTION REGARDING APPROVAL OF (I) THE TAX INCREMENT FINANCING APPLICATION SUBMITTED BY THE FAIRMONT MORGANTOWN HOUSING AUTHORITY (THE "TIF APPLICATION") WITH RESPECT TO THE PROPOSED CREATION OF A NEW TAX INCREMENT FINANCING DISTRICT IN THE CITY OF MORGANTOWN TO BE CALLED "THE CITY OF MORGANTOWN DEVELOPMENT DISTRICT NO. 5" (THE "TIF DISTRICT") AND PUBLIC INFRASTRUCTURE PROJECTS AND IMPROVEMENTS WITHIN THE TIF DISTRICT (THE "TIF PROJECT"); (II) SUBMISSION OF THE TIF APPLICATION TO THE WEST VIRGINIA DEVELOPMENT OFFICE; AND (III) APPROVAL OF OTHER ITEMS IN CONNECTION THERWITH.**
- J. Consideration of APPROVAL of A RESOLUTION AUTHORIZING A GRANT FROM THE WEST VIRGINIA DIVISION OF CULTURE AND HISTORY TO PROVIDE SOME COSTS OF HISTORICAL SURVEY OF THE SUNCREST NEIGHBORHOOD AND PROPERTIES.**
- K. Consideration of APPROVAL of A RESOLUTION APPROVING AN AGREEMENT WITH THE MONONGALIA COUNTY BOARD OF EDUCATION PROVIDING A SCHOOL RESOURCE OFFICER AT SOUTH MIDDLE SCHOOL.**
- L. Consideration of APPROVAL of A RESOLUTION APPROVING AN AGREEMENT WITH THE MONONGALIA COUNTY BOARD OF EDUCATION PROVIDING A SCHOOL RESOURCE OFFICER AT MORGANTOWN HIGH SCHOOL.**

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

**INFORMATION:**

1. Code Enforcement Office becomes an ICC Education Preferred Provider

**NEW BUSINESS:**

1. State Contract purchase for Urban Landscape
2. Tax Increment Financing Memorandum of understanding

14. **REPORT FROM CITY CLERK:**

15. **REPORT FROM CITY ATTORNEY:**

16. **REPORT FROM COUNCIL MEMBERS:**

17. **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)

Wednesday, June 29, 2016

## City Manager's Report for City Council Meeting on July 5, 2016

### Information:

#### 1. Code Enforcement Office becomes an ICC Education Preferred Provider

I would like to congratulate Mike Stone and the Code Enforcement Department for getting established as an ICC Education Preferred Provider. This designation will allow our Code Enforcement officers to be trainers of ICC codes, which will create a more affordable way to improve the education of all Code Enforcement employees and bring a higher level of service to the City.

### New Business:

#### 1. State Contract purchase for Urban Landscape

The City Manager's Office is interested in purchasing a new GMC ¾ ton pickup truck to support Urban Landscape Division through State contract pricing. The funding has been approved in the FY 2017 budget. The total cost of vehicle is \$28,303.65 from Matheny Motors in Parkersburg, WV.

I recommend the purchase by State contract utilizing the budgeted Capital Escrow funds.

#### 2. Tax Increment Financing Memorandum of understanding

Attached is a proposed memorandum of understanding regarding the competitive bidding process for the City of Morgantown Development District No. 5 Tax Increment Financing District. As required by State Code, this MOU identifies that the Fairmont/Morgantown Housing Authority will be responsible for bidding on construction projects that include funds generated by the TIF District. I recommend the approval of the MOU to allow the Fairmont/Morgantown Housing Authority to

Jeff Mikorski ICMA-CM,  
Morgantown City Manager



**International Code Council**  
**Central Regional Office**  
4051 Flossmoor Road  
Country Club Hills, IL 60478  
t: 888.ICC.SAFE (422.7233)  
f: 708.799.4981  
[www.iccsafe.org](http://www.iccsafe.org)

June 7, 2016

Dear City of Morgantown,

The enclosed Preferred Provider wall certificate is documentation of your status as an ICC Education Preferred Provider and is valid as long as your status remains active and is maintained each year. You may display this certificate as you desire.

We appreciate your active participation in this program and value your partnership in education and your contributions toward achieving higher levels of building safety and best building construction practices.

Sincerely,

A handwritten signature in black ink, appearing to read "Tracy Lendi", is written over a printed name.

Tracy Lendi

Vice President, Training & Education



**PREFERRED  
PROVIDER**

# **CITY OF MORGANTOWN**

**HAS BEEN APPROVED AND GRANTED STATUS AS AN**

**ICC PREFERRED PROVIDER**

**No. 1484**

**IN RECOGNITION OF EXCELLENCE IN EDUCATIONAL ACTIVITIES RELATED TO THE  
DESIGN, BUILD AND COMPLIANCE PROCESS  
IN SUPPORT OF SAFE, SUSTAINABLE, AFFORDABLE AND RESILIENT STRUCTURES**

**GRANTED IN YEAR 2016**

**AND VALID WHILE ACTIVE STATUS IS MAINTAINED.**

**ALEX "CASH" OLSZOWY, III  
PRESIDENT  
ICC BOARD OF DIRECTORS**

**DOMINIC SIMS  
CHIEF EXECUTIVE OFFICER  
INTERNATIONAL CODE COUNCIL**



## SALES WRITEUP

3rd and Ann Street - PO Box 1304  
Parkersburg WV 26102-1304

Freightliner Hino GMC Isuzu Mac Trailers Laudoll Trailers

Company Name	City of Morgantown			Date:	6/27/2016
Point of Contact	Gary Gregg			Email Address:	ggregg@morgantownwv.gov
Street Address:	389 Spruce St			City:	Morgantown
State	WV	Zip Code:	26505	Main Phone:	(304)291-7471
County:	Monogalia	Last 4 Zip:		2nd Phone:	
Apportioned Tags:		Tax Free:		Copy of Drivers License:	
Ohio Deal: FEIN				Ohio Deal PUCO:	

Please enter my order for the following:

Trade in description and allowance: Trade: NO

Make:	GMC	Model:	TK25903
Year:	2016	Body:	Reg. Cab
Color:	White	Interior:	Jet Black
Mileage:		Date:	
VIN:	1GT02REG0GZ339903	Stock #:	339903
GVW:	9,500	GCW:	

Make:		Model:	
Year:		Body:	
Color:		Interior:	
Mileage:		Date:	
VIN:		Stock #:	
GVW:		GCW:	

Description
6.0L V8, Automatic Transmission Snow Plow Prep Package Towing Equipment Package Spray-in Bedliner Under Rail

Name of Agent:	
Name of Company:	
Eff. Date of Policy:	
Policy No.:	
Name of Lienor:	
Address:	
Contact Name&Number	

FEE Name	Amount
State Title Tax	\$0.00
Title/Lien Fee	\$0.00
Transfer Fee	\$0.00
Additional Weight Fee	
License Fee	
Temporary Plate Fee	\$12.00
Document Fee	\$185.50
Other: Reason?	
<b>Total Fee</b>	<b>\$197.50</b>

Purchaser agrees that this order on the face and reverse side hereof and any separate disclosure shall include all of the terms and conditions. This order cancels and supersedes any prior agreement and as of this date hereof comprises the complete and exclusive statement of the terms of the agreement relating to the subject matters covered hereby. IF THIS ORDER IS FOR A USED VEHICLE, THE INFORMATION YOU SEE ON THE FEDERAL TRADE COMMISSION WINDOW FORM IS PART OF THIS AGREEMENT. Information on the window form overrides any contrary provisions in the contract of sales. **THIS ORDER SHALL NOT BECOME BINDING UNTIL ACCEPTED BY THE DEALER OR HIS AUTHORIZED REPRESENTATIVE.** Purchaser by his execution of this order acknowledges that he has read the terms and conditions and has received a true copy of this order.

Total Purchase Price	\$28,106.15
Less Trade in Allowance	
Total Taxable Amount	\$28,106.15
Total Fees (See Above)	\$197.50
Trade in Payoff	\$0.00
FET	\$0.00
Federal Credits	
<b>Total</b>	<b>\$28,303.65</b>
Rebates	
<b>Balance Due on Delivery</b>	<b>\$28,303.65</b>

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

Date: \_\_\_\_\_

Dealer Representative: \_\_\_\_\_

Date: \_\_\_\_\_

MEMORANDUM OF UNDERSTANDING

**THIS MEMORANDUM OF UNDERSTANDING** (“MOU”) is made and entered into as of July 5, 2016, by and between The City of Morgantown (the “City”), and Fairmont-Morgantown Housing Association (“FMHA”).

**WHEREAS**, FMHA has requested that the City create and establish a development district to be known and designated as “The City of Morgantown Development District No. 5” (the “TIF District”), and approve a development project plan (the “Project Plan”), specifically the development of certain public infrastructure improvements within the TIF District, including, without limitation, water lines, sanitary sewer lines, stormwater drainage, road improvements and other related infrastructure and utilities improvements, all within or benefitting the proposed TIF District (the “TIF Projects”), all in order to facilitate the issuance of tax increment financing obligations or the utilization of tax increment revenues to finance the costs of planning, acquiring, constructing and equipping the TIF Projects, being necessary public infrastructure improvements within or benefitting the TIF District, under and pursuant to Chapter 7, Article 11B of the Code of West Virginia, 1931, as amended (the “TIF Act”);

**WHEREAS**, FMHA and the City have agreed to jointly develop and finance the TIF Projects through the issuance of tax increment financing obligations and/or the utilization of tax increment revenues on a pay as you go basis;

**WHEREAS**, the City has, on the date hereof, held a public hearing regarding the creation and establishment of the proposed TIF District, the approval of the Project Plan, a Tax Increment Financing Application dated June 7, 2016 (the “Application”) and issuance of tax increment financing bonds or other obligations, all as more fully described in the Application; and

**WHEREAS**, a memorandum of understanding between FMHA and the City regarding the competitive bidding process for construction of tax increment financed projects is required to be submitted to the West Virginia Development Office as a condition to such Office’s approval of the Application.

**ACCORDINGLY**, FMHA and the City have determined to proceed in the following manner:

1. The bid specifications for design and/or construction of the TIF Projects or any portion thereof will be prepared by or on behalf of FMHA and provided to the City for review at least two weeks prior to publication of the advertisement for bids.
2. The bid specifications will comply with Chapter 5G, Article 1, Chapter 5, Article 22 and Chapter 5, Article 22A of the Code of the State of West Virginia, 1931, as amended (collectively, the “Bidding Statutes”), as applicable.

3. Upon approval of the City, FMHA will be responsible for the publication of all bid advertisements.

4. Bid opening will be held at a mutually agreeable location in the presence of representatives of the City of Morgantown and FMHA.

5. The City and FMHA will, in accordance with the provisions of the applicable Bidding Statutes, select from those bids offered the appropriate bidder, subject to the right of the City and FMHA to reject any and all bids.

6. FMHA will be responsible for all costs in connection with the preparation and advertisement of bids; *provided however*, that all such costs may be reimbursable from the TIF Fund of the TIF District or from the proceeds of tax increment financing obligations to be issued by the City.

[Signature Page Follows]

**WITNESS** the following signatures:

**THE CITY OF MORGANTOWN**

By: \_\_\_\_\_  
Name: Jeff Mikorski  
Title: City Manager

**FAIRMONT-MORGANTOWN HOUSING AUTHORITY**

By: \_\_\_\_\_  
Name: John Martys  
Title: Executive Director

## Boards & Commissions Available Positions

<u>Board/Commission</u>	<u>Vacancy/Term</u>	<u>Name of Applicants</u>	<u>Res./Non Res.</u>	<u>Ward</u>	<u>Code Sec.</u>	<u>Other</u>
Human Rights Commission	0	<b>Names Attached</b>	Resident		153	Appt 7-5-16
Museum Commission	0	<b>Charlie Byrer</b>	Resident		168	Special Meeting
Parking Authority	1	<b>Advertising</b>	Resident		155	Special Meeting
Sister Cities	2	<b>One App Attached</b>	Resident		172.02	Special Meeting
Traffic Commission	3	<b>One App Attached</b>	Resident	2,5,6	151	At Large Vacancy Special Meeting
<b>Urban Landscape will be updated 1st of the year, per Marchetta Maupin. (Code Sec.163)</b>						

Will be set up for interviews once bios are received.

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

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

6/24/2016

# Application to Serve on City Boards and Commissions JUNE 10, 2016

THE CITY OF MORGANTOWN HAS NUMEROUS COMMITTEES, BOARDS, AND COMMISSIONS COMPRISED OF CITIZENS WHO GIVE OF THEIR TIME IN VERY IMPORTANT CAPACITIES. STATE LAWS PRESCRIBE THAT SOME OF THOSE BODIES RETAIN MEMBERS WHO HAVE CERTAIN EXPERIENCE, EDUCATION OR PROFESSIONAL CERTIFICATIONS. WE ASK THAT YOU PROVIDE THE FOLLOWING BASIC INFORMATION SO WE MAY EVALUATE PROSPECTIVE APPOINTEES' QUALIFICATIONS IN AN EXPEDIENT MANNER. A RESUME OR OTHER PERTINENT INFORMATION MAY BE SUBMITTED ALONG WITH THIS FORM.

MR/MS: JUDITH SMITH WILKINSON WORK/CELL PHONE: 304-389-0753 \*

ADDRESS: TWO WATERFRONT PLACE SUITE 1403 HOME PHONE: 304-292-0883  
MORGANTOWN WV 26501 ZIP: 26501

EMAIL ADDRESS: JSW1403@HOTMAIL.COM

\*TEXT WORKS WELL

CITY RESIDENT? YES  NO  RECENTLY YEARS OF CITY RESIDENCY 10 WARD FIRST  
*(10 AS A WV STUDENT 1961-1973)*

WHO IS YOUR EMPLOYER? (If Retired, Answer "Retired"): RETIRED

WHAT TYPE OF BUSINESS ARE (were) YOU EMPLOYED IN? PASTORAL COUNSELING AND CENTERS TEACHER  
*(KANAWHA & MORGANTOWN)*

JOB TITLE or JOB DESCRIPTION: I COUNSELED PRIMARILY WOMEN & EARLIER HIGH SCHOOL STUDENTS

PROFESSIONAL CERTIFICATIONS/LICENSES: WV LICENSED PROFESSIONAL COUNSELOR  
*(CURRENTLY) WV LPC*

*VERY SOON: GPC GERONTOLOGY PROFESSIONAL CERTIFICATE* *CLINICAL PASTORAL EDUCATION (Hospital and Chaplain)*  
*MANY YEARS AGO: ELEMENTARY TEACHING CERTIFICATES: CONNECTICUT*

SPECIAL INTERESTS: LIFE LONG LEARNING, HEALTH AND FITNESS, ISSUES OF PEACE & UNDERSTANDING, INTERFAITH, COMPASSION, DIVERSITY, EQUALITY, INCLUSION, PEACE, WV: (COMMUNITY, PURPOSE, & HOPE), ENVIRONMENTAL AND CLIMATE CONTROL

- |   |   |
|---|---|
| <input type="checkbox"/> BOCA BOARD OF APPEALS                  | <input type="checkbox"/> MUSEUM COMMISSION          |
| <input type="checkbox"/> BOARD OF PARKS AND RECREATION          | <input type="checkbox"/> PARKING AUTHORITY          |
| <input type="checkbox"/> BOARD OF ZONING APPEALS                | <input type="checkbox"/> PERSONNEL BOARD            |
| <input type="checkbox"/> BUILDING COMMISSION                    | <input type="checkbox"/> PLANNING COMMISSION        |
| <input type="checkbox"/> FIRE CIVIL SERVICE                     | <input type="checkbox"/> POLICE CIVIL SERVICE       |
| <input type="checkbox"/> HISTORIC LANDMARKS                     | <input type="checkbox"/> SISTER CITIES COMMISSION   |
| <input checked="" type="checkbox"/> HUMAN RIGHTS                | <input type="checkbox"/> TRAFFIC COMMISSION         |
| <input type="checkbox"/> LIBRARY BOARD                          | <input type="checkbox"/> TRANSIT AUTHORITY          |
| <input type="checkbox"/> MET BOARD                              | <input type="checkbox"/> TREE BOARD                 |
| <input type="checkbox"/> MORGANTOWN HOUSING ADVISORY COMMISSION | <input type="checkbox"/> URBAN LANDSCAPE COMMISSION |
| <input type="checkbox"/> MORGANTOWN UTILITY BOARD               | <input type="checkbox"/> WARD & BOUNDARY            |
| <input type="checkbox"/> WOODBURN REDEVELOPMENT COMMISSION      |   |

## Morgantown

Request ID: 31488

**Request Form:** Volunteer for Boards and Commissions

**Received:** Thursday, May 26, 2016

**Status:** Completed

**Priority:** Normal

**Assigned To:** Heather Carl

### Contact Details

**From:** Christopher Reed

**Email:** chris@chrisreed.info

**Telephone:** 3047044706

**Address1:** 313 Euclid Ave

**Address2:** Apt A

**City:** Morgantown

**State:** WV

**Zip Code:**  
26501

**Pref. Method of Response:** E-Mail

### Request Address

**Number:**

**Direction:**

**Street:**

**Type:**

**Apt:**

**City:**

**State:**

**Zip Code:**

### Questions and Answers

**Are you a Morgantown resident?:**

Yes

**If Yes, how many years have you lived in the City of Morgantown?:**

2

**In which City Ward do you reside?:**

Second

**Who is your current employer (If retired, answer "retired")?:**

WVNET

**What type of business are you, or were you, employed in?:**

Software Development

**Do you have professional certifications or licenses?:**

**Do you have any pertinent special interests?:**

**Are you a Morgantown resident?:**

Yes

**If Yes, how many years have you lived in the City of Morgantown?:**

2

**In which City Ward do you reside?:**

Second

**On which Board, Commission, or Authority are you interested in being a volunteer?:**

Human Rights Commission

**Who is your current employer (If retired, answer "retired")?:**

WVNET

**What type of business are you, or were you, employed in?:**

Software Development

**Do you have professional certifications or licenses?:**

**Do you have any pertinent special interests?:**

#### **Staff Activities**

The status of the request was changed from Active to Completed. on 6/1/2016 at 8:27 AM

The status of the request was changed from Completed to Active. on 6/1/2016 at 8:27 AM

The status of the request was changed from Active to Completed. on 6/1/2016 at 8:27 AM

#### **Public Activities**

Request was successfully submitted. by Cartegraph Support on 5/26/2016 at 1:05 PM

**Morgantown**

**Request ID: 31503**

**Request Form:** Volunteer for Boards and Commissions  
**Received:** Sunday, June 12, 2016  
**Status:** Completed  
**Priority:** Normal  
**Assigned To:** Heather Carl

**Contact Details**

**From:** Barry Wendell  
**Email:** wendell.barry@aol.com  
**Telephone:** 304-685-1098  
**Address1:** 1319 Heritage Place  
**Address2:**

**City:** Morgantown

**State:** WV

**Zip Code:**  
26505

**Pref. Method of Response:** E-Mail

**Request Address**

**Number:**  
**Street:**  
**Type:**  
**City:**

**Direction:**

**State:**

**Apt:**  
**Zip Code:**

**Questions and Answers**

**Are you a Morgantown resident?:**  
Yes

**If Yes, how many years have you lived in the City of Morgantown?:**  
1

**In which City Ward do you reside?:**  
Seventh

**Who is your current employer (If retired, answer "retired")?:**  
retired

**What type of business are you, or were you, employed in?:**  
public schools, clergy

**Do you have professional certifications or licenses?:**  
no

**Do you have any pertinent special interests?:**  
I am the spouse of Rabbi Joe Hample of Tree of Life Congregation. I am

**interested in protecting racial and religious minority and LGBT rights.**

**Are you a Morgantown resident?:**  
Yes

**If Yes, how many years have you lived in the City of Morgantown?:**  
1

**In which City Ward do you reside?:**  
Seventh

**On which Board, Commission, or Authority are you interested in being a volunteer?:**  
Human Rights Commission

**Who is your current employer (If retired, answer "retired")?:**  
retired

**What type of business are you, or were you, employed in?:**  
public schools, clergy, ran for Delegate in 2016 primary

**Do you have professional certifications or licenses?:**  
no

**Do you have any pertinent special interests?:**  
fostering acceptance of racial and religious minorities and the LGBT community

#### **Staff Activities**

The status of the request was changed from Active to Completed. on 6/17/2016 at 11:23 AM

#### **Public Activities**

Request was successfully submitted. by Cartegraph Support on 6/12/2016 at 7:52 PM

## Morgantown

Request ID: 31501

**Request Form:** Volunteer for Boards and Commissions

**Received:** Thursday, June 09, 2016

**Status:** Completed

**Priority:** Normal

**Assigned To:** Heather Carl

### Contact Details

**From:** Brian Gardner

**Email:** bgardne3@mix.wvu.edu

**Telephone:** 304-209-1690

**Address1:** 936 Willowdale Road

**Address2:** Unit 6

**City:** Morgantown

**State:** WV

**Zip Code:**

~~26749~~ 26501

**Pref. Method of Response:** E-Mail

### Request Address

**Number:**

**Direction:**

**Street:**

**Type:**

**Apt:**

**City:**

**State:**

**Zip Code:**

### Questions and Answers

**Are you a Morgantown resident?:**

Yes

**If Yes, how many years have you lived in the City of Morgantown?:**

One

**In which City Ward do you reside?:**

Third

**Who is your current employer (If retired, answer "retired")?:**

Unemployed (Full-time Student)

**What type of business are you, or were you, employed in?:**

Education

**Do you have professional certifications or licenses?:**

I am a certified paralegal.

**Do you have any pertinent special interests?:**

I received a bachelors in Chinese Studies and focused on Chinese business. I am

continuing my education at WVU College of Law and College of Business and Economics with an emphasis in international law. I wish to work internationally in the field of American-Chinese business law. I believe I will be able to contribute to the sister cities program as well as gain invaluable experience.

Are you a Morgantown resident?:  
Yes

If Yes, how many years have you lived in the City of Morgantown?:  
One

In which City Ward do you reside?:  
Third

On which Board, Commission, or Authority are you interested in being a volunteer?:  
Sister Cities Commission

Who is your current employer (If retired, answer "retired")?:  
Unemployed (Full-Time Student)

What type of business are you, or were you, employed in?:  
Education

Do you have professional certifications or licenses?:  
I am a certified paralegal

Do you have any pertinent special interests?:  
I received a bachelors in Chinese Studies and focused on Chinese business. I am continuing my education at WVU College of Law and College of Business and Economics with an emphasis in international law. I wish to work internationally in the field of American-Chinese business law. I believe I will be able to contribute to the sister cities program as well as gain invaluable experience.

## Staff Activities

A printable copy of the request was prepared based on the template Request Print Document. on 6/9/2016 at 4:29 PM  
The status of the request was changed from Active to Completed. on 6/9/2016 at 4:29 PM

**Public Activities**

Request was successfully submitted. by Cartegraph Support on 6/9/2016 at 2:29 PM

## Application to Serve on City Boards and Commissions

THE CITY OF MORGANTOWN HAS NUMEROUS COMMITTEES, BOARDS, AND COMMISSIONS COMPRISED OF CITIZENS WHO GIVE OF THEIR TIME IN VERY IMPORTANT CAPACITIES. STATE LAWS PRESCRIBE THAT SOME OF THOSE BODIES RETAIN MEMBERS WHO HAVE CERTAIN EXPERIENCE, EDUCATION OR PROFESSIONAL CERTIFICATIONS. WE ASK THAT YOU PROVIDE THE FOLLOWING BASIC INFORMATION SO WE MAY EVALUATE PROSPECTIVE APPOINTEES' QUALIFICATIONS IN AN EXPEDIENT MANNER. A RESUME OR OTHER PERTINENT INFORMATION MAY BE SUBMITTED ALONG WITH THIS FORM.

MR/MS: Nicholas A. Wright WORK/CELL PHONE: (304) 641-1977

ADDRESS: 456 West Virginia Ave HOME PHONE: (304) 641-1977

Morgantown, WV ZIP: 26501

EMAILADDRESS: nickwright2414@gmail.com

CITY RESIDENT? YES  NO  YEARS OF CITY RESIDENCY 3 WARD 1st

WHO IS YOUR EMPLOYER? (If Retired, Answer "Retired"): City of Morgantown Fire Department

WHAT TYPE OF BUSINESS ARE (were) YOU EMPLOYED IN? City Government/Fire Service

JOB TITLE or JOB DESCRIPTION: Firefighter First Class

PROFESSIONAL CERTIFICATIONS/LICENSES: Extensive Firefighter Training (<4,000 hours),

Licensed Emergency Vehicle Operator, EMT-B, Haz-Mat Technician, Vehicle Extrication Technician, Swift Water

Technician, Licensed Technician for Fire Protection Products (ie: Sprinkler, Fire Extinguisher, Fire Alarms), Eagle Scout

SPECIAL INTERESTS: Very Passionate towards my profession and serving my community, Athletic Events/Sports

### PLEASE CHECK THE COMMISSIONS YOU ARE INTERESTED IN SERVING:

- |   |   |
|---|---|
| <input type="checkbox"/> BOCA BOARD OF APPEALS                  | <input type="checkbox"/> MUSEUM COMMISSION                    |
| <input type="checkbox"/> BOARD OF PARKS AND RECREATION          | <input type="checkbox"/> PARKING AUTHORITY                    |
| <input type="checkbox"/> BOARD OF ZONING APPEALS                | <input type="checkbox"/> PERSONNEL BOARD                      |
| <input type="checkbox"/> BUILDING COMMISSION                    | <input type="checkbox"/> PLANNING COMMISSION                  |
| <input type="checkbox"/> FIRE BOARD OF APPEALS                  | <input type="checkbox"/> POLICE CIVIL SERVICE                 |
| <input type="checkbox"/> FIRE CIVIL SERVICE                     | <input type="checkbox"/> SISTER CITIES COMMISSION             |
| <input type="checkbox"/> HISTORIC LANDMARKS                     | <input checked="" type="checkbox"/> TRAFFIC COMMISSION        |
| <input type="checkbox"/> HUMAN RIGHTS                           | <input type="checkbox"/> TRANSIT AUTHORITY                    |
| <input type="checkbox"/> LIBRARY BOARD                          | <input type="checkbox"/> TREE BOARD                           |
| <input type="checkbox"/> MET BOARD                              | <input type="checkbox"/> URBAN LANDSCAPE COMMISSION           |
| <input type="checkbox"/> MORGANTOWN HOUSING ADVISORY COMMISSION | <input type="checkbox"/> WARD & BOUNDARY                      |
| <input type="checkbox"/> MORGANTOWN UTILITY BOARD               | <input type="checkbox"/> WOODBURN REDEVELOPMENT<br>COMMISSION |

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**From:** Charlie Byrer <charliebyrer@gmail.com>  
**Sent:** Friday, June 03, 2016 1:01 PM  
**To:** Linda Little  
**Subject:** Morgantown History Museum Position

Linda: I spoke with Pam B. this week and she asked me if I would like to remain on the Museum Commission in which my present appointment expires at the end of this month. I would like to continue as a member of the Museum Commission. Please let me know Council's wishes - Thanks and I hope all is going well with you and yours,  
my best, Charlie

ARTICLE 153  
Human Rights

153.01	Declaration of policy.	153.06	Meetings, bylaws and rules.
153.02	Definitions.	153.07	Commission status and objectives.
153.03	City Human Rights Commission established.	153.08	Powers; functions; services.
153.04	Composition and membership.	153.09	Complaints; procedures.
153.05	Officers.		

CROSS REFERENCES

Authority to prohibit housing discrimination - see  
W.Va. Code 8-12-9  
State Human Rights Commission - see W.Va. Code Art. 5-11  
Local human relation commission - see W.Va. Code 5-11-1

153.01 DECLARATION OF POLICY.

In order to build an inclusive community, the City will dedicate deliberate and continuous attention to the human relations and human rights of its residents and visitors.

It is the public policy of the City to provide all of its residents equal opportunity for participation in local governance, employment, equal access to places of public accommodations and equal opportunity in the sale, purchase, lease, rental and financing of housing accommodations or real property. Equal opportunity in the areas of employment, public accommodations, housing accommodations or real property is hereby declared to be a human right or civil right of all persons without regard to race, religion, color, national origin, ancestry, sex, age, blindness or handicap.

The denial of these rights to properly qualified persons by reason of race, religion, color, national origin, ancestry, sex, age, blindness, handicap or familial status is contrary to the principles of freedom and quality of opportunity and is destructive to a free and democratic society.

This City policy is based on the recognition and vision that the diversity found in our city brings forth richness in our community, a greater understanding of our world, a multitude of talent to benefit collective needs, and an opportunity for enhanced living and learning for all. Inherent in this policy is a commitment to encourage and endeavor to bring about equal opportunity, mutual understanding and respect for persons of all ages, abilities, ancestry, blindness, color, disability or handicap, ethnicities, familial status, national origins, sex, sexual orientations, races, religion and other backgrounds or orientations.

(Ord. 12-34. Passed 7-17-12.)

## 153.02 DEFINITIONS.

When used in this article:

- (a) "Person" means one or more individuals, partnerships, associations, organizations, corporations, labor organizations, cooperatives, legal representatives, trustees, trustees in bankruptcy, receivers and other organized groups of persons.
- (b) "Commission" means the Human Rights Commission of the City.
- (c) "Inclusive City" and "Inclusive Community" as used in this article, shall mean the same thing, e.g., a city that helps people thrive by: supporting hospitality; welcoming diversity; promoting civility; promoting safe, affordable dwellings; enabling participation in community, services, and local government; supporting fairness in access to opportunities and services; reducing violence; supporting social justice; encouraging awareness and understanding of opportunities/limitations; making residents aware of the West Virginia Human Rights Commission; and working for a more sustainable community for present and future citizens.
- (d) "Discriminate" or "discrimination" means to exclude from, or fail or refuse to extend to, a person equal opportunities in employment, public accommodations, housing, or other real property transactions because of race, religion, color, national origin, ancestry, sex, age, blindness, disability, sexual orientation or familial status. Discriminate includes to separate or segregate based on any of these characteristics.
- (e) "Race, religion, color, national origin, ancestry, sex, age, blindness, handicap or disability, and familial status" are defined herein to be equivalent to the definitions in the West Virginia Human Rights Act, Code 5-11-3.
- (f) "Sexual orientation" means having a preference for heterosexuality, homosexuality, being transgendered, or bisexuality, having a history of such preference or being identified with such preference.
- (g) "National League of Cities" means the National League of Cities and its various institutes and programs which relate to diversity in municipal populations throughout the United States and to efforts to support development of more equitable and sustainable communities.
- (h) "Neighborhood Coordinating Council" means the inter-neighborhood entity established by the City in 2005 to facilitate information exchange between the City administration and neighborhoods and among neighborhood organizations within the City.
- (i) "Sister City Program" means a national intercultural exchange program established in 1956 to promote global cooperation and intercultural understanding at the municipal level; stimulate connections, competitiveness and collaboration as well as development in a global market; and support citizen diplomacy on the part of individuals of all ages. The City of Morgantown has established a Sister Cities Commission to support its Sister City relationships established since 1978.
- (j) "Martin Luther King Day" celebrations means special observances related to the national holiday to celebrate respect for individuals of all backgrounds and origin.
- (k) "Teen Court" program means the Teen Court Program established by resolution August 2007.
- (l) "Youth Commission" means the Youth Commission of the City established by ordinance. (Ord. 12-34. Passed 7-17-12.)

### 153.03 CITY HUMAN RIGHTS COMMISSION ESTABLISHED.

There is hereby established in the City a Human Rights Commission.  
(Ord. 12-34. Passed 7-17-12.)

### 153.04 COMPOSITION AND MEMBERSHIP.

The Human Rights Commission shall consist of seven members to be appointed by City Council. The members shall be residents of and in the City. The Commission may appoint, with the approval of City Council, ex-officio members who shall have the privilege of participation without the right to vote.

Commissioners shall serve for two-year terms beginning with the first meeting after the beginning of the municipal fiscal year. Four of the first seven members shall be appointed to serve terms of two years, while three shall be appointed to serve terms of one year.

Thereafter, terms of office for all commissioners will be staggered with two-year terms. Members may be reappointed to subsequent two-year terms.  
(Ord. 12-34. Passed 7-17-12.)

### 153.05 OFFICERS.

(a) Officers: The officers of the Human Rights Commission shall be a Chairperson, Vice Chairperson, and Secretary. The Chairperson shall serve as the liaison to the City administration.

(b) Appropriation of Funds: City Council may appropriate any funds that it deems necessary to carry out any of the proposals set forth by the Human Rights Commission. The Commission, with the approval of Council, may apply for State and Federal financial aid in grants or other forms of financial assistance through the City Administration to assist in carrying out any approved plans or projects.

(c) Fiscal Responsibilities: The Human Rights Commission shall not have the authority to maintain any independent banking or other financial account. Any such account, if requested, shall be maintained by the City Manager.  
(Ord. 12-34. Passed 7-17-12.)

### 153.06 MEETINGS, BYLAWS AND RULES.

The Human Rights Commission shall meet as often as is deemed necessary by its members, upon call of the chairman. The Commission shall adopt its own bylaws and rules, subject only to the action of Council.  
(Ord. 12-34. Passed 7-17-12.)

### 153.07 COMMISSION STATUS AND OBJECTIVES.

The Commission shall encourage and endeavor to bring about mutual understanding and respect among all racial, religious and ethnic groups within the City; and shall strive to eliminate all discrimination in employment and places of public accommodations by virtue of race, religion, color, national origin, ancestry, sex, age, blindness, sexual orientation or disability, and shall strive to eliminate all discrimination in the sale, purchase, lease, rental or financing of housing and other real property by virtue of race, religion, color, national origin, ancestry, sex, age, blindness, sexual orientation or disability.

In addition, the purpose of the Commission shall be to:

- (a) Work to make Morgantown an inclusive city.
- (b) Collaborate with the National League of Cities, West Virginia University, Monongalia County Commission and other partners as appropriate to encourage leadership in helping attain inclusivity in the City and its larger community.
- (c) Assess needs and identify barriers towards becoming a more inclusive community. Establish goals and objectives for sustaining welcoming environments, enhancing global awareness, and promoting optimum opportunities for supporting safe housing and thriving people.
- (d) Support as well as plan, publicize, implement, and evaluate programs, services and activities which promote appreciation for all peoples and the personal worth of every individual.
- (e) Enlist the cooperation of civic, community, corporate, educational, ethnic, health care, labor, racial, religious, social justice or other identifiable groups of the City in programs and services devoted to the advancement of tolerance, communication and understanding, and equal protection of the laws of all groups and people.

(Ord. 12-34. Passed 7-17-12.)

#### 153.08 POWERS; FUNCTIONS; SERVICES.

The Commission has the right and duty to communicate with City Council and to present to Council any issues that it has investigated pursuant to this article.

The Commission is hereby authorized and empowered:

- (a) To cooperate and work with federal, state and local government officers, units, activities and agencies in the promotion and attainment of more harmonious understanding and greater equality of rights between and among all racial religious and ethnic groups in this City.
- (b) To enlist the cooperation of racial, religious and ethnic units, community and civic organizations, industrial and labor organizations and other identifiable groups of the City in programs and campaigns devoted to the advancement of tolerance, understanding and the equal protection of the laws of all groups and people.
- (c) To hold and conduct public hearings or meetings relating to any and all types of discrimination. These hearings shall be of a non-adjudicatory nature and shall not constitute investigations or adjudication of individual complaints regarding unlawful discrimination under the West Virginia Human Rights Act 5-11-1 et. seq.
- (d) To refer any individual or group complaint regarding alleged acts of unlawful discrimination to the West Virginia Human Rights Commission for investigation and adjudication.
- (e) To recommend to Council policies, procedures, practices and legislation in matters and questions affecting human rights. Study problems and needs related to inclusivity in the City and make specific recommendations to the City Manager and to the City Council and other partners as pertinent.
- (f) To prepare a written report on its work, functions and services for each year ending on June 30 and to deliver copies thereof to Council on or before December 1 next thereafter.
- (g) To do all other acts and deeds necessary and proper to carry out and accomplish effectively the objectives, functions and services contemplated by the provisions of this article, including the promulgation of rules and regulations implementing the powers and authority hereby vested in the Commission.

- (h) To create such advisory agencies within the City as in its judgment will aid in effectuating the purpose of this article; to study the problem of discrimination in all or specific fields or instances of discrimination because of race, religion, color, national origin, ancestry, sex, age, blindness or handicap; to foster, through community effort or otherwise, goodwill, cooperation and conciliation among the groups and elements of the population of the City and to make the recommendations to the Commission for the development of policies and procedures, and for programs of formal and informal education, which the Commission may recommend to the appropriate City agency. Such advisory agencies shall be composed of representative residents serving without pay. The Commission may itself make the studies and perform the acts authorized by this subsection. It may, by voluntary conferences with parties in interest, endeavor to eliminate discrimination in all stated fields and to foster goodwill and cooperation among all elements of the population of the City.
- (i) To accept contributions from any person to assist in the effectuation of the purposes of this section and to see and enlist the cooperation of private, charitable, religious, labor and civic and benevolent organizations for the purposes of this section.
- (j) To issue such publications and such results of investigation and research as in its judgement will tend to promote goodwill and minimize or eliminate discrimination; however, the identity of the parties involved shall not be disclosed.
- (k) To advise, consult with, and inform the City Manager on any matter pertaining to inclusivity in the City.
- (l) To support and develop program initiatives to promote residents' awareness and knowledge of both opportunities to increase inclusivity and current barriers which limit community inclusiveness and long-term sustainability.
- (m) To learn about best practices for addressing issues.
- (n) To create and implement an inclusive community plan for the City which increases public awareness of issues; promotes education and understanding, provides, enables, or enhances services; articulates planned collaboration; and promotes public participation.
- (o) To review City plans and policies which contain matters relating to inclusivity.
- (p) To use media and the Internet to frame and convey information about issues, public programs, and service opportunities.  
(Ord. 12-34. Passed 7-17-12.)

#### 153.09 COMPLAINTS; PROCEDURES.

The Commission shall inform any individual claiming to be aggrieved by an alleged unlawful discriminatory practice under West Virginia Human Rights Act 5-11-9 that the Commission does not have the power to accept formal complaints of illegal practices. Any individual claiming to be so aggrieved shall be referred to the West Virginia Human Rights Commission for investigation and adjudication of the complaint.  
(Ord. 12-34. Passed 7-17-12.)

ARTICLE 168  
Museum Commission

168.01	Established.	168.07	Appropriation of funds.
168.02	Members.	168.08	Powers and duties.
168.03	Officers.	168.09	Cooperation with State agencies.
168.04	Meetings.	168.10	Annual report.
168.05	Voting.		
168.06	Compensation and reimbursement for expenses.		

CROSS REFERENCES

Authority to establish - see W. Va. Code 8-12-5(38)

Museum commissions - see W. Va. Code 7-11A-1 et seq.

168.01 ESTABLISHED.

There is hereby formed, created and established a municipal museum commission known as the Morgantown Museum Commission (the "Commission"). The Commission is established pursuant to authority granted to the Municipality by Sections 7-11A-1 et seq. of the West Virginia Code. (Ord. 05-06. Passed 3-15-05.)

168.02 MEMBERS.

The Commission shall consist of ten members who shall be appointed by City Council. The terms of the individual Commission members first appointed shall be as follows:

Two members - 5 years

Two members - 4 years

Two members - 3 years

Two members - 2 years

Two members - 1 year.

All vacancies shall be filled for the unexpired term only and all other appointments shall be for a term of five years, to commence on the date following the scheduled expiration date of the previous term. At all times one of the ten members of the Commission shall be a member of City Council. All members of the Commission shall be residents of the City. (Ord. 05-06. Passed 3-15-05.)

168.03 OFFICERS.

The Commission shall select from its own membership a chairperson, vice-chairperson and secretary. (Ord. 05-06. Passed 3-15-05.)

#### 168.04 MEETINGS.

The Commission shall meet on a monthly basis. Special meetings may be held as deemed necessary by the Chairperson. Such meetings shall be subject to the requirements of the West Virginia Open Governmental Proceedings Act. A quorum of members must be present before a meeting of the Commission can be held at which any official action of the Commission is to take place.

(Ord. 05-06. Passed 3-15-05.)

#### 168.05 VOTING.

Every member of the Commission present, when a question is put, shall vote unless he/she is interested therein other than as a resident of the City. To be successful, an issue shall require six affirmative votes.

(Ord. 05-06. Passed 3-15-05.)

#### 168.06 COMPENSATION AND REIMBURSEMENT FOR EXPENSES.

The members of the Commission shall receive no compensation for their services, but shall be entitled to reimbursement for reasonable and necessary expenses actually incurred in the performance of their duties as a Commission member, if said Commission member has received approval from the City's Finance Director to make such expenditure prior to incurring said expense.

(Ord. 05-06. Passed 3-15-05.)

#### 168.07 APPROPRIATION OF FUNDS.

City Council may appropriate any funds that it deems necessary to carry out any of the proposals set forth by the Commission, so long as said proposal complies with the authority granted to the Commission by this article. The Commission, on behalf of the City, may receive gifts, grants, donations, bequests or devises from sources other than public funds.

(Ord. 05-06. Passed 3-15-05.)

#### 168.08 POWERS AND DUTIES.

It shall be the duty of the Commission to advise and recommend to the City Manager and/or City Council museum programs or projects within the City's corporate limits.

The Commission shall not have the authority to contractually bind the City on any matter.

Should the Commission so desire, it has the authority to recommend to City Council that a specific admission fee be approved by Council for entrance into a designated museum of the City. (Ord. 05-06. Passed 3-15-05.)

#### 168.09 COOPERATION WITH STATE AGENCIES.

The Commission shall cooperate and coordinate its activities with the West Virginia Department of Archives and History, the West Virginia Historical Society and the West Virginia Antiquities Commission. (Ord. 05-06. Passed 3-15-05.)

#### 168.10 ANNUAL REPORT.

On December 1st of each calendar year, the Commission shall file an annual report with the City Manager describing its activities for the previous twelve months. The City Manager shall present the Commission's report to City Council.

(Ord. 05-06. Passed 3-15-05.)

ARTICLE 155  
Parking Authority

- |  |  |
|--|--|
| <p>155.01 Created.</p> <p>155.02 Jurisdiction.</p> <p>155.03 Composition and membership;<br/>vacancies.</p> <p>155.04 Oath of office.</p> <p>155.05 Members' bonds. (Repealed)</p> <p>155.06 Organization and officers.</p> <p>155.07 Powers and duties.</p> <p>155.08 Appointment of special<br/>police officers.</p> | <p>155.085 Parking enforcement officers.</p> <p>155.09 Powers relative to parking<br/>facilities.</p> <p>155.10 Members not to be interested<br/>in contracts.</p> <p>155.11 Certain State law adopted.</p> <p>155.12 Construction of article.</p> |
|--|--|

CROSS REFERENCES

- Municipal public works; bonds - see W. Va. Code Art. 8-16  
 Authority to lease off-street parking facilities - see  
 W. Va. Code 8-12-12  
 Off-street parking - see TRAF. Art. 365

**155.01 CREATED.**

There is hereby established the Morgantown Parking Authority.  
 (1967 Code Sec. 2-108.)

**155.02 JURISDICTION.**

The construction, acquisition, improvement, extension, equipment, custody, operation and maintenance of all automobile parking facilities, except as otherwise provided by this article, including parking lots, parking buildings, ramps, curb line parking and other parking facilities deemed necessary or incidental to the regulation and control and parking of automobiles is hereby vested in the City Parking Authority, hereinafter referred to in this article as the "Parking Authority".  
 (1967 Code Sec. 2-109.)

**155.03 COMPOSITION AND MEMBERSHIP; VACANCIES.**

The Parking Authority shall consist of five persons, each of whom shall be a resident of the City. Two members of such authority shall also be members of the governing body of the City, one of which is to be appointed by the Mayor, and one of which is to be elected by Council. The term of these two members shall be coextensive with the term of office to which he has been elected or appointed. The remaining members of the Commission shall be appointed by Council for a term of three years, such terms to begin on the first day of July of any year; provided, however, that the three members of the Parking Authority heretofore appointed and in office when this article becomes effective shall, unless sooner removed, continue to serve until their respective terms expire and until their successors have been appointed and qualified. In the event of a vacancy in the membership of the Parking Authority a successor shall be appointed by Council for the unexpired term only. Members other than those appointed from the governing body shall serve until their successors have been appointed and qualified.

Any member of the Parking Authority not also a member of the governing body of the City shall be eligible for reappointment upon expiration of his term, and any member who is also a member of the governing body shall be eligible for reappointment; provided, that he is continuing as a member of the governing body. Members of the Parking Authority shall receive no compensation or salary for their services but shall be reimbursed out of the funds of such Authority for any expenses incurred in their duties as such. Any member of the Parking Authority shall be removed for just cause by Council upon written charges and by the vote of a majority thereof after a public hearing thereon.  
(1967 Code Sec. 2-110.)

**155.04 OATH OF OFFICE.**

Each member of the Parking Authority before entering upon the duties of his office shall make before someone authorized by law to administer oaths, and file with the City Clerk, an oath or affirmation to support the Constitution of the United States and of the State, and to perform faithfully, honestly and impartially the duties of his authority to the best of his skill and judgment.  
(1967 Code Sec. 2-111.)

**155.05 MEMBERS' BONDS. (REPEALED)**

EDITOR'S NOTE: Former Section 155.05 was repealed by Ordinance 14-17.

#### 155.06 ORGANIZATION AND OFFICERS.

As soon after the first day of July of each year as possible the Parking Authority shall hold an annual meeting at which time a chairman and a secretary shall be elected from the membership of such Authority. The chairman shall preside at all meetings of the Parking Authority, shall have the power to call a meeting of such Authority at any time and shall perform such other functions as may be provided for in the rules and regulations and by-laws of the Parking Authority. The secretary shall keep a record of the proceedings of the Parking Authority which shall be considered a public municipal record and shall be available for inspection of any person at all reasonable times. The Finance Director shall be treasurer of the Parking Authority. The treasurer shall be the custodian of the funds of the Parking Authority and shall receive and disburse the same as directed by such Authority.

(1967 Code Sec. 2-113.)

#### 155.07 POWERS AND DUTIES.

The Parking Authority shall have the power and authority within the City to construct, acquire, improve, extend, equip, operate and maintain automobile parking facilities, including parking lots, parking buildings and parking ramps deemed necessary or incidental to provide off-street parking facilities for vehicles within the City, and all such works shall be under the custody, control and supervision of such authority.

Such authority shall have the power to collect revenues therefrom for the services rendered thereby, which revenues shall be delivered to the Finance Director and maintained by him in a separate fund designated as the "Parking Facilities Revenue Fund". The revenues from the operation of off-street parking facilities, after allowance for the cost of maintenance and operation, shall be available for the payment of the interest on and principal of the bonds proposed to be issued, which payments shall be made by the Finance Director, with the approval of Council, and no other expenditures from such Fund shall be made without the approval of Council; except, that the Finance Director may honor requisitions from the Parking Authority for reasonable and necessary expenditures not to exceed the sum of five hundred dollars (\$500.00) in any fiscal year.

The Parking Authority shall have power to take all steps and proceedings, and to make and enter into all contracts or agreements necessary or incidental to the performance of its duties; provided, that any contract involving the expenditure of a sum in excess of five hundred dollars (\$500.00) in any fiscal year, and any contract relating to the financing or the acquisition, construction, extension or equipment of any such works, or the issuance of any bonds, or any trust indenture shall be first approved by Council. Rates or charges for the use of, and for the services rendered by the municipal public automobile parking facilities shall be established by Council.

The Parking Authority shall have the power to employ engineers, architects, inspectors, superintendents, managers, collectors, attorneys and such other employees as in its judgment may be necessary in the execution of its powers and duties, and may fix their compensation, and all such employees shall perform such work and labor as the Parking Authority may direct. All such compensation and expenses incurred in carrying out the provisions of this article shall be paid out of the funds provided under this article and under the provisions of West Virginia Code Article 8-16, and such Authority shall not exercise or carry out any authority or power herein given it so as to bind such Authority or the City beyond the extent to which moneys shall have been, or may be provided for its use by Council, or moneys provided under the authority of West Virginia Code Article 8-16.

No contract or agreement exceeding the sum of one thousand dollars (\$1,000) shall be made without advertising for bids, which bids shall be publicly opened and award made to the lowest responsible bidder, with power in the Parking Authority to reject any and all bids. After the construction, installation, completion or the acquisition of any such public works, the Parking Authority shall operate, manage and control the same, and may order and complete any extensions, betterments and improvements of and to the works that such Authority may deem expedient, if funds therefor are available, or made available as provided in such sections of the Code of West Virginia, and such Authority shall have the right to establish rules and regulations for the use and operation of such works and to do all things necessary or expedient for the successful operation thereof.

The Parking Authority shall also have the power to adopt rules, regulations and by-laws for the conduct of its business and affairs.

The Parking Authority shall make monthly reports to Council. Such reports shall show the financial condition of the various facilities operated by the Parking Authority including receipts and expenditures. The Parking Authority shall provide such other reports and information as Council may from time to time require or request. Any such reports may also in the discretion of the Parking Authority or at the request of Council include such recommendations concerning the activities of the Parking Authority as may be determined proper. (1967 Code Sec. 2-114.)

#### 155.08 APPOINTMENT OF SPECIAL POLICE OFFICERS.

The Parking Authority shall have authority to appoint special police officers, whose sole duties shall be to patrol, and to enforce Municipal ordinances upon or within, designated parking lots and parking buildings under the control of and operated by the Parking Authority. In the performance of such duties, such special police officers shall be vested with power to make arrests, issue summons, sign complaints and request the issuance of capiases. Such special police officers shall be in uniform, shall display a badge or other sign of authority and shall serve at the will and pleasure of the appointing authority. The cost of providing such special parking lot or parking building police officers shall be paid from revenues derived from off-street parking lots or parking buildings. (1967 Code Sec. 2-114.1.)

#### 155.085 PARKING ENFORCEMENT OFFICERS.

The Parking Authority shall have authority to enforce municipal parking ordinances within the City.

The Parking Authority shall appoint parking enforcement officers who will patrol and enforce Municipal parking ordinances upon the streets of the City of Morgantown and, in the performance of such duties shall be vested with power to issue summons and citations and sign complaints.

Parking enforcement officers shall be in uniform and display a badge or other sign of authority.

The salaries of such parking enforcement officers shall be paid by the Parking Authority and the Parking Authority shall retain all income derived from the curblin parking meters.

Parking enforcement officers shall acquire no civil service rights under the civil service rules of the State, shall acquire no rights under the policemen's pension and relief fund provisions of the West Virginia Code, nor shall the limited power delegated to them herein be construed as power or authority of a peace officer.  
(Ord. 10-18. Passed 5-18-10.)

#### 155.09 POWERS RELATIVE TO PARKING FACILITIES.

The Parking Authority with reference to automobile parking facilities within the City shall have all of the powers and authorities provided for in West Virginia Code Article 8-16.  
(Ord. 10-7-86.)

#### 155.10 MEMBERS NOT TO BE INTERESTED IN CONTRACTS.

No member of the Parking Authority shall become or be directly or indirectly interested in any contract or in the profits to be derived therefrom with the Parking Authority.  
(1967 Code Sec. 2-116.)

#### 155.11 CERTAIN STATE LAW ADOPTED.

In the establishing of the Parking Authority, Council does hereby expressly adopt the provisions of West Virginia Code Article 8-16 as provided under the provisions and in accordance with the requirements of West Virginia Code 8-1-6.  
(1967 Code Sec. 2-117.)

#### 155.12 CONSTRUCTION OF ARTICLE.

Inasmuch as this article is necessary for the public health, safety and welfare of the residents of the City, it shall be liberally construed to effectuate the purposes thereof.  
(1967 Code Sec. 2-118.)

ARTICLE 172  
Morgantown Sister Cities Commission

172.01	Established.	172.06	Compensation and reimbursement for expenses.
172.02	Members.	172.07	Appropriation of funds.
172.03	Officers.	172.08	Purpose, powers, and duties.
172.04	Meetings.		
172.05	Voting.		

172.01 ESTABLISHED.

There is hereby formed, created and established a municipal Sister Cities Commission, known as the Morgantown Sister Cities Commission (the "Commission").  
(Ord. 10-10. Passed 3-2-10.)

172.02 MEMBERS.

The Commission shall consist of nine members who shall be appointed by City Council. The terms of the individual Commission members first appointed shall be as follows:

- Three members - 3 years
- Three members - 2 years
- Three members - 1 year

All vacancies shall be filled for the unexpired term only. All other appointments shall be for a term consistent with that set for the member position in question, to commence on the date following the scheduled expiration date of the previous term. At all times one of the nine members of the Commission shall be a member of City Council. Two of the members may be ex-officio, non-voting members selected from the Greater Morgantown Area as defined by the jurisdictional boundaries of the Morgantown, Monongalia Metropolitan Planning Organization. At all times, seven members of the Commission shall be residents of the City.  
(Ord. 13-03. Passed 2-19-13.)

172.03 OFFICERS.

The Commission shall select from its own membership a chairperson, vice-chairperson, and secretary. (Ord. 10-10. Passed 3-2-10.)

**172.04 MEETINGS.**

The Commission shall meet on a monthly basis. Special meetings may be held as deemed necessary by the Chairperson. Such meetings shall be subject to the requirements of the West Virginia Open Governmental Proceedings Act. A quorum of members must be present before a meeting of the Commission can be held at which any official action of the Commission is to take place.

(Ord. 10-10. Passed 3-2-10.)

**172.05 VOTING.**

Every member of the Commission present, when a question is put, shall vote unless he/she is interested therein other than as a resident of the City. To be successful, an issue shall require five affirmative votes.

(Ord. 10-10. Passed 3-2-10.)

**172.06 COMPENSATION AND REIMBURSEMENT FOR EXPENSES.**

The members of the Commission shall receive no compensation for their services, but shall be entitled to reimbursement for reasonable and necessary expenses actually incurred in the performance of their duties as a Commission member, if said Commission member has received approval from the City's Finance Director to make such expenditure prior to incurring said expense.

(Ord. 10-10. Passed 3-2-10.)

**172.07 APPROPRIATION OF FUNDS.**

City Council may appropriate any funds that it deems necessary to carry out any of the proposals set forth by the Commission, so long as said proposal meets the purpose and intent of this article. (Ord. 10-10. Passed 3-2-10.)

**172.08 PURPOSE, POWERS, AND DUTIES.**

It shall be the duty of the Commission to advise and recommend to the City Manager and/or City Council means of creating or advancing inter-cultural, educational, social and economic exchanges between the City and the State of West Virginia with other cities with which the City of Morgantown has established not only sister cities formal relationships guided by the organization known as Sister Cities International, but also, informal friendship cities relationships formed under the guidance of the Commission.

(Ord. 11-18. Passed 5-17-11.)

ARTICLE 151  
Traffic Commission

- |                                    |   |
|------------------------------------|---|
| 151.01 Established.                | 151.03 Officers and rules of procedure. |
| 151.02 Composition and membership. | 151.04 Duties.                          |

CROSS REFERENCES

Authority to establish - see CHTR. Sec. 4.02

151.01 ESTABLISHED.

There is hereby established and created a Traffic Commission for the City, the official name of which shall be "The Morgantown Traffic Commission".  
(Ord. 15-09. Passed 2-17-15.)

151.02 COMPOSITION AND MEMBERSHIP.

(a) The Traffic Commission shall be composed of: a member of Council; one resident from each of the City wards; one resident at-large to represent bicycling; one resident at-large to represent walking; and one Planning Commission member. All ward, at-large and Planning Commission members shall be appointed by Council. Ex-officio Commission members of the Traffic Commission shall include the Police Chief, or his/her designee; the City Engineer, or his/her designee; the WVU Parking Director/Planner or his/her designee; the Director of the Morgantown Board of Park and Recreation Commissioners (BOPARC) or his/her designee; the Director of the Mountain Line Transit Authority or his/her designee; and the Director of the Morgantown Monongalia Metropolitan Planning Organization (MMMPO) or his/her designee.

(b) The ex-officio members shall serve without any specific term and shall serve by virtue of their office, enjoying all rights of membership except a vote. Each Council and Planning Commission members shall serve until his or her current respective term on Council or Planning Commission expires.

(c) The members appointed by ward residency, and the at-large members shall each serve for a term of three years. (Ord. 15-09. Passed 2-17-15.)

151.03 OFFICERS AND RULES OF PROCEDURE.

(a) The City Engineer shall call the first meeting of the Traffic Commission. The Commission shall meet at least once a month, and shall select from its own membership a chairperson.

(b) The Commission shall adopt its own rules of procedure and shall keep minutes of regular and special meetings.  
(Ord. 15-09. Passed 2-17-15.)

**151.04 DUTIES.**

The duties of the Traffic Commission shall be to receive citizen input pertaining to traffic issues and to act as an advisory to City Council on matters relating to:

- (a) The movement and regulation of motor vehicles, bicycles and pedestrians within the City.
- (b) The coordination of traffic activities.
- (c) Educational activities in traffic matters.
- (d) The ways, means and methods of improving traffic conditions within the City; and
- (e) The administration and enforcement of traffic regulation. The Commission shall receive such reports and information as deemed necessary by City Administration. The Commission may request the assistance and advice of any other department or official of the City. The City Engineer shall provide primary services for agendas, minutes, studies and implementation of tasks resulting from Commission actions.  
(Ord. 15-09. Passed 2-17-15.)

**AN ORDINANCE AMENDING ARTICLES 1329.02, 1369.07, AND 1369.11 OF THE PLANNING AND ZONING CODE AS THEY RELATE TO WALL SIGNS.**

The Morgantown City Council hereby ordains that Articles 1329.02, 1369.07, and 1369.11 of the City's Planning and Zoning Code are amended as follows (new matter underlined):

**1329.02 DEFINITIONS OF TERMS.**

SIGN, WALL – Any sign painted on or attached to and extending not more than six (6) inches from an exterior wall or retaining wall, in a parallel manner.

**1369.07 CONDITIONS FOR PERMITTED SIGNS.**

(I) Wall Sign, Nonresidential.

- (1) The total area of all wall signs on a building, or on the retaining wall(s) associated with the building, shall not exceed 0.6 square feet of wall sign area per linear foot of tenant building frontage in the B-5, B-2 and I-1 districts, and 0.4 feet in area in the B-1 and B-4 districts, for each linear foot of building frontage, and the fact that signs may be permitted on more than one wall of the building shall not increase this maximum. All wall signs shall be in accordance with the provisions in Section 1369.09.

**1369.11 DESIGN AND CONSTRUCTION STANDARDS.**

(A) Construction Standards. All signs shall be designed, constructed and maintained in accordance with the following standards:

- (1) All signs shall comply with applicable provisions of the West Virginia State Building Code and local floodplain management ordinance.
- (2) Electric signs that have internal wiring or lighting equipment, and external lighting equipment that directs light on signs, shall not be erected or installed until an electrical permit has been obtained from the Code Enforcement Department. All such signs and equipment shall bear the seal of approval of an electrical testing laboratory that is nationally recognized as having the facilities for testing and requires proper installation in accordance with the National Electrical Code. All wiring to electric signs or to freestanding equipment that lights a sign shall be installed underground.
- (3) Except for permitted banners, flags, temporary signs and window signs conforming in all respects with the requirements of this Ordinance, all signs shall be constructed of permanent materials and shall be attached to the ground, a building, a retaining wall, or another structure by direct attachment to a wall, frame or structure.

This ordinance shall be effective upon date of adoption.

FIRST READING:

\_\_\_\_\_

ADOPTED:

FILED:

RECORDED:

\_\_\_\_\_

Mayor

City Clerk

**AN ORDINANCE AUTHORIZING THE SALE OF COAL NEAR THE MORGANTOWN MUNICIPAL AIRPORT TO THE MONONGALIA COUNTY DEVELOPMENT AUTHORITY**

WHEREAS, the City is authorized by West Virginia Code section 8-12-18 to convey property to another public body upon terms agreed upon by the entities; and

WHEREAS, the City and the Monongalia County Development Authority ("MCDA") have negotiated an agreement whereby coal will be sold to MCDA for a fee that ensures the City receives adequate compensation for these resources, and which promotes the public purposes of the City and MCDA;

NOW, THEREFORE, the City of Morgantown hereby ordains:

That the City Manager is hereby authorized, subject to the approval of the Federal Aviation Administration, to execute, on behalf of the City of Morgantown, the agreement attached to, and made a part of, this ordinance, together with any other documents necessary to accomplish the transfer of the property as provided in the agreement.

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

First Reading:

Adopted:

\_\_\_\_\_  
Mayor

Filed:

Recorded:

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

## INTERGOVERNMENTAL AGREEMENT

This Intergovernmental Agreement ("Agreement") entered in to this \_\_\_\_ day of \_\_\_\_\_, 2016 by and between the Monongalia County Development Authority, Morgantown, Monongalia County West Virginia ("MCDA") a public corporation and the City of Morgantown, Monongalia County, West Virginia ("City") a municipal corporation.

### HISTORY AND BACKGROUND

The MCDA is the owner of a certain 95 acre tract or parcel of real estate being developed as the I 68 Commerce Park ("Park") located in the City adjacent to the Morgantown Municipal Airport ("Airport"). The City is the owner of the Pittsburgh vein or seam of coal underlying Park including the remanence of previously mined Coal reserves. The previously mined Coal reserves consist of certain pillars, blocks, and stumps (as commonly referred to in the mining industry) and carbon refuse from the mining operations (commonly referred to as gob in the mining industry) hereinafter the stumps, pillars and gob are collectively referred to as "Coal".

The City has undertaken a runway extension project and in conjunction with that project will be required to obtain significant quantities of fill material to be used in the extension project. The MCDA has undertaken the development of the Park and as part of that development is required to address the current development issues presented by the Coal.

In a cooperative effort between the City and the MCDA, the removal of the overburden and the Coal will be done in conjunction with the removal of the overburden for use in the runway extension project. The initial stages of both projects have begun and as a result of certain excavation there currently exists a stockpile estimated to be approximately 2,500 tons of Coal that need to be removed from the site.

While both the Park and the Runway extension projects are moving forward the timing of the excavation of the overburden for the runway necessitates that the stockpiled Coal be removed. The MCDA as part of the development of the Park is willing to undertake the purchase and disposal of the stockpiled Coal and to pay the City all net proceeds received from the disposal of the Coal in an effort to continue with the development of the Park.

WHEREFORE, The City and the MCDA enter into this Agreement for the purpose of removal of the stockpiled Coal and to minimally clean up the site prior to the continued development of the Park and the Runway Extension.

#### ARTICLE ONE DEFINITIONS

1.1 "Agreement" shall mean this Intergovernmental Agreement including all schedules, exhibits, attachments and modifications.

1.2 "Airport" Shall mean the Morgantown Municipal Airport.

1.3 "Applicable costs" shall be all cost as defined in Section 3.1 of this Agreement.

1.4 "City "shall mean the City of Morgantown, Morgantown, Monongalia County West Virginia.

1.5 "Coal" shall mean only the Coal, gob and carbon refuse stockpiled on the I 68 Commerce Park Property and shall not include any Coal, gob or carbon refuse still in place.

1.6 "MCDA" shall mean the Monongalia County Development Authority, Morgantown, Monongalia County West Virginia.

1.7 "Net Proceeds" shall be defined as the price of the Coal less all applicable costs and severance taxes and fees.

1.8 "Operator" shall mean anyone contracted by the MCDA to assist in the loading, hauling or removal of the Coal.

1.9 "Park" shall mean the 95 acre site adjacent to the Airport owned by the MCDA and called the I 68 Commerce Park.

1.10 "Price of the Coal" shall be defined as the gross price per ton received for the Coal.

1.11 "Purchase Price" shall mean the Net Proceeds received by the MCDA for the Coal.

1.12 "Runway Extension" shall mean the proposed extension of the runway at the Airport.

1.13 "Severance Taxes" shall be defined as any and all federal, state and local taxes and fees levied on the removal of Coal.

## ARTICLE TWO TRANSFER OF TITLE TO THE COAL

2.0 The City shall obtain any and all necessary approvals to allow for the sale of the Coal as defined in this Agreement to be sold to the MCDA. Upon obtaining all such approvals, the City shall as soon as possible thereafter execute this Agreement.

2.1 Upon execution of this Agreement by the City the MCDA shall execute this Agreement and immediately begin the process of removing and selling the Coal.

## ARTICLE THREE SALE OF THE COAL AND PAYMENT OF THE APPLICABLE COSTS

3.0 Upon execution of this Agreement the MCDA shall endeavor to sell the Coal at a reasonable price to an established and reputable end user. A reasonable price is anticipated to be and defined by the Parties as a gross price of between \$12.00 and \$18.00 per ton, based upon the British Thermal Unit (BTU) value of the Coal sold.

3.1 The MCDA shall be responsible for the payment from the gross price of the Coal all applicable costs including but not limited to all costs associated with loading, trucking, mobilization and severance taxes.

3.2 MCDA shall pay for all mobilization by the operator and such mobilization costs shall be reasonable and shall not exceed in total \$0.70 per ton of Coal.

3.3 MCDA shall pay for all trucking cost for the delivery of the Coal from the Park to the purchaser and such trucking costs shall be reasonable and shall not exceed \$4.50 per ton of Coal shipped from the Park.

3.4 MCDA shall pay for all cost associated with the loading of the Coal on to trucks for shipment to the purchaser and such loading costs shall be reasonable and shall not exceed \$1.75 per ton of Coal loaded and shipped from the Park.

3.5 The MCDA shall be responsible for the payment of all federal, state and local severance taxes associated with the removal of the Coal for the Park.

#### ARTICLE FOUR

4.0 The Purchase Price paid by the MCDA to the City for the Coal shall be equal to the Gross sales price of the Coal less the applicable costs associated with the sale, loading, and trucking of the Coal.

4.1 The MCDA shall within three business days of receipt of the sales price for the Coal calculate the Net Proceeds from the sale of the Coal and remit the Net Proceeds to the City.

4.2 The MCDA shall provide all necessary documentation to the City with payment of the Net Proceeds including but not limited to the weight slips for the shipment of the Coal, all invoices for loading and trucking the Coal, and all severance taxes paid on the Coal, and the cost of mobilization.

4.3 It is anticipated by the MCDA that the time frame for completion of the transfer and removal of all of the Coal will be not more than a few days weather permitting. As such it is not anticipated that there will be more than one payment to the City by the MCDA. In the event that the transfer of the Coal does take more than fifteen days to complete, the MCDA shall then and in that event prepare an interim payment for the Coal shipped in the first fifteen days of the removal operation.

4.4 The MCDA shall be solely responsible for the accounting and recordkeeping regarding the removal of the Coal from the Park and shall provide the City with copies of any and all invoices, permits, documents etc. in regard to the removal of the Coal.

#### ARTICLE FIVE MISCELLANEOUS

5.0 The MCDA shall be responsible for the final cleanup of the site as the same relates to the removal of the Coal stockpile. MCDA shall not be responsible for any other site modifications, excavation not specifically set forth in this Agreement. All such cleanup costs shall be approved by the City in advance and shall be part of the applicable costs associated with the removal of the Coal.

5.1 The City understands and agrees that to the best of the City's knowledge and belief that the City is the owner of the Coal. Notwithstanding the foregoing, the City makes no warranty of title to the Coal.

5.2 This Agreement contains the entire understanding and agreement of the Parties regarding the sale and removal of the Coal for the Park. This Agreement may be amended from time to time by the Parties. Any amendment, modification, or change to any of the provisions of this Agreement shall be in writing and signed by all Parties to the Agreement.

5.3 The City and the MCDA represent and warrant that by executing this Agreement each has the requisite power and authority to enter into and preform this Agreement and that this Agreement has been duly authorized and approved by the City and the MCDA.

5.4 In the event any aspect of this Agreement shall be determined to be unenforceable of contrary to governing laws, rules, regulations, or ordinances, such provision shall be modified or stricken as the case may be to bring this Agreement into compliance. The modification or removal of any such provision shall not affect the enforceability of the remainder of this Agreement.

5.5 The City and the MCDA shall appoint a representative to act as the contact person for their respective organizations. This contact person may or may not be a member of the respective organization.

5.6 This Agreement shall at all times be governed by and enforced under the laws of the State of West Virginia. The Parties to this Agreement consent to the jurisdiction and venue of the Circuit Court of Monongalia County West Virginia as the exclusive venue for dispute resolution.

5.7 Time is of the essence in the performance of this Agreement.

MONONGALIA COUNTY  
DEVELOPMENT AUTHORITY

CITY OF MORGANTOWN

\_\_\_\_\_  
By: David H. Yoder  
Its: President

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

**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.**

The City of Morgantown hereby ordains that Chapter Seven of the Traffic Code is amended as follows:

**361.13. DISPLAY OF PERMIT.**

Every vehicle authorized to park by issuance of a permit from the Parking Authority shall display such permit in accordance with the instructions contained on the permit or provided along with the issuance of the permit. Unless a different fine is provided elsewhere, a fine of Twenty dollars (\$20.00) shall be assessed for each improper display of a permit.

**363.02 PARKING METER ZONES DESIGNATED.**

The following named and described areas, streets or portions of streets and such other areas, streets or portions of streets as may hereafter be included in this section by proper order as provided in Section 363.03 lying within the City shall constitute parking meter zones:

Brockway Avenue from South Walnut Street to Kingwood Street.  
Carson Street from University Avenue to Grant Avenue  
Chestnut Street from Fayette Street to Forest Avenue.  
Chestnut Street from Pleasant Street to Moreland Street.  
Court Street (Chancery Row) from High Street to Chestnut Street.  
Fayette Street from High Street to Spruce Street.  
Fife Street from N. High Street to Price Street.  
Foundry Street from High Street to University Avenue.  
Grant Avenue from Second Street to Third Street  
High Street from Willey Street to Foundry Street.  
McLane Avenue from Houston Street to Second Street  
Reid Street from Chestnut Street to University Avenue.  
North High Street from Willey Street to Fife Street.  
Prospect Street from University Avenue to Willey Street.  
Spruce Street from Willey Street to Fife Street.  
University Avenue from Willey Street to Beechurst Avenue.  
~~Walnut Street from University Avenue to High Street.~~  
Walnut Street from Spruce to Chestnut  
Wells Street from North Spruce Street to Price Street  
Wiles Street from N. Spruce Street to Price Street.  
Willey Street from University Avenue to Spruce Street.

### 363.05 INSTALLATION OF METERS; DISPLAY OF SIGNAL.

In all parking meter zones the City Manager shall cause parking meters to be installed upon the curb or sidewalk ~~or~~ upon the space immediately adjacent to the parking spaces provided for in Section 363.04, or within the lot where the space is located, and the City Manager through such departments of the City and such officers, officials, agents and employees thereof as the City Manager shall designate, shall be responsible for the regulation, control, operation, management, maintenance and use of such parking meters and parking meter spaces. Each device shall be so constructed as to display a signal showing legal parking upon the deposit of the appropriate coins, lawful money of the United States of America, or other method of payment accepted by the parking meter for the respective periods of time as prescribed in this article. Each device shall be so arranged that upon the expiration of the lawful time limit of parking it shall indicate by a proper visible signal that the lawful parking period in such parking space has expired or provide written notice upon deposit of payment of the time at which the lawful parking period will expire, and in such cases the right of such vehicle to occupy such space shall cease and the operator, owner, possessor, driver or manager thereof shall be subject to the penalties provided for the violation of this article.

### 363.08 PARKING TIME LIMITS AND FEES.

The hereinafter designated parking fees, regulations and fines shall become effective upon entry and recordation in the journal of the City, pursuant to Section 363.09:

(a) Downtown Street Parking Zone:

- (i) Time Limit: Parking in the Downtown Parking Zone shall be limited to a total of two (2) hours in each calendar day.
- (ii) Rate: The fee for parking in the Downtown Parking Zone shall be one dollar (\$1.00) per hour.
- (iii) Area: The Downtown Parking Zone is comprised of the following areas  
Court Street - High to Chestnut  
Foundry Street - High to University  
Chestnut Street - Foundry to Willey  
High Street - Willey to Foundry  
Fayette Street - High to Spruce  
Walnut Street - Spruce to Chestnut

(b) Short-term Street Parking Zone:

- (i) Time Limit: Parking in the Short-term Street Parking Zone shall be limited to two (2) consecutive hours.
- (ii) Rate: The fee for parking in the General Street Parking Zone shall be seventy-five cents (\$0.75) per hour.
- (iii) Area: The Short-term Street Parking Zone is comprised of the following areas  
Brockway Avenue – Walnut to Kingwood

Donley Street – Don Knotts Blvd. to Clay Street

(c) Long-term Street Parking Zone:

- (i) Time Limit: Parking in the Long-term Street Parking Zone shall be limited to ten (10) consecutive hours.
- (ii) Rate: The fee for parking in the General Street Parking Zone shall be seventy-five cents (\$0.75) per hour.
- (iii) Area: The Long-term Street Parking Zone is comprised of the following areas
  - North Spruce Street - Willey to Fife
  - North High Street - Willey to Fife
  - Prospect Street - Willey to University
  - University Avenue - Willey to Fayette
  - Reid Street - Chestnut to University
  - Fife Street - North High to Price
  - Wells Street – North Spruce to Price
  - McLane Avenue – Houston to Second
  - Grant Avenue – Second to Third
  - Carson Street – University to Grant

~~(a) Rate – \$0.50/hour – Two hour limit.~~

- ~~Court Street – High to Chestnut~~
- ~~Walnut Street – High to University~~
- ~~Foundry Street – High to University~~
- ~~Chestnut Street – Foundry to Willey~~
- ~~Brockway Avenue – Walnut to Kingwood~~
- ~~High Street – Willey to Foundry~~
- ~~Fayette Street – High to Spruce~~
- ~~Walnut Street – Spruce to Chestnut~~
- ~~Donley Street – Don Knotts Blvd. to Clay Street~~

~~(b) Rate – \$0.75/hour – Ten hour limit.~~

- ~~North Spruce Street – Willey to Fife~~
- ~~North High Street – Willey to Fife~~
- ~~Prospect Street – Willey to University~~
- ~~University Avenue – Willey to Fayette~~
- ~~Reid Street – Chestnut to University~~
- ~~Fife Street – North High to Price~~

~~(e) (d) Off- Street Parking. Off-Street parking will be available at the following locations and rates~~

~~“J” Lot (Wesley Methodist Church)~~

~~Rate: \$0.75/hr.~~

~~Time limit: Parking shall be limited to twenty-four (24) consecutive hours~~

~~“G” Lot (Trinity Episcopal Church)~~

~~Rate: \$0.75/hr.~~

Time limit: Parking shall be limited to twenty-four (24) consecutive hours

"K" Lot (University Avenue Garage)

Rate: \$0.75/hr. 6:00 a.m. to 6:00 p.m.

\$1.00/hr. 6:00 p.m. to 6:00 a.m.

Time Limit: Parking shall be limited to twenty-four (24) consecutive hours

"A" Lot (Spruce Street Pavilion)

Rate: \$1.25/hr. 6:00 p.m. to 6:00 a.m.

Permit Lot Only 6:00 a.m. - 6:00 p.m.

"B" Lot (~~Behind Daniels~~ Corner of Fayette and Chestnut)

Rate: \$0.75/hr. 6:00 a.m. - 6:00 p.m.

\$1.25/hr. 6:00 p.m. to 6:00 a.m.

Time limit: Parking shall be limited to twenty-four (24) consecutive hours

"E" Lot (Across from Bent Willeys)

Rate \$0.75/hr. 6:00 a.m. - 6:00 p.m.

\$1.25/hr. 6:00 p.m. - 6:00 a.m.

Time limit: Parking shall be limited to twenty-four (24) consecutive hours

"C" Lot (Next to Hastings Funeral Home)

Rate: \$0.75/hr.

Time limit: Parking shall be limited to twenty-four (24) consecutive hours

"D" Lot (Corner of Pleasant and Chestnut)

Rate: \$0.75/hr.

Time limit: Parking shall be limited to twenty-four (24) consecutive hours

"F" Lot (Spruce Street Methodist Church)

Rate: \$0.75/hr.

Time limit: Parking shall be limited to twenty-four (24) consecutive hours

"H" Lot (Spruce Street Garage)

Rate: \$0.75/hr.

"O" Lot (First Baptist Church)

Rate: \$0.75/hr.

Time limit: Parking shall be limited to twenty-four (24) consecutive hours

"N" Lot (Wharf Garage and adjacent lot)

Rate: \$0.75/hr.

Time Limit: Parking shall be limited to twenty-four (24) consecutive hours

(d) (e) Overtime. The following fines will be assessed for parking beyond the legally permitted time:

- (i) Downtown Street Parking Zone: Twenty dollars (\$20.00) for the first violation in each calendar year and One Hundred dollars (\$100.00) for each subsequent violation in a calendar year.
- (ii) Off-street Parking lots: Five dollars (\$5.00) for each violation of permissible metered time. Twenty dollars (\$20.00) for parking in excess of an applicable twenty-four consecutive hour limit.
- (iii) Other parking zones: Five dollars (\$5.00) for each violation.
- (iv) If any fine established by this section not paid within ten (10) days from date of issue, the fine will be increased by Five dollars (\$5.00), plus municipal court costs, if any.

~~(1) Long term Spaces (10 hr.) and short term spaces (2 hr.) at the following locations:~~

- ~~— Foundry Street— High to University~~
- ~~— Brockway Avenue— Walnut to Kingwood~~
- ~~— North Spruce Street— Willey to Fife—~~
- ~~— North High Street— Willey to Fife~~
- ~~— Prospect Street— Willey to University~~
- ~~— University Avenue— Willey to Fayette~~
- ~~— Reid Street— Chestnut to University~~
- ~~— Fife Street— North High to Price~~
- ~~— First violation— \$5.00~~
- ~~— Each subsequent violation— \$5.00—~~

~~If any of the above fines are not paid within ten days from date of issue, then in such an event the fines will be increased to \$10.00, plus municipal court costs, if any.~~

~~(2) Short term spaces (2 hr.) at the following locations between the hours of 11:00 p.m. through 6:00 p.m.:~~

- ~~— Court Street— High to Chestnut~~
- ~~— Walnut Street— High to University~~
- ~~— Chestnut Street— Foundry to Willey~~
- ~~— High Street— Willey to Foundry~~
- ~~— Fayette Street— High to Spruce~~
- ~~— Walnut Street— Spruce to Chestnut~~

~~First violation— \$5.00~~

~~Second violation for same incident for which first violation was issued— \$10.00.~~

~~Third violation for same incident for which first and second violations were issued— \$25.00.~~

~~If any of the above fines are not paid within ten (10) days from date of issue, then in such an event the fines will be increased by \$5.00, plus municipal court costs, if any.~~

~~There shall not be a 2-hour parking time limit upon the streets listed in this subparagraph (d)(2) between the hours of 6:00 p.m. through 11:00 p.m.—~~

### 363.15 ENFORCEMENT.

(a) Enforcement Generally: It shall be the duty of the City Manager and such departments, officials, officers, agents and employees of the City as he shall designate to effectuate and enforce the provisions of this article.

(b) Immobilization of Vehicles:

(i) When it appears to any police officer or parking enforcement officer that any vehicle in a public right-of-way has been so placed in the past so as to result in two or more citations to the owner or driver which have not been properly disposed of in accordance with the City Code, the officer may immobilize the vehicle until the owner or driver has satisfied any existing and past violations in accordance with the City Code, or until the vehicle has been impounded. The owner or driver of any vehicle which has been immobilized shall, in addition to the fines and penalties provided for under the provisions of this Traffic Code, pay the Parking Authority the sum of forty-five dollars (\$45.00) as reimbursement to it for administrative costs associated with said immobilization.

(ii) No unauthorized person shall move any vehicle immobilized pursuant to the preceding subsection prior to obtaining a release thereof from either the Judge of the Municipal Court, the Director of the Parking Authority, or the officer in charge at the City police station.

(iii) Any person who damages any property of the City or the Parking Authority in an attempt to remove or alter an immobilization device or by moving a vehicle which has been immobilized pursuant to this section shall reimburse the City or the Parking Authority for the cost of the damage.

### 365.11 IMMOBILIZATION OF VEHICLES.

(a) When it appears to any police officer or parking enforcement officer that any vehicle in a parking lot or garage operated by the Parking Authority has been so placed in the past so as to result in two or more citations to the owner or driver which have not been properly disposed of in accordance with the City Code, the officer may immobilize the vehicle until the owner or driver has satisfied any existing and past violations in accordance with the City Code, or until the vehicle has been impounded. The owner or driver of any vehicle which has been immobilized shall, in addition to the fines and penalties provided for under the provisions of this Traffic Code, pay the Parking Authority the sum of forty-five dollars (\$45.00) as reimbursement to it for administrative costs associated with said immobilization.

(b) No unauthorized person shall move any vehicle immobilized pursuant to the preceding subsection prior to obtaining a release thereof from either the Judge of the Municipal Court, the Director of the Parking Authority, or the officer in charge at the City police station.

(c) Any person who damages any property of the City or the Parking Authority in an attempt to remove or alter an immobilization device or by moving a vehicle which has been immobilized pursuant to this section shall reimburse the City or the Parking Authority for the cost of the damage.

~~—(a) When it appears to any Parking Authority special police officer, parking meter attendant, or any police officer of the City that any vehicle which has been placed upon any parking lot under the jurisdiction of the Parking Authority in a manner that violates the provisions of this Traffic Code or has been so placed in the past so as to result in a citation or citations to the owner or driver and which citation or citations have not been properly disposed of in accordance with the ordinances pertaining thereto, such special officer, parking meter attendant, or City police officer may immobilize such vehicle until the owner or driver has satisfied any existing and past violations in accordance with the ordinances pertaining thereto, or until such vehicle so immobilized by such officer has been impounded; provided, however, the Parking Authority shall post a sign or signs in each of the lots wherein it intends to have vehicles immobilized advising users of such lots of the possibility of vehicles being immobilized and impounded. —The owner or driver of any vehicle which has been immobilized shall, in addition to the fines and penalties provided for under the provisions of this Traffic Code, pay the Parking Authority the sum of forty five dollars (\$45.00) as reimbursement to it for administrative costs associated with said immobilization.~~

~~—(b) No unauthorized person shall move any vehicle immobilized pursuant to the preceding subsection prior to obtaining a release thereof from either the Judge of the Municipal Court, or the Director of the Parking Authority or from the officer in charge at the City police station.~~

~~—(c) Should any unauthorized person damage any property of the City or the Parking Authority while attempting to remove or removing an immobilization boot, or moving a vehicle which has been immobilized pursuant to this section, that unauthorized person shall reimburse the City or its Parking Authority for the cost of said damage.~~

#### **367.04 PERMITS; RULES; FEES.**

- (a) The City Manager, or his/her designee, which may include the Morgantown Parking Authority, is hereby authorized to issue parking permits to qualified residents of designated parking districts within the City.
- (b) The City Manager shall promulgate rules governing the use of designated parking districts, including, but not limited to, rules governing the determination of eligibility residents for receipt of parking permits.
- (c) The rules shall make provisions for parking district petition processes, feasibility study procedures, and administrative recommendations.
- (d) The rules shall make provision for regular permits, as well as for the issuance of temporary permits for the guests and visitors of residents of the district and also for temporary permits to delivery or other business vehicles serving the residents of the district.
- (e) The rules shall create standards for determining the distribution of parking permits, which may differ from one parking district to another.

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

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

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

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

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

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

(k) A fine of Fifty dollars (\$50.00) shall be assessed for each unauthorized display of a permit. For purposes of this section, unauthorized display of a permit shall mean display of a false or fraudulent permit for any designated parking zone or the display of an unlawfully transferred or modified permit for any designated parking zone.

This ordinance shall be effective thirty (30) days from the date of adoption.

FIRST READING:

\_\_\_\_\_  
Mayor

ADOPTED:

FILED:

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

RECORDED:

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

The City of Morgantown hereby ordains that Articles 1713 and 1717 of the City Code are amended and the 2015 West Virginia State Building Code is adopted as follows:

**1713.01 ADOPTION.**

There are hereby adopted and incorporated by reference herein the following portions of the State Building Code, as published by the International Code Council ("ICC"), to be known as the Building Code of the City of Morgantown, West Virginia, for the purpose of regulating construction, alteration, addition, removal and demolition of buildings and structures, together with the additions and amendments hereinafter provided:

- (a) The 2015 edition, International Building Code, with the following exceptions and additions:
  - (i) The section entitled "Fire Prevention" and identified as Section 101.4.5 is deleted and not considered to be a part of this section.
  - (ii) The entire subsection entitled "Qualifications" and identified as Section 113.3 is deleted and replaced with the following:  
"Section 113.3. Board of Appeals  
113.3 Qualifications. The board of appeals shall consist of five members, with up to three alternates, who are qualified by experience and training to pass on matters pertaining to building construction and are not employees of the jurisdiction. They may include, but are not limited to, a WV Registered Professional Architect or Engineer, or a WV Licensed General Building, Residential, Electrical, Piping, Plumbing, Mechanical or Fire Protection Contractor, with at least 10 years experience, five of which shall be in responsible charge of work. No less than one of the members of such Board of Appeals shall be a WV Registered Professional Architect or Engineer, or a WV Licensed General Building, Residential, Electrical, Piping, Plumbing, Mechanical or Fire Protection Contractor."
  - (iii) The following appendices are applicable:  
Appendix E - Supplementary Accessibility Requirements; and  
Appendix H - Signs.
- (b) The 2015 edition of the International Plumbing Code
- (c) The 2015 edition of the International Mechanical Code
- (d) The 2015 edition of the International Fuel Gas Code, with the following exception:
  - (i) Section 404.10 Underground piping systems shall be installed a minimum depth of 12 inches (305 mm) below grade. If the minimum depth cannot be maintained, the piping system shall be installed in conduit or shielded in an approved manner.
- (e) The 2015 edition of the International Property Maintenance Code, with the following exceptions and additions:
  - (i) Section 110.3 Failure to Comply, shall be modified as follows:

“Unless authorized by W.Va. Code § 8-12-16, or absent the express consent of the owner, if the owner of a premises fails to comply with a demolition order within the time prescribed, the legal counsel of the jurisdiction shall institute appropriate action in the Circuit Court of the County in which the property is located against the owner of the premises where the structure is or was located seeking an Order causing the structure to be demolished and removed. Thereafter, the local jurisdiction, through an available public agency or by contract or arrangement with private persons, shall demolish and remove the structure and the costs thereof, as well as all fees and costs incurred in the legal action, shall be a lien upon such real estate.”

- (ii) The following appendix is applicable:
  - Appendix A - Boarding standards.
- (f) The 2009 edition of the International Energy Conservation Code for residential buildings
- (g) The ANSI/ASHRAE/IESNA Standard 90.1-2007 edition for commercial buildings. For purposes of this section, “ANSI” means American National Standards Institute; “ASHRAE” means American Society of Heating, Refrigerating, and Air-Conditioning Engineers; and “IESNA” means Illuminating Engineering Society of North America.
- (h) The 2015 edition of the International Residential Code for One and Two Family Dwellings, with the following exceptions and additions:
  - (i) Chapter 11 of the 2015 edition of the International Residential Code for One and Two Family Dwellings, Seventh Printing, entitled “Energy Efficiency,” is exempt from this section.
  - (iii) Section G2415.12 (404.10) Minimum Burial Depth. Underground piping systems shall be installed a minimum depth of 12 inches (305 mm) below grade. If the minimum depth cannot be maintained, the piping system shall be installed in conduit or shielded in an approved manner.
  - (iv) Section R311.7.5 Stair Treads and Risers
    - (A) 311.7.5.1 Riser Heights -- The maximum riser height shall be eight and one-quarter (8 1/4) inches.
    - (B) 311.7.5.2 Tread Depth -- The minimum tread depth shall be nine (9) inches.
  - (v) Section R403.1.7.1: Building Clearances From Ascending Slopes is not applicable to this section.
  - (vi) Section R403.1.7.2: Footings Setbacks From Descending Slope Surfaces is not applicable to this section.
  - (vii) Pursuant to Title 87, West Virginia Code of State Rules, Series 4, Section 5.1, New One and Two Family Dwellings over one level in height, New One and Two Family Dwellings containing a basement, and New One and Two Family Dwellings containing a crawl space containing a fuel burning appliance below the first floor, shall provide one of the following methods for fire protection of floors: (1) A 1/2 inch (12.7 mm) gypsum wallboard membrane, 5/8 inch (16 mm) wood structural panel membrane, or equivalent on the underside of the floor framing member; (2) Wood floor assemblies using dimension lumber or structural composite lumber equal or greater than 2 inch by 10 inch (50.8 mm by 254 mm) nominal dimension, or other approved floor assemblies demonstrating equivalent fire performance; or (3) An Automatic Fire Sprinkler System as set forth in section R313.1 or R313.2 of the 2015 edition of the International Residential Code for One and Two Family

- Dwellings: Provided, That floor assemblies located directly over a space protected by an automatic sprinkler system as set forth in section R313.1 or R313.2 of the 2015 edition of the International Residential Code for One and Two Family Dwellings are exempt from this requirement.
- (viii) Pursuant to Title 87, West Virginia Code of State Rules, Series 4, Section 5.2, Townhouses meeting the Fire Resistant Construction Standard R302.2 will be treated as New One and Two Family Dwellings and shall comply with the referenced Section 5.1 immediately above
  - (ix) The following appendices are applicable:
    - Appendix D - Safety inspections of existing appliances
    - Appendix E - Manufactured Housing used as Dwellings.
  - (i) The 2009 ICC/ANSI A117.1 American National Standards for Accessibility & Usable Buildings & Facilities
  - (j) The 2015 International Existing Building Code, with the following exception:
    - (i) Omit reference to International Fire Code and substitute NFPA Life Safety Code 2015 edition.
  - (k) The 2014 edition of the National Electric Code, NFPA 70
  - (l) The 2015 edition of the International Swimming Pool and Spa Code

Wherever referenced in the several ICC codes adopted above, any reference to the International Fire Code should be substituted with the NFPA Life Safety Code 2015 edition. The State Building Code and its application within this City shall be subject to Legislative Rules adopted by the West Virginia State Fire Commission and authorized by the West Virginia Legislature.

**1713.01 ADOPTION.**

- ~~—(a) There is hereby adopted and incorporated by reference as if set out at length herein for the purpose of safeguarding life and property and to ensure the quality of construction of all structures erected or removed throughout the Municipality that certain code known as the State Building Code as promulgated by the Fire Marshal under West Virginia Code 29-3-5b.~~
  - ~~—(b) The State Building Code and its application within this City shall be subject to Legislative Rules adopted by the West Virginia State Fire Commission and authorized by the West Virginia Legislature.~~
- ~~(Ord. 03-18. Passed 4-15-03.)~~

**1713.02 MINIMUM AREA REQUIREMENTS FOR OCCUPANCY.**

- ~~—Every dwelling unit for rent or lease within the corporate City limits shall meet minimum standards for square feet and area requirements as it pertains to number of occupants as set forth in this Section 1713.02.~~
- ~~Area for Sleeping Purposes. Every bedroom occupied by one person shall contain at least seventy square feet of floor area, and every bedroom occupied by more than one person shall contain at least fifty square feet of floor area for each occupant thereof.~~
- ~~Overcrowding. Dwelling units shall not be occupied by more than permitted by minimum area requirements of the following table.~~

Minimum Area Requirements  
Minimum Area in Square Feet

Space	1-2 Occupants	3-5 Occupants	6 or More Occupants
Living Room a, b	No requirements	120	150
Dining Room a, b	No requirements	80	100
Bedrooms	Shall Comply with Area for Sleeping		

~~(a) Combined Spaces:~~ Combined living room and dining room spaces shall comply with the requirements of the above table if the total area is equal to that required for separate rooms and if the space is located so as to function as a combination living room/dining room.

~~(b) Sleeping Area:~~ The minimum occupancy area required by the above table shall not be included as a sleeping area in determining the minimum occupancy area for sleeping purposes. All sleeping areas shall comply with Area for Sleeping Purposes. (Ord. 10-30, Passed 7-20-10.)

### **1713.03 BOARDING STANDARDS.**

~~(a) There is hereby adopted, as part of the State Building Code, Appendix A of the 2009 International Property Maintenance Code, governing Boarding Standards for structures. The standards are as follows:~~

~~— (1) General.~~ All windows and doors shall be boarded in an approved manner to prevent entry by unauthorized persons and shall be painted to correspond to the color of the existing structure.

~~— (2) Boarding Sheet Material.~~ Boarding sheet material shall be minimum ½ inch (12.7 mm) thick wood structural panels complying with the International Building Code.

~~— (3) Boarding framing material.~~ Boarding framing material shall be minimum nominal 2-inch by 4-inch (51 mm by 102 mm) solid sawn lumber complying with the International Building Code.

~~— (4) Boarding fasteners.~~ Boarding fasteners shall be minimum 3/8-inch (9.5 mm) diameter carriage bolts of such a length as required to penetrate the assembly and as required to adequately attach the washers and nuts. Washers and nuts shall comply with the International Building Code.

~~— (5) Boarding installation.~~ The boarding installation shall be in accordance with Figures A103.1(1) and A103.1(2) below and Sections 1713.03 (a) (6) through Section 1713.03 (a) (9) of this Article.

~~— (6) Boarding sheet material.~~ The boarding sheet material shall be cut to fit the door or window opening neatly or shall be cut to provide an equal overlap at the perimeter of the door or window.

~~— (7) Windows.~~ The window shall be opened to allow the carriage bolt to pass through or the window sash shall be removed and stored. The 2-inch by 4-inch (51 mm by 102 mm) strong back framing materials shall be cut minimum 2 inches (51 mm) wider than the window opening and shall be placed on the inside of the window opening 6 inches minimum above the bottom and below the top of the window opening. The framing and boarding shall be pre-drilled. The assembly shall be aligned and the bolts, washers and nuts shall be installed and secured.

~~— (8) Door walls.~~ The door opening shall be framed with minimum 2-inch by 4-inch (51 mm by 102 mm) framing material secured at the entire perimeter and vertical members at not more than 24 inches (610 mm) on center. Blocking shall also be secured at not more than 48 inches (1219 mm) on center vertically. Boarding sheet material shall be secured with screws and nails alternating every 6 inches (152 mm) on center.

~~— (9) Doors. Doors shall be secured by the same method as for windows or door openings. One door to the structure shall be available for authorized entry and shall be secured and locked in an approved manner.~~

~~— (Ord. 10-40. Passed 9-21-10.)~~

~~**1717.01 CODE ADOPTED:**~~

~~— There is hereby adopted and incorporated by reference as if set out at length herein, in order to establish rules and regulations for the installation, renewal, extension and reception of electric wiring and electric apparatus in buildings, structures or outdoor electrical displays or signs, that certain code known as the National Electrical Code, and adopted by the State of West Virginia as part of the State Building Code.~~

~~(Ord. 08-39. Passed 9-16-08.)~~

This Ordinance shall be effective as of August 1, 2016.

FIRST READING:

ADOPTED:

FILED:

RECORDED:

\_\_\_\_\_  
MAYOR

\_\_\_\_\_  
CITY CLERK

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

The City of Morgantown hereby ordains that Ordinances 2014-38 and 2014-39 are repealed in their entirety and the City Code is amended as follows:

~~301.071 DOWNTOWN BUSINESS DISTRICT.~~

~~“Downtown Business District” means the entirety of the B-4 General Business District as defined in the City of Morgantown’s Planning and Zoning Code, but does not include Beechurst Avenue, University Avenue south of Beechurst Avenue, and Don Knotts Boulevard south of University Avenue. (Ord. 14-38. Passed 9-2-14.)~~

~~301.111 HEAVY TRUCK.~~

~~“Heavy Truck” means any vehicle which is designed or operated for the transportation of property and 1) has combined declared gross weight of over 26,000 pounds as combined declared gross weight is defined in W.Va. Code §17A-3-3(e), and 2) commercial motor vehicle registered as class 7 or greater rating. (Ord. 14-38. Passed 9-2-14.)~~

347.01 OVERSIZE OR OVERWEIGHT VEHICLES.

- (a) (a) General Prohibition. No person shall operate or move a vehicle or combination of vehicles of a size or weight of vehicle or load exceeding the maximum specified in West Virginia Code Article 17C-17 upon any street or highway within the Municipality, except pursuant to special written permit issued by the Commissioner of Highways or the City Manager. Every such permit shall be carried in the vehicle or combination of vehicles to which it refers and shall be open to inspection by any police officer.

No holder of a permit issued by the Commissioner of Highways shall be required to obtain any local permit or license or pay any local fee or charge for movement on any State route within the Municipality; however, it shall be unlawful 1) to operate any such vehicle or combination of vehicles upon any roadway within the Municipality which is not a State route, except as provided in subsection (c) hereof; and 2) to operate any Heavy Truck within the Downtown Business District, as defined within Article 301 of the City's Traffic Code, except as provided in subsections (c) and (d) hereof.

- (b) Five-ton Limitation on Local Streets. Whenever it becomes apparent to the City Manager that any street is being destroyed or permanently injured by the

operation thereover of commercial vehicles, in excess of ordinary wear and tear, he has authority to close any such street to vehicles whose gross weight, including load, exceeds five tons. When any street has been so closed by the City Manager, and notice of such closing posted at the entries thereto, it shall, during the continuance of such closing, be unlawful for any person to operate thereupon any vehicle whose gross weight exceeds five tons. Any street so closed by the City Manager shall be promptly reported to Council.

- (c) Local Permit and Conditions. Upon application and for good cause, the City Manager may issue a local permit authorizing an applicant to move an oversize or overweight vehicle or combination of vehicles upon local streets ~~or to operate a Heavy Truck on streets and highways located within the Downtown Business District, as defined within Article 301 of the City's Traffic Code.~~ No permittee shall be required to obtain a special permit from the Commissioner of Highways for the movement of the vehicle or combination of vehicles on streets or highways under local jurisdiction ~~or for the movement of Heavy Trucks within the Downtown Business District;~~ however, the approval of the Commissioner of Highways shall be required for movement upon State routes as provided in subsection (a) hereof.

The City Manager may grant a permit for a single or round trip, or for such period of time, not to exceed one year, as the City Manager in his discretion deems advisable, or for the duration of any construction project. The City Manager may limit or prescribe terms or conditions of operation for such vehicle or combination of vehicles by designating the route, hours, speed or such other restrictions as may be necessary for the preservation of the public peace, property, health and safety. The City Manager may require the posting of bond or other security necessary to compensate for any damage to a roadway or road structure. ~~Every such permit shall be carried in the vehicle or combination of vehicles to which it refers and shall be open to inspection by any police officer.~~

For each such permit, the City Manager shall charge five dollars (\$5.00) and for each hour of time or any part thereof spent by each police officer in supervising the movement of such vehicle, the applicant shall pay the sum of ten dollars (\$10.00).

Signs shall be posted indicating "no thru trucks - gross weight 5 tons" or words of similar import to apprise drivers of the limitations imposed by subsection (b) hereof. No driver shall disobey the instructions indicated on any such sign. Violation of any of the limitations, terms or conditions of the permit granted by the City Manager shall be cause for immediate revocation or suspension of such permit, and denial of request for any future permit. Such violation shall also subject the violator to the penalty prescribed by Section 303.99.

~~347.01(d) HEAVY TRUCK LIMITATION IN DOWNTOWN BUSINESS DISTRICT.~~

~~No person shall operate a Heavy Truck in the Downtown Business District, as defined in Article 301 of the City's Traffic Code.~~

This provision does not limit or restrict:

- (1) ~~The operation of any Heavy Trucks in the Downtown Business District when that operation is necessary to conduct business at a destination within the Downtown Business District where merchandise or material is loaded or unloaded during the normal course of business;~~
- (2) ~~The operation of emergency or military vehicles;~~
- (3) ~~The operation of vehicles by Public Utilities;~~
- (4) ~~The operation of any governmental or quasi-governmental vehicle in the performance of any official function or duty;~~
- (5) ~~The operation of solid waste disposal vehicles;~~
- (6) ~~The operation of vehicles lawfully engaged in the business of towing, hauling or carrying wrecked or disabled vehicles;~~
- (7) ~~The operation of trucks upon any officially established detour in any case where a truck could lawfully be operated on the street for which such detour was established;~~
- (8) ~~The issuance of a special permit by the City Manager as provided in subsection (c).~~

~~347.01(e) TRUCK SIGNAGE.~~

~~Signs shall be posted indicating “no thru trucks—limit 13 tons” or words of similar import to apprise drivers of the limitations imposed by subsection (d) hereof.~~

FIRST READING:

\_\_\_\_\_

Mayor

ADOPTED:

FILED:

\_\_\_\_\_

City Clerk

RECORDED:

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

### 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:

\_\_\_\_\_  
Mayor

ADOPTED:

FILED:

RECORDED:

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

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

The City of Morgantown hereby ordains that Article 545 of the City Code is amended as follows:

545.02 CARRYING CONCEALED DEADLY WEAPONS WITHOUT LICENSE.

(a) No person shall carry a concealed deadly weapon, without a State license or ~~other lawful authorization established under~~ as authorized by the provisions of West Virginia Code 61-7-4~~1~~ et seq.

(b) Whoever violates this section shall, for a first offense, be guilty of a misdemeanor.

545.03 EXCEPTIONS AS TO PROHIBITIONS AGAINST CARRYING CONCEALED  
DEADLY WEAPONS.

(a) ~~The licensure provisions~~ prohibitions against carrying concealed handguns set forth in West Virginia Code ~~Article 61-7-3~~ do not apply to:

(1) Any person at least eighteen years of age and fewer than twenty-one years of age who is:  
A. Carrying a deadly weapon upon his or her own premises;  
B. Carrying a firearm, unloaded, from the place of purchase to his or her home, residence or place of business or to a place of repair and back to his or her home, residence or place of business; or

C. Possessing a firearm while hunting in a lawful manner or while traveling from his or her home, residence or place of business to a hunting site and returning to his or her home, residence or place of business;

~~(2) D. Any person who is a~~ A member of a properly organized target-shooting club authorized by law to obtain firearms by purchase or requisition from this State or from the United States for the purpose of target practice from carrying any pistol, as defined in this article, unloaded, from his or her home, residence or place of business to a place of target practice and from any place of target practice back to his or her home, residence or place of business, for using any such weapon at a place of target practice in training and improving his or her skill in the use of the weapons;

~~(3) E. Any law-enforcement officer or law-enforcement official or chief executive~~ as defined in West Virginia Code 30-29-1;

(4) F. Any employee of the West Virginia Division of Corrections, duly appointed pursuant to the provisions of West Virginia Code 25-1-11c while the employee is on duty;

~~(5) G. Any member of the United States armed forces, reserve or National Guard of the armed forces of the United States or the militia of this State while the member is on duty;~~

(6) H. Any resident of another state who holds a valid permit or license to possess or carry a handgun issued by a state or a political subdivision subject to the provisions and limitations set forth in West Virginia Code 61-7-6a;

(7) I. Any federal law-enforcement officer or federal police officer authorized to carry a weapon in the performance of the officer's duty;

~~(8) Any Hatfield McCoy Regional Recreation Authority Ranger while the ranger is on duty; and~~

(9) J. Any parole officer appointed pursuant to West Virginia Code 62-12-14 in the performance of ~~their~~ his or her duties.

(b) ~~On and after July 1, 2013, the following judicial officers and prosecutors and staff shall be exempted~~ are exempt from paying any application fees or licensure fees required under West Virginia Code Article 61-7. However, ~~on and after that same date, they shall be required to make application and satisfy all licensure and handgun safety and training requirements to obtain a license as set forth in West Virginia Code 61-7-4 before carrying a concealed handgun in this State.~~

- (1) Any justice of the Supreme Court of Appeals of West Virginia;
  - (2) Any circuit judge;
  - (3) Any retired justice or retired circuit judge designated senior status by the Supreme Court of Appeals of West Virginia;
  - (4) Any family court judge;
  - (5) Any magistrate;
  - (6) Any prosecuting attorney;
  - (7) Any assistant prosecuting attorney; and
  - (8) Any duly appointed investigator employed by a prosecuting attorney.
- (WVaC 61-7-6)

#### 545.04 PERSONS PROHIBITED FROM POSSESSION OF FIREARMS.

(a) Except as provided in this section, no person shall possess a firearm, as such is defined in Section 545.01, who:

- (1) Has been convicted in any court of a crime punishable by imprisonment for a term exceeding one year;
- (2) Is habitually addicted to alcohol;
- (3) Is an unlawful user of or habitually addicted to any controlled substance;
- (4) Has been adjudicated to be mentally incompetent or who has been involuntarily committed to a mental institution pursuant to the provisions of West Virginia Code Chapter twenty-seven or in similar law of another jurisdiction: provided, that once an individual has been adjudicated as a mental defective or involuntarily committed to a mental institution, he or she shall be duly notified that they are to immediately surrender any firearms in their ownership or possession; provided, however, that the Mental Hygiene Commissioner or Circuit Judge shall first make a determination of the appropriate public or private individual or entity to act as conservator for the surrendered property;
- (5) Is an alien illegally or unlawfully in the United States;
- (6) Has been discharged from the armed forces under dishonorable conditions;
- (7) Is subject to a domestic violence protective order that:
  - A. Was issued after a hearing of which such person received actual notice and at which such person had an opportunity to participate;

B. Restrains such person from harassing, stalking or threatening an intimate partner of such person or child of such intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child; and

C. 1. Includes a finding that such person represents a credible threat to the physical safety of such intimate partner or child; or

2. By its terms explicitly prohibits the use, attempted use or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury; or

(8) Has been convicted of a misdemeanor offense of assault or battery either under the provisions of West Virginia Code 61-2-28, or the provisions of West Virginia Code 61-2-9(a) or (b), or a federal or state statute with the same essential elements in which the victim was a current or former spouse, current or former sexual or intimate partner, person with whom the defendant has a child in common, person with whom the defendant cohabits or has cohabited, a parent or guardian, the defendant's child or ward or a member of the defendant's household at the time of the offense or has been convicted in any court of any jurisdiction of a comparable misdemeanor crime of domestic violence.

(b) Any person may carry a concealed deadly weapon without a license therefor who is:

(1) At least twenty-one years of age;

(2) A United States citizen or legal resident thereof;

(3) Not prohibited from possessing a firearm under the provisions of this Article 545 or West Virginia Code 61-7-7; and

(4) Not prohibited from possessing a firearm under the provisions of 18 U. S. C. § 922(g) or (n).

~~(b)~~ (c) Any person prohibited from possessing a firearm by the provisions of subsection (a) of this section may petition the circuit court of the county in which he or she resides to regain the ability to possess a firearm and if the court finds by clear and convincing evidence that the person is competent and capable of exercising the responsibility concomitant with the possession of a firearm, the court may enter an order allowing the person to possess a firearm if such possession would not violate any federal law: provided, that a person prohibited from possessing a firearm by the provisions of subsection (a)(4) of this section may petition to regain the ability to possess a firearm in accordance with West Virginia Code 61-7A-5.

(e) ~~(d)~~ Any person who has been convicted of an offense which disqualifies him or her from possessing a firearm by virtue of a criminal conviction whose conviction was expunged or set aside or who subsequent thereto receives an unconditional pardon for said offense shall not be prohibited from possessing a firearm by the provisions of the section. (WVAC 61-7-7)

This ordinance shall be effective from the date of adoption.

FIRST READING:

\_\_\_\_\_  
Mayor

ADOPTED:

FILED:

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

RECORDED:

Ordinance No. 2016 - \_\_\_\_\_

**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**

WHEREAS, 2016 West Virginia House Bill 2582 modifies existing law to permit the sale and possession of certain fireworks within the State of West Virginia; and

WHEREAS, the legislation repeals West Virginia Code section 29-3-23, which was the source of authority for assessment of the Sparkler and Novelty Registration Fee established by West Virginia Code section 11-12-86 and implemented by Morgantown City Code sections 752.01 and 752.02; and

WHEREAS, the legislation no longer prohibits use of certain fireworks previously prohibited by the State Fire Code, which is enforced by the Fire Marshals in the Morgantown Fire Department; and

WHEREAS, West Virginia Code section 29-3-5 permits municipalities to enact ordinances imposing a more stringent or higher standard than the State Fire Code, so long as the standard is not inconsistent with the State Fire Code; and

WHEREAS, the legislation expressly preserves the right of cities to regulate the use of fireworks within their boundaries; and

WHEREAS, the City of Morgantown intends to amend its existing law to permit the sale of fireworks while preserving the prohibition on using fireworks within the City and continuing the existing methods of enforcing that prohibition;

NOW, THEREFORE, the City of Morgantown hereby ordains that Sections 752.01 and 752.02 of the City Code are repealed and Sections 545.10 and 1511.02 of the City Code are amended as follows:

**~~545.10 FIREWORKS SALE, POSSESSION AND DISCHARGE.~~**

**(a) Unlawful acts.**

It is unlawful for a person to manufacture, wholesale, distribute, import, sell or store for the purpose of resale, consumer fireworks without a license, registration, certificate or permit from the State Fire Marshal and a valid business license issued by the City of Morgantown.

**(b) Definitions.**

As used in this section:

(1) "Agricultural and wildlife fireworks" means fireworks devices distributed to farmers, ranchers and growers through a wildlife management program administered by the United States Department of the Interior or the Division of Natural Resources of this state;

(2) "Amusement park" means any person or organization which holds a permit for the operation of an amusement ride or amusement attraction under article ten, chapter twenty-one of the West Virginia Code;

(3) "APA Standard 87-1" means the APA Standard 87-1 published by the American Pyrotechnics Association, as amended, and incorporated by reference into Title 49 of the Code of Federal Regulations;

(4) "Articles pyrotechnic" means pyrotechnic devices for professional use that are similar to consumer fireworks in chemical composition and construction but not intended for consumer use, that meet the weight limits for consumer fireworks but are not labeled as such, and that are classified as UN0431 or UN0432 under 49 C.F.R. §172.101 (2014);

(5) "Consumer fireworks" means 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. Parts 1500 and 1507 (2014), and that are listed in APA Standard 87-1. Consumer fireworks do not include sparkling devices, novelties, toy caps or model rockets;

(6) "Consumer fireworks certificate" means a certificate issued under section four of West Virginia Code Chapter 29, Article 3E;

(7) "Display fireworks" means large fireworks to be used solely by professional pyrotechnicians licensed by the State Fire Marshal and designed primarily to produce visible or audible effects by combustion, deflagration or detonation and includes, but is not limited to, salutes containing more than two grains (one hundred thirty milligrams) of explosive materials, aerial shells containing more than forty grams of pyrotechnic compositions and other display pieces that exceed the limits of explosive materials for classification as consumer fireworks and are classified as fireworks UN0333, UN0334, or UN0335 under 49 C.F.R. §172.101 (2014);

(8) "Distributor" means a person who sells fireworks to wholesalers and retailers for resale;

- (9) "Division 1.3 explosive" means that term as defined in 49 C.F.R. §173.50 (2014);
- (10) "Division 1.4 explosive" means that term as defined in 49 C.F.R. §173.50 (2014);
- (11) "Explosive composition" means a chemical or mixture of chemicals that produces an audible effect by deflagration or detonation when ignited;
- (12) "Fire Marshal" means the State Fire Marshal;
- (13) "Firework" or "fireworks" means any composition or device designed for the purpose of producing a visible or audible effect by combustion, deflagration or detonation. Fireworks include consumer fireworks, display fireworks and special effects. Fireworks does not include sparkling devices, novelties, toy caps or model rockets;
- (14) "Interstate wholesaler" means a person who is engaged in interstate commerce selling fireworks;
- (15) "Model rocket" means that term as defined in National Fire Protection Association Standard 1122, "Code for Model Rocketry";
- (16) "New explosive" means that term as defined in 49 C.F.R. §173.56 (2014);
- (17) "NFPA 1123" means National Fire Protection Association Standard 1123, "Code for Fireworks Display."
- (18) "NFPA 1124" means National Fire Protection Association Standard 1124, "Code for the Manufacture, Transportation, Storage, and Retail Sales of Fireworks and Pyrotechnic Articles," 2006 Edition.
- (19) "NFPA 1126" means that term as defined in National Fire Protection Association Standard 1126, "Standard for the Use of Pyrotechnics Before a Proximate Audience."
- (20) "Novelties" means that term as defined under APA standard 87-1, section 3.2; but shall not include toy pistols, toy caps, toy canes, toy guns or other similar devices;
- (21) "Permanent" means that term as defined in NFPA 1124;
- (22) "Person" means an individual or the responsible person for an association, an organization, a partnership, a limited partnership, a limited liability company, a corporation or any other group or combination acting as a unit;
- (22) "Public display of fireworks" means a public entertainment feature that is advertised to the general public or is on public property that includes the display or discharge of fireworks;
- (23) "Pyrotechnic composition" means a mixture of chemicals that produces a visible or audible effect by combustion rather than deflagration or detonation. A pyrotechnic composition will not explode upon ignition unless severely confined;
- (24) "Retailer" means a person who purchases consumer fireworks for resale to consumers;
- (25) "Sparkling devices" means "ground or handheld sparkling devices" as that phrase is defined under APA 87-1, sections 3.1.1 and 3.5;

(26) "Special effects" means a combination of chemical elements or chemical compounds capable of burning independently of the oxygen of the atmosphere and designed and intended to produce an audible, visual, mechanical or thermal effect as an integral part of a motion picture, radio, television, theatrical or opera production or live entertainment;

(27) "Temporary" means that term as defined in NFPA 1124;

(28) "Toy caps" means that term as defined under APA 87-1, section 3.3; and

(29) "Wholesaler" means any person who sells consumer fireworks to a retailer or any other person for resale and any person who sells articles of pyrotechnics, display fireworks, and special effects to a person licensed to possess and use those devices.

**(c) Production or transportation of fireworks.**

A person may produce or transport a firework within the city that is a new explosive and that is either a division 1.3 explosive or division 1.4 explosive if the person first meets the requirements of 49 C.F.R. §173.56 (2014).

**(d) Requirements for a retailer of consumer fireworks.**

(1) A retailer may not sell consumer fireworks in the City unless the retailer is certified under West Virginia Code Chapter 29, Article 3E and possesses a valid business license issued by the City of Morgantown.

(2) To be certified to sell consumer fireworks a retailer shall:

(A) Submit an application to the State Fire Marshal;

(B) Submit with the application a copy of his or her current business registration certificate;

(C) Pay a fee of \$500.00 for each temporary retail sales location and \$1,000.00 for each permanent retail sales location to the State Fire Marshal;

(D) Provide the State Fire Marshal proof that the retailer maintains at all times public liability and product liability insurance with minimum coverage limits of \$1 million dollars per location to cover losses, damages or injuries that might result from selling consumer fireworks; and

(E) Provide other information as the State Fire Marshal may require by legislative rule.

(3) A consumer fireworks certificate is valid from April 1 through March 31 of the next calendar year or any fraction thereof.

(4) A consumer fireworks certificate is not transferable.

(5) A retailer shall post the certificate in a conspicuous place at the location of the business.

(6) A separate copy of an issued certificate is required for each retail sales location of the retailer.

(7) A retailer who sells consumer fireworks shall comply with all regulations provided in NFPA 1124. The State Fire Marshal may by legislative rule, promulgate rules to supplement those rules established in NFPA 1124.

(8) A retailer shall sell the consumer fireworks only from a permanent building or structure that meets the specifications in NFPA 1124 or a temporary facility or structure that meets the specifications of NFPA 1124.7.3.5.

**(e) Requirements for a public fireworks display.**

(1) Any municipality, county, fair association, amusement park or other organization shall have a permit to present a public display of fireworks from the State Fire Marshall.

(2) To receive a permit, a municipality, fair association, amusement park, and other organization shall:

(A) Submit an application to the State Fire Marshal;

(B) Pay the required fee, not to exceed \$50;

(C) Furnish proof of financial responsibility to satisfy claims for damages to property or personal injuries arising out of any act or omission on the part of the party seeking the permit or an employee thereof, in the amount, character and form as the State Fire Marshal determines to be necessary for the protection of the public; and

(D) Provide any other information as the State Fire Marshal may require by legislative rule.

(3) The State Fire Marshal shall require the municipality, county, fair association, amusement park and other organizations to give written notice to the local police and fire authorities at least five days prior to the display for which the permit is sought.

(4) A permit is not transferable.

(5) The display shall be operated by a competent operator licensed or certified as to competency by the State Fire Marshal and shall be of such composition, character, and so located, discharged or fired so as to be safe in the opinion of the Chief of the Morgantown Fire Department.

(6) The permittee shall require a bond from the licensee in a sum not less than \$1,000 conditioned on compliance with the provisions of this West Virginia Code Chapter 29, Article 3E and the rules of the State Fire Marshal except where the licensee is an insured government entity.

**(f) Exemptions.**

Except as otherwise provided by Paragraph (g), below, this section does not prohibit any of the following:

(1) The use of fireworks by railroads or other transportation agencies for signaling purposes or illumination;

(2) The use of agricultural and wildlife fireworks;

(3) The sale or use of blank cartridges for a theatrical performance, use by military organizations or signal or ceremonial purposes in athletics or sports; or

(4) The possession, sale or disposal of fireworks incidental to the public display of fireworks by wholesalers or other persons who have a permit to possess, store and sell explosives from the Bureau of Alcohol, Tobacco, Firearms, and Explosives of the United States Department of Justice and the State Fire Marshal.

**(g) Regulation of consumer fireworks.**

The use of consumer fireworks is prohibited within the City.

**(h) Violations of this section; penalties.**

In addition to the regulations provided in subsection (g), above, the following acts constitute a violation of this section:

(1) A person may not intentionally ignite, discharge or use consumer fireworks on public property or private property without the express permission of the owner to do so.

(2) A person may not intentionally ignite or discharge any consumer fireworks or sparkling devices within or throw the same from a motor vehicle or building.

(3) A person may not intentionally ignite or discharge any consumer fireworks or sparkling devices into or at a motor vehicle or building, or at any person or group of people.

(4) A person may not intentionally ignite or discharge any consumer fireworks or sparkling devices while the person:

(A) Is under the influence of alcohol;

(B) Is under the influence of any controlled substance;

(C) Is under the influence of any other drug; or

(D) Is under the combined influence of alcohol and any controlled substance or any other drug.

(5) A person who is less than sixteen years of age may not purchase, nor offer for sale, consumer fireworks.

**(i) Miscellaneous offenses; penalties.**

Any person who violates a provision of this section for which a penalty is not expressly set forth is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$100.00 nor more than \$500.00.

~~—(a) "Fireworks" means any combustible or explosive composition, or any substance or combination of substances, or article prepared for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration or detonation, and shall include blank cartridges, toy pistols, toy cannons, toy canes or toy guns in which explosives are used, the type of unmanned balloons which require fire underneath to propel the same, firecrackers, torpedoes, skyrockets, Roman candles, daygo bombs, or other fireworks of like construction and any fireworks containing any explosive or flammable compound, or any tablets or other device containing any explosive substance, except that the term "fireworks" shall not include model rockets and model rocket engines, designed, sold and used for the purpose of propelling recoverable aero models and shall not include toy pistols, toy canes, toy guns or other devices in which paper or plastic caps manufactured in accordance with the United States Department of Transportation regulations for packing and shipping of toy paper or plastic caps are used and toy paper or plastic caps manufactured as provided therein, the sale and use of which shall be permitted at all times. Each package containing toy paper or plastic caps offered for retail sale shall be labeled to indicate the maximum explosive content per cap.~~

~~—The following sparklers and novelties shall not be considered fireworks but do require a business registration fee be paid to be authorized to sell, as provided for in Article 752:~~

~~—(1) Explosive caps designed to be fired in toy pistols, provided that the explosive mixture of the caps shall not exceed twenty five hundredths of a grain for each cap.~~

~~—(2) Snake and glow worms composed of pressed pellets of a pyrotechnic mixture that produce a large snake-like ash when burning.~~

~~—(3) Smoke devices consisting of a tube or sphere containing a pyrotechnic mixture that produces white or colored smoke.~~

~~—(4) Trick noisemakers which produce a small report designed to surprise the user and which include:~~

~~—A. A party popper, which is a small plastic or paper item containing not in excess of twenty-five hundredths of a grain of explosive mixture. A string protruding from the device is pulled to activate the device, expelling paper streamers and producing a small report.~~

~~—B. A string popper which is a small tube containing not in excess of twenty five hundredths of a grain of explosive mixture with string protruding from both ends. The strings are pulled to activate the friction sensitive mixture, producing a small report.~~

~~— C. A snapper or drop pop, which is a small paper wrapped item containing no more than twenty five hundredths of a grain of explosive mixture coated on small bits of sand. When dropped, the device produces a small report.~~

~~— (5) Wire sparklers consisting of wire or stick coated with nonexplosive pyrotechnic mixture that produces a shower of sparks upon ignition. These items must not exceed one hundred grams of mixture per item.~~

~~— (6) Other sparkling devices which emit showers of sparks and sometimes a whistling or crackling effect when burning, do not detonate or explode, are hand held or ground based, cannot propel themselves through the air and contain not more than seventy five grams of chemical compound per tube or not more than a total of two hundred grams if multiple tubes are used: Provided, that sparklers and sparkler devices as provided for herein shall not be sold to anyone below the age of sixteen years old.~~

~~— (Ord. 95-23. Passed 6-8-95.)~~

~~— (b) Except as hereinafter provided, no person, firm, copartnership or corporation shall offer for sale, possess, expose for sale, sell at retail, keep with intent to sell at retail, or use or explode any fireworks, provided, permits for the supervised display of fireworks may be granted upon application to the State Fire Marshal and after approval of the Police and Fire Chiefs, and the filing of a bond by the applicant as provided hereinafter. Every such display shall be handled by a competent operator licensed or certified as to competency by the State Fire Marshal and shall be of such composition, character, and so located, discharged or fired as in the opinion of the Fire Chief, after proper inspection, and of the Police Chief shall not be hazardous to property or endanger any person or persons. After such privilege shall have been granted, the sale, possession, use and distribution of fireworks for such display shall be lawful for that purpose only. No permit granted hereunder shall be transferable.~~

~~— The Mayor shall require a bond from the licensee in a sum not less than one thousand dollars (\$1,000) conditioned on compliance with the provisions of this section and West Virginia Code Article 29-3 and the regulations of the State Fire Commission, provided, that the Municipality shall not be required to file such bond.~~

~~— Before any permit for a pyrotechnic display shall be issued, the person, firm or corporation making application therefor shall furnish proof of financial responsibility to satisfy claims for damages to property or personal injuries arising out of any act or omission on the part of such person, firm or corporation or any agent or employee thereof, in such amount, character and form as the State Fire Marshal determines to be necessary for the protection of the public.~~

~~(WVaC 29-3-24)~~

#### **752.01 PURPOSE.**

~~— The purpose of this article shall be to require registration of businesses which sell sparklers and novelties.~~

~~(Ord. 95-22. Passed 5-16-95.)~~

#### **752.02 BUSINESS REGISTRATION.**

~~— (a) Any person or business desiring to sell sparklers and novelties within the City, as authorized by West Virginia Code 29-3-23 and Section 545.10(a) of the Morgantown Municipal Code shall submit evidence to the City's Finance Department that he or she has properly registered with the State of West Virginia, pursuant to West Virginia Code 11-12-86, for the sale of the same.~~

~~(b) Upon payment of a fifteen dollar (\$15.00) registration fee to the City, the City's Finance Director shall issue to the registrant a sticker, card or business registration certificate which shall be posted in a conspicuous position, next to like registration stickers, cards or business registration certificates issued by the State Tax Commissioner, at the location of the business which has paid the registration fee. This City registration fee shall run concurrent with the business license issued by the State, and shall not be prorated. This fee shall be collected for each separate location within the City where sparklers and novelties are sold.  
(Ord. 14-13. Passed 6-17-14.)~~

### 1511.02 CODE ENFORCEMENT.

(a) The Fire Chief shall be responsible for the enforcement of the City of Morgantown Fire Prevention Code. To assist in the performance of the responsibilities and duties placed upon the Fire Chief, ~~a Bureau of Fire Prevention and a Bureau of Fire Investigation~~ Fire Marshals Division in the Fire Department ~~are~~ is hereby created. ~~Both Bureaus~~ The Fire Marshals Division shall operate under the supervision of the Fire Chief and Chief Fire Marshal, who shall designate fire officials of the Fire Department as Fire Marshals ~~for each~~. The Fire Marshals shall report to the ~~Fire Chief~~ Chief Fire Marshal, shall be the administrators of the ~~Bureau of Fire Prevention and Bureau of Fire Investigation~~ Fire Marshals Division, and shall be responsible for administration and enforcement of the Fire Prevention Code. The Fire Chief may also designate members of the Fire Department, who have met the qualifications and training as set forth in Morgantown Fire Department S.O.G. 308.01 as Deputy Fire Marshals. The Fire Chief is authorized, if he/she deems it necessary, to create additional bureaus and appoint additional Fire Marshals. The Fire Marshals and Deputy Fire Marshals are hereby empowered to enforce the Fire Prevention Code and to cite for any Fire Code violations upon observation of each such offense. Violations for which citations may be issued by the Fire Marshals and Deputy Fire Marshals include, but are not limited to:

- (1) Locked or blocked fire exits.
- (2) Overcrowding in violation of posted occupant loads.
- (3) Failure to maintain occupant load posting.
- (4) Blocking or obstructing designated fire lanes.
- (5) Outdoor burning without a State forester permit, when such a permit is required.
- (6) Burning of materials not authorized in the State burning permit.
- (7) Having a bonfire or other similar fire without approval of the Morgantown Fire Department.
- (8) Refusing to cease burning of materials when ordered to do so by proper authority.
- (9) Tampering with any portable or fixed fire extinguishing system or device or any fire warning system.
- (10) Illegal burning.
- (11) Malicious burning.
- (12) Obstructing a Fire Marshal.
- (13) Failure to Comply with Orders.
- (14) Any violation of the Morgantown Fire Prevention Code, West Virginia State Fire Code, or any other fire codes or standards adopted by specific reference by the State of West Virginia.

(15) Use of consumer fireworks prohibited by City Code.

(b) Fire Marshals and Deputy Fire Marshals are hereby empowered to make arrests anywhere within the City of Morgantown of any person charged with the violations of Malicious Burning, Obstructing a Fire Marshal, or Failure to Comply with Orders; and when a witness to the perpetrations of these offenses, to make arrests without warrant; or to detain any persons suspected of the commission of these offenses for investigatory purposes.

(c) Fire Marshals and Deputy Fire Marshals are hereby empowered to make complaint in writing before the Municipal Judge or appropriate municipal court officer and procure a warrant for the arrest of any offender of the violations of Malicious Burning, Obstructing a Fire Marshal, or Failure to Comply with Orders. Fire Marshals and Deputy Fire Marshals may execute any summons or warrant issued by the Municipal Judge or appropriate municipal court officer for the offenses of Malicious Burning, Obstructing a Fire Marshal, or Failure to Comply with Orders upon the offender within the City of Morgantown. Any return by a Fire Marshal or Deputy Fire Marshal showing the manner of executing the warrant or summons has the same force and effect as if made by a police officer.

(d) The Fire Chief, who is responsible for the enforcement of the Fire Prevention Code, may revoke or rescind, at any time, any Fire Department member's enforcement powers when, in the opinion of the Fire Chief, these powers have been abused or improperly enforced.

(e) Nothing within this article shall prevent a Fire Marshal or an Assistant Fire Marshal from seeking injunctive relief against the responsible party at any time once any Code violation is noted.

(f) There is hereby established a Fire Code Board of Appeals, which shall be composed in accordance with, and have all authorities and responsibilities granted by, NFPA 1-1.10, current edition.

This ordinance shall be effective from the date of adoption.

FIRST READING:

\_\_\_\_\_

Mayor

ADOPTED:

FILED:

\_\_\_\_\_

City Clerk

RECORDED:

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

WHEREAS, West Virginia Code section 8-21-3 provides requirements for the members of the Board of Park and Recreation Commissioners, including the provision that each member of the board must be a resident and freeholder of the city;

NOW, THEREFORE, the City of Morgantown hereby ordains that Section 149.02 of the City Code is amended as follows:

**149.02 MEMBERSHIP; TERM.**

The Board of Park and Recreation Commissioners shall consist of seven members, a majority of whom shall constitute a quorum for the transaction of business. Each member of the Board must be a resident and freeholder of the City. The appointment of the members thereof shall be by Council. Membership on Council shall not disqualify any member from being appointed to the Board. Two members of Council, if otherwise qualified, may be appointed to the Board. The term of the Board membership of any such member of Council so appointed shall continue during his term as a member of Council and until his successor is appointed or elected and qualified. The terms of other appointed members shall be for six years, except for the initial appointment as hereinafter stated, and until their successors have been duly appointed and qualified. Council shall appoint the members of the Board, such first appointees to serve, one for a term of six years, two for a term of four years, and two for a term of two years. The date upon which the terms of such Board members shall end shall be the 30th day of June. When any member of the Board, during his term of office, shall cease to be a resident and freeholder of the City, he shall thereby be disqualified as a member of the Board and his office shall thereupon become vacant.

FIRST READING:

\_\_\_\_\_  
Mayor

ADOPTED:

FILED:

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

RECORDED:

## AN ORDINANCE AMENDING ARTICLE 941

### 941.01 DEFINITIONS.

As used in this article:

- (a) "Board" means the Board of Park and Recreation Commissioners of Morgantown.
- (b) "Manager" means the Superintendent of Parks and Recreation, Board of Park and Recreation Commissioners of Morgantown.
- (c) "Park" means all properties and facilities controlled by or under the jurisdiction of the Board, including playgrounds or school facilities being used as part of the Board's recreational program.
- (d) "Person" includes individuals and corporations.
- (e) "Authorized emergency vehicles" means vehicles of a fire department or police department, or ambulances.

### 941.02 PROTECTION OF PARK PROPERTY.

- (a) Defacement, Destruction, Removal, etc. No person shall remove, injure, deface, destroy or disturb any part of ~~the~~ any park or any building, sign, equipment or other property found therein, nor shall any tree, flower, shrub or other vegetation or fruit or seed thereof, or rock or mineral therein, be removed, injured, defaced, destroyed or disturbed.
- (b) Defacement of Surface. No person shall operate a motor vehicle causing the rubber tires to spin, mark and deface ~~the~~ any park roadway surface.
- (c) Littering or Dumping of Rubbish or Garbage. Trash and Debris; Storage of Materials. ~~No person, without the written consent of the Manager, shall leave behind or dump any material of any kind in the park, except that refuse, ashes, garbage or other material from a picnic or other permitted activity may be deposited in receptacles or pits provided for such purposes. No person may leave trash, debris, or refuse in a park except in designated receptacles and in connection with authorized use of the park. No materials may be stored in a park without the prior approval of the Manager except for storage in areas clearly designated for such storage.~~
- (d) Noxious or Deleterious Material. No person shall, ~~within the park,~~ place or permit to be placed in any river, brook, stream, ditch or drain body of water or drainage system that flows into or through park lands ~~or in any lake in the park,~~ any noxious or ~~deleterious~~ harmful material which may render park waters harmful or inimical to the public health, or to animals, vegetation or aquatic life, or which may prevent, limit or interfere with the use of such waters for domestic or agricultural purposes or which may lessen to an unreasonable degree the use and enjoyment of such waters for recreational or other park uses.

### 941.03 CARRYING WEAPONS OR HUNTING PROHIBITED.

- (a) Firearms.

- (i) No person may carry or possess a firearm within a Park, which is municipally owned or operated property, without a valid concealed handgun license.
- (ii) Carrying or possessing a firearm either openly, or not lawfully concealed, is prohibited in municipally owned recreation facilities. This provision shall not prohibit a person with a valid concealed handgun permit from carrying an otherwise lawfully possessed firearm into a municipally owned recreation facility and securely storing the firearm out of view and access to others during the person's time at the municipally owned recreation facility. For purposes of this paragraph, "municipally-owned recreation facilities" means any municipal swimming pool, recreation center, sports facility, facility housing an after-school program, or other similar facility where children are regularly present.

(b) Dangerous Weapons. No person shall carry or possess any dangerous weapon in any park. The term "dangerous weapon" includes, but is not limited to, any explosive, fireworks, slingshot, switchblade, hunting knife, metal knuckles, paintball gun, and projectile weapon not regulated by the Firearms provision of this section; provided, that bows and arrows may be possessed, carried, and used in areas designated in writing by the Manager and appropriately signed to warn of such use.

~~(a) Firearms. No person shall carry a firearm of any description, air or gas gun, fireworks, explosive, slingshot or missile throwing device into or within the park or discharge the same therein.~~

~~(b) Dangerous Weapons. No person shall have or carry any switchblade, hunting knife, dagger, metal knuckles or other dangerous weapon while in the park.~~

~~(c) Bows and Arrows. No person shall release an arrow from a bow, crossbow or longbow within the park other than in areas designated by the Manager at archery ranges or at such other locations as may be designated in writing for such purpose by the Manager.~~

(d) (c) Hunting. No person within the park shall hunt, pursue with dogs, hunt with birds, trap or in any way molest any wild bird or animal found within the park, or rob or molest any bird nest or take the eggs of any bird; except pursuant to and in accordance with City Code section 505.19 entitled "Urban Deer Management."

#### **941.04 OTHER PROHIBITED ACTIVITIES.**

(a) Advertising, Signs. No person shall distribute or place any sign, advertisement, circular, notice or statement, or distribute or place any banner, emblem or design or political advertisement, other written material within the any park without the written consent of except pursuant to a permit issued by the Manager.

(b) Sales. No person shall sell or offer for sale any article, thing, privilege or service within the any park without the written consent of the Manager, and without all applicable permits or licenses.

(c) Disturbing the Peace. No person shall disturb the peace and good order within the park by fighting, by quarreling or wrangling with loud voice or shouts, by threatening violence to the person or property of others, or by engaging in riotous clamor or tumult.

(d) Unlawful Assemblage. No person or persons shall within the park collect a group or a crowd for unlawful purposes or in riotous assemblage or with the intent to annoy, harass or inflict property damage or bodily injury upon another person or persons.

(e) Abusive Language. No person shall use obscene, profane or abusive language within the park.

(f) Assault and Battery. No person shall willfully assault or commit bodily injury upon another while within the park, or within the park be engaged in, or abet or aid in, any fight, quarrel or other disturbance.

(g) Gambling. No person shall gamble or play games of chance within the park, unless such games conform to all State and local laws, and operators thereof hold a permit issued by the Manager.

(h) Intoxicating Beverages, Wine. No person shall within the park sell, offer for sale, possess or consume any intoxicating liquor or wine unless the written consent of the Manager therefor is first had and obtained and unless there is full compliance with all applicable State law; and under no circumstances whatever shall any person be under the influence of any intoxicating liquor or wine within the park.

(i) Beer. No person shall sell, offer for sale, possess or consume beer or other malt beverage within the park without the written consent therefor of the Manager except as provided in Section 941.05.

~~(j) Glue Sniffing. No person shall within the park sniff any type of glue or other commercial material or product which contains toluol or ethers.~~

~~(k) (j) Use of Narcotics, Opiates and Hallucinogens. No person shall smoke, drink, have injected into one's self, or otherwise use, any type of narcotic drug, dangerous drug, opiate, hallucinogen or marihuana within the park-, nor shall any person inhale any type of glue or commercial product containing toluene or similar chemical compounds.~~

~~(l) (k) Entering and Use of Toilet Bathroom Facilities. No persons, except park maintenance employees or police in the performance of their official duties, shall enter a toilet within the park set aside for members of the opposite sex. Use of park toilet facilities shall be limited to defecating, urinating, and washing of one's hands thereafter. Bathroom facilities may only be used for intended purposes, which include only toilet use, hand washing in sinks, and showering only where shower facilities are provided, all in accordance with posted signage. All other activities therein are prohibited including, but not limited to, the following:~~

- ~~(1) Bathing.~~
- ~~(2) Storing personal items.~~
- ~~(3) Sleeping or resting.~~
- ~~(4) Smoking.~~
- ~~(5) Eating or drinking~~
- ~~(6) Loitering.~~

~~No person shall hinder, obstruct, or prevent the movement of persons within a park toilet facility, so as to interfere with the right of others to the proper use of the toilet facility.~~

~~No person shall hinder, obstruct, or prevent access to a park toilet facility so as to interfere with the rights of others to the proper ingress and egress of the toilet facility.~~

~~(m) (l) Indecent Conduct and Exposure. No person shall appear within the park in a state of nudity, or therein commit, perform or engage in any lewd, lascivious, obscene or indecent act or behavior and no person shall within the park make any indecent exposure of his or her person.~~

~~(m)~~ (m) Solicitation. No person shall within the park solicit or ask anyone to commit, perform or engage in, any unlawful lewd, lascivious, obscene or indecent act or behavior.

~~(n)~~ (n) Boats and Water Equipment. No person shall, without the written consent of the Manager, bring and use within the park any boat, surfboat, surfboard, water skis, scuba diving gear and similar aquatic equipment.

~~(o)~~ (o) Compliance with Police, Failure to Obey. No person shall fail or refuse to comply with any reasonable order relating to these rules and regulations or to the control of traffic or motor vehicles within the park, or with any other order lawfully given by any police officer or willfully resist, obstruct or abuse any officer or any other official in the execution of his office.

~~(p)~~ (p) Feeding Wildlife. No person shall feed any wildlife within the park.

### **941.05 REGULATED ACTIVITIES.**

#### **(a) Fires.**

(1) No person shall start a fire within the park, except small fires for culinary purposes in park grills or privately owned grills or fires in the place or areas designated for such purpose by the Board; provided, that the Manager may at his discretion prohibit fires for limited periods at any location or for any purpose when necessary for the protection of park property.

(2) All fires within the park shall be put out by the person or persons starting or using the same before leaving the immediate vicinity of the fire.

(3) No person shall within the park dump hot ashes or fire onto the grass or plants.

(b) No Admittance After Park Is Closed. No person, except Board employees in the performance of their official duties, shall be permitted within ~~the~~ any park or building within a park or any part thereof during a time when such park is closed. ~~after the same is closed for the night and prior to its opening the following day.~~

(c) Camping. No person shall establish or maintain any camp or other temporary lodging or sleeping place within the park without the written consent of the Manager.

(d) Beer and Malt Beverages. Persons of legal age may have in their possession and may consume within the park beer or malt beverages in approved containers in connection with a picnic involving the consumption of food if such picnic is held at a designated picnic area and if such beer or malt beverage is possessed and consumed at such designated picnic area. Only glass and aluminum containers are permitted. Kegs are not permitted within the park.

~~(e) Fishing.~~

~~(1) Fishing within the park is prohibited except at areas designated for that purpose by the Board.~~

~~(2) Fishing by the use of hooks left unattended, traps, spears, gigs or bows and arrows is prohibited.~~

(f) Pets. No person shall bring within ~~the~~ any park, or permit, have or keep within the park, any dog, cat or other animal destructive to birds or other wildlife; provided, that dogs and cats shall be permitted in the park if they are controlled at all times on a leash not more than six feet long, ~~with the exception of the use of~~ contained in a designated dog parks, or as a specific aspect of an organized BOPARC permitted activity.

#### **(g) Horses or Horseback Riding.**

(1) No person shall ride a horse within the park without prior written consent of the Manager.

(2) No person shall leave a horse unattended within the park.

(h) Swimming. Swimming within the park is permitted only in a swimming pool or pools operated by the Board, and all persons shall abide by the swimming pool rules and regulations posted by the Manager at any such pool.

(i) Ice Skating. No person shall ice skate on any area not specifically designated for ice skating activity and supervised by an employee of the Board.

(j) Professional Instruction. No person other than authorized employees of the Board shall offer professional instruction in recreational activities within the park.

(k) Use of Picnic Shelters. No person shall use a park picnic shelter, except by permit.

(l) Athletic Fields. No person shall conduct any type of tournament on any park athletic field without a permit, and upon payment of appropriate fees.

#### **941.06 MOTOR VEHICLES.**

(a) State Laws Applicable. All of the provisions ~~contained in~~ of the West Virginia Code Chapters 17A, 17B and 17C shall govern the operation of motor vehicles within the park except as modified by these rules.

(b) Speed Limit. No person shall ~~drive or propel or cause to be driven or be propelled along or over any road or drive within the park,~~ operate any vehicle at a greater rate of speed than ten (10) miles per hour, ~~unless otherwise posted~~ except in an area where official signage clearly identifies an alternate speed limit.

(c) Motor Vehicles Prohibited on Paths. No person shall operate or cause to be operated any type of ~~self-propelled vehicle or any motor vehicle which is moved by animal or human power~~ upon any area other than a designated roadway public highway; provided that persons who require the use of motorized wheelchairs for mobility may use such devices upon designated trails and sidewalks within the Parks.

(d) Driving on Closed Roads or Drives. No person shall drive upon or along any park road or drive which has been closed and posted with appropriate signs or barricades. The Manager shall have authority to order roads or drives closed when the park is closed or during the process of construction, reconstruction or repairs, or when, in ~~his~~ the Manager's opinion, weather conditions render travel either unsafe or unduly destructive to the road.

(e) Demonstrating, Testing, Instructing with Respect to or Learning to Operate Vehicle. No person shall use any part of the park for the purpose of demonstrating the operation of any vehicle, testing the operation of any vehicle, instructing another person to drive or operate any vehicle or learning to drive or operate any vehicle, except by written consent of the Manager.

(f) Parking. No person shall park any motor vehicle, bicycle, wagon or other vehicle within any traveled roadway in the park or at any location where posted signs prohibited parking.

No person shall leave any vehicle in the park between posted closing time and daybreak without written permission from the Manager or his authorized representative, unless such person is attending an event approved for extension beyond the posted closing.

(g) Snowmobiles. No person shall within the park operate a motor-driven vehicle which is designed for the purpose of traveling on snow-covered surfaces other than in areas designated for such purpose by the Manager.

(h) Motorbikes; Motorcycles.

(1) Every person riding within the park on a motorbike or motorcycle is required to wear a crash helmet approved by either the American Motorcycle Association or the Snell Foundation.

(2) No person shall operate a motorbike or motorcycle on any park roadway without having thereon a fender covering each tire.

(3) Motorbikes or motorcycles are permitted within the park only on paved roadways normally used by motor vehicles and in parking areas for motor vehicles.

(i) Exceptions. Nothing contained in this section shall apply to authorized emergency vehicles responding for emergency work in the case of fire, accident, public disaster, impending danger or other emergency, or to a police officer in the performance of his official duties. (Ord. 3-3-82.)

#### **941.07 REVOCATION OF PERMITS.**

The Manager or his authorized representative has the authority to revoke any or all permits upon the finding of violation of any park rule or regulation by any offender or offenders.

#### **941.08 USE OF TOBACCO PRODUCTS AND ELECTRONIC CIGARETTES.**

(a) It shall be unlawful for any person to use tobacco in any form, or to use an electronic cigarette, in or on any property controlled by or under jurisdiction of the Morgantown Board of Park and Recreation Commissioners (BOPARC). For purposes of this section, property controlled by or under the jurisdiction of the Morgantown Board of Park and Recreation Commissioners is: White Park, Marilla Park, Krepps Park, Dorsey's Knob Park, Wiles Hill Park, Hazel Ruby McQuain Park, King Street Park, Suncrest Lake Park, Paul Preserve Park, Aspen Street Park, Jack Roberts Park, Woodburn Park, Whitemore Park, MEA Fishing Pier, Stanley's Spot Dog Park, South U Park.

(b) Whoever violates this section shall be guilty of a misdemeanor, and upon conviction thereof, shall be subject to a fine of not more than one hundred dollars (\$100.00).

#### **941.99 PENALTY.**

(a) Fine; Jurisdiction. Whoever violates any of these rules and regulations shall be fined not more than one hundred dollars. ~~As specified in West Virginia Code 8-21-10, the Police Judge, magistrates of Monongalia County, shall have concurrent jurisdiction with the Circuit Court of the County and other courts of record of the County, having criminal jurisdiction, of any such offenses.~~

(b) Prosecution Under State Laws or Municipal Ordinances. The violation of any of these rules and regulations which also constitutes the violation of any State law and/or Municipal ordinance may be prosecuted as a violation of such State law or Municipal ordinance and/or as a violation of these rules and regulations.

**Resolution Submitting TIF Application**

**RESOLUTION**

**WHEREAS**, The City of Morgantown (the “City”) is authorized by the West Virginia Tax Increment Financing Act, Chapter 7, Article 11B of the Code of West Virginia, 1931, as amended (the “Act”), to create development or redevelopment districts, cause project plans to be prepared, approve project plans, issue tax increment financing obligations and take other actions to facilitate the orderly development and economic stability of the City, all as more fully set forth in the Act;

**WHEREAS**, Fairmont-Morgantown Housing Authority (“FMHA”), has requested that the City consider the creation and establishment of a development district to be known and designated as “The City of Morgantown Development District No. 5” (the “TIF District”), and the approval of a development project plan (the “Project Plan”), specifically the development of certain public infrastructure improvements within the TIF District, including, without limitation, water lines, sanitary sewer lines, stormwater drainage, road improvements and other related infrastructure and utilities improvements, all within or benefitting the proposed TIF District (the “TIF Projects”), all in order to facilitate the issuance of tax increment financing obligations or the utilization of tax increment revenues to finance the costs of planning, acquiring, constructing and equipping the TIF Projects, being necessary public infrastructure improvements within or benefitting the TIF District;

**WHEREAS**, the City has received and reviewed the Tax Increment Financing Application (the “Application”) relating to the proposed creation of the TIF District and approval of the Project Plan;

**WHEREAS**, the City did, on June 21, 2016, following proper notice thereof, hold a public hearing with respect to the Application wherein interested parties were afforded a reasonable opportunity to express their views on the proposed creation of the TIF District and its proposed boundaries and the proposed approval of the Project Plan;

**WHEREAS**, the City has, following such public hearing, found and determined that the approval of the Application will benefit the City and its residents by facilitating the orderly development and economic stability of the City, and that development therein will encourage investing in job-producing, private development and expand the public tax base of the City, that future capital improvements will result in the increase in the value of property located in the TIF District and will encourage increased employment and business activity within such area and will serve a public purpose of the City; and

**WHEREAS**, the City now desires to submit the Application to the West Virginia Development Office for approval.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MORGANTOWN, AS FOLLOWS:**

1. It is hereby found and determined following the public hearing thereon that the Application, as submitted to the City, is approved and is in form and substance suitable for submission to the West Virginia Development Office for its consideration of approval.

2. It is hereby found and determined that the TIF Projects as described in the Application are not reasonably expected to occur without the use of tax increment financing.

3. It is hereby found and determined that the development as set forth in the Application will not be solely used for development of commercial businesses that will unfairly compete in the local economy and that development or redevelopment is in the public interest because it will (i) discourage commerce, industry or manufacturing from moving their operating to another state; (ii) result in increased employment in the county; or (iii) result in preservation or enhancement of the tax base of the City.

4. It is hereby authorized and ordered that the City Manager cause the Application and all other necessary documentation to be submitted to the West Virginia Development Office, together with a request for approval thereof.

5. The Construction Bidding Memorandum of Understanding (the "MOU"), in the form presented to this meeting, is hereby approved and the City Manager is hereby authorized and ordered to execute the MOU with such changes as may be approved by the City Manager, such execution to be conclusive evidence of any such approval.

6. The Mayor, City Manager and other officials and employees of the City are hereby authorized and directed to take such actions as they shall deem appropriate in facilitating the approval of the Application.

7. This Resolution shall become effective immediately upon adoption.

[Remainder of Page Intentionally Left Blank]

Adopted this 21st day of June, 2016.

THE CITY OF MORGANTOWN

By: \_\_\_\_\_  
Its City Manager

By: \_\_\_\_\_  
Its Mayor

APPROVED:

By: \_\_\_\_\_  
Its City Attorney

**CERTIFICATION**

The undersigned, being the duly qualified, elected and acting Clerk of The City of Morgantown, does hereby certify that the foregoing Resolution was duly adopted by the City Council of The City of Morgantown at a regular meeting duly held, pursuant to proper notice thereof, on June 21, 2016, a quorum being present and acting throughout, and which Resolution has not been modified, amended or revoked and is a true, correct and complete copy thereof as of this 21st day of June, 2016.

By: \_\_\_\_\_  
City Clerk

**RESOLUTION**

**WHEREAS,** *the City of Morgantown's Historic Landmark Commission applied for a grant from the West Virginia Division of Culture and History; and*

**WHEREAS,** *the grant would provide for reimbursement of some of the costs of historical survey of the Suncrest Neighborhood and properties. This grant will pay for \$10,000 of the total cost of \$15, 715.00. A match of \$4,715 will be required to complete this grant project.*

**NOW, THEREFORE, BE IT RESOLVED** *by the City of Morgantown this 5th day of July, 2016 that the City Council hereby accepts and will administer the grant from the West Virginia Division of Culture and History for use for the Preservation Alliance of West Virginia.*

\_\_\_\_\_  
**MAYOR**

\_\_\_\_\_  
**CITY CLERK**

West Virginia  
Division of Finance and Administration  
For and on behalf of  
The Division of Culture and History

# CONTRACT

## For Historic Preservation Federal Grant

This AGREEMENT is made, this the 8<sup>th</sup> day of June, 2016 by and between Mills Group and  
CITY OF MORGANTOWN/MORGANTOWN HISTORIC LANDMARK COMMISSION

Hereinafter referred to as the grantee, and the STATE OF WEST VIRGINIA, DEPARTMENT OF FINANCE AND ADMINISTRATION on behalf of the West Virginia Division of Culture and History.

WITNESSETH, THAT WHEREAS, the Division of Culture and History of the State of West Virginia is Expressly authorized by Article 1, Chapter 29 of the Code of West Virginia, one Thousand Nine Hundred Thirty-One, as amended, to carry out the duties of the National Historic Preservation Act of 1966, and

WHEREAS, the State of West Virginia has received funds from the United States Department of the Interior, National Park Service to be granted by the State Historic Preservation Office to organizations or individuals participating in activities authorized in the National Historic Preservation Act of 1966, and

WHEREAS, the grantee desires to sponsor a project to be known as Suncrest Survey  
as described in the Attachment I, and

WHEREAS, the Archives and History Commission on January 29, 2016 approved a grant to the grantee for the project described above,

NOW, THEREFORE, in consideration of the foregoing, the parties agree as follows:

1. The Division of Culture and History hereby agrees to GRANT to the grantee the sum of \$ 11,000.00 toward the total estimated cost of \$ 15,715.00 or said project.

(a) To be eligible for payments, the grantee must maintain and submit documentation, as required in the Subgrant Management Manual, to the State Historic Preservation Office showing the amounts of payment requested and describing the portion of the project for which the funds are requested;

(b) The Division of Culture and History only agrees to transfer funds to the grantee for expenditures which are in compliance with the terms and conditions of this agreement and the National Register Programs Guideline, NPS-49, of the Department of the Interior, National Park Service.

2. The grantee certifies that it has matching capability and agrees:

(a) The requirements of the Historic Preservation Office Subgrant Management Manual shall apply to this award;

(b) That it will substantially comply with State competitive bidding and use acceptable procurement procedures as defined in the Subgrant Management Manual;

(c) That it will furnish its share of the total cost of the project;

(d) That it will execute the project in compliance with the established policies, procedures, and regulations of the Department of the Interior, National Park Service, including the National Register Programs Guidelines, NPS-49;

(e) That it will disburse such funds only for authorized purposes in connection with said project;

(f) That it will maintain accurate records in accordance with generally accepted accounting principles and procedures, in connection with the project;

(g) That it will not be reimbursed for any expenditure which does not conform to the terms and conditions of this agreement or the Final Products do not meet the Secretary of the Interior's Standards;

(h) The grantee must receive prior approval from the State Historic Preservation Office for all amendments to the scope of work, products, budget, or reporting requirements;

(i) That it will comply with either the Single Audit Act of 1984 for state or local governments or the audit requirements of OMB Circular A-110 for universities and non profit organizations;

(j) Publications or audio visual material must receive prior approval from the State Historic Preservation Office. Five copies of any publications that is a result of the grant must be submitted to the State Historic Preservation Office. Grantee agrees to credit the West Virginia Division of Culture and History and the Federal Preservation Grant Program by using the following wording:

"The activity that is the subject of this (type of publication) has been financed (in part/entirely) with Federal funds from the National Park Service, Department of the Interior, and administered by the West Virginia Division of Culture and History."

The publication or audio visual should also contain the Equal Opportunity statement as follows:

"The program receives Federal funds from the National Park Service. Regulations of the U.S. Department of the Interior strictly prohibit unlawful discrimination departmental Federally Assisted Programs on the basis of race, color, national origin, age or handicap. Any person who believes he or she has been discriminated against in any program, activity, or facility operated by a recipient of Federal assistance should write to: Office of Equal Opportunity, U.S. Department of the Interior, National Park Service, 1849 C Street, N.W., Washington, D.C. 20240.

(k) The grantee must submit progress reports and financial reports as required in the subgrant management manual;

(l) The grantee shall submit a final project report containing all information as required in the Subgrant Management Manual;

(m) That it will conform to provision of 18 USC 1913 regarding the use of Federal funds for lobbying activities;

(n) That it will comply with Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act;

(o) That it will conform with Title VI of the Civil Rights Act of 1964, that strictly prohibits unlawful discrimination in federally-assisted programs on the basis of race, color, and/or national origin;

(p) That it will provide to the Division evidence of compliance with Federal Procurement Standards as enumerated in 43 CFR 12, Subpart C, Uniform Administrative Requirements for grants to state and local governments, effective October 1, 1988;

(q) That it will complete the project in accordance with Attachment I of the contract;

(r) That the project will be performed and products produced in compliance with the Secretary of the Interior's Standards for Identification and Evaluation;

(s) In addition to the terms detailed in this agreement, all Federal requirements governing grants (Office of Management and Budget Circulars A-87 or A-122, 43 CFR 12, Subpart C or A-110, and A-128 or A-133) are applicable.

3. It is the understanding of all parties to this contract, that the Division of Culture and History by joining in this contract, does not pledge or promise to pledge the assets of the State of West Virginia, does not promise to pay any part of the contract sum provided for in this agreement from monies of the Treasury of the State of West Virginia except such monies as shall be appropriated by the West Virginia Legislature.

4. This contract may be terminated with the consent of both parties or by either party because of non-performance by the other.

This provision shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rate of pay or other forms of compensation, and selection for training including apprenticeship. The grantee shall insert a similar provision in all subcontracts for activities covered by this contract. Programs funded by the Division of Culture and History strictly prohibit unlawful discrimination in state-assisted programs on the basis of race, color and/or national origin.

IN WITNESS WHEREOF, City of Morgantown/Morgantown Historic Landmark Commission and the Division of Culture and History have caused this instrument to be executed by their duly authorized representatives.

GRANTEE: CITY OF MORGANTOWN/MORGANTOWN HISTORIC LANDMARK COMMISSION

BY: \_\_\_\_\_

STATE OF WEST VIRGINIA

COUNTY OF \_\_\_\_\_ : TO-WIT

I, \_\_\_\_\_, a Notary Public in and for said County and State hereto annexed, bearing date the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, has this day acknowledged the name before me in my said County, to be his act and deed.

Given under my hand this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

My Commission expires \_\_\_\_\_

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

**The Division of Culture and History**

BY: \_\_\_\_\_  
Historic Preservation Office

DEPARTMENT OF ADMINISTRATION  
STATE OF WEST VIRGINIA ACTING BY  
AND THROUGH IT'S PURCHASING DIVISION

BY: \_\_\_\_\_  
Commissioner

BY: \_\_\_\_\_  
Purchasing Director

Approved as to form the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

BY: \_\_\_\_\_  
Assistant Attorney General

### ENVIRONMENTAL CERTIFICATION

Based upon a review of the application, proposal narrative, and the supporting documentation contained in the application, it has been determined that the proposed HPF project, Suncrest Survey meets the criteria for categorical exclusion\* under 516 DM 6.

 GRANTEE OR APPLICANT 6/9/16 DATE

City Manager  
TITLE

I concur:

**\*(Indicate appropriate categorical exclusion from those listed in section A.4 of Chapter 11 of the Manual.)**

A.4 a.6

**RESOLUTION APPROVING AGREEMENT WITH THE MONONGALIA COUNTY  
BOARD OF EDUCATION PROVIDING A SCHOOL RESOURCE OFFICER AT  
SOUTH MIDDLE SCHOOL**

The City of Morgantown hereby resolves that the City Manager is authorized to execute the attached "Agreement" providing for a School Resource Officer at South Middle School on behalf of the City.

Adopted this \_\_\_ day of July, 2016.

\_\_\_\_\_  
MAYOR

\_\_\_\_\_  
CITY CLERK

## AGREEMENT

This Agreement, made and entered into this \_\_\_ day of \_\_\_\_\_, 2016 by and between the City of Morgantown, West Virginia (hereafter referred to as "City") and the Monongalia County Board of Education, West Virginia (hereafter referred to as "Board").

WITNESSETH:

WHEREAS, the Board has established a School Resources Officer Program (hereafter referred to as "SRO Program"); and

WHEREAS, the Board agrees that the City have one police Officer serve as a School Resources Officer in the Monongalia County School System; and

WHEREAS, the City and the Board understand that the program is established for the purpose of assistance in the prevention of juvenile delinquency through programs specifically developed to respond to those factors and conditions which rise to delinquency; and

WHEREAS, the City and the Board realize, the SRO Program is a great benefit to school administration, students and the community as a whole.

NOW THEREFORE, in consideration of the mutual promises contained herein, the parties agree as follows:

### SECTION 1: DUTIES AND RESPONSIBILITIES OF CITY

- 1.01 The City will provide one (1) police officer as a School Resource Officer, to the Board for assignment at South Middle School.
- 1.02 The SRO will abide by County School Board Policies and Laws, as they relate to the SRO. The SRO will consult and coordinate instructional activities through the Principal. Educational activities conducted by the SRO, which are part of the regular instruction program of the school, will be at the direction of and supervised by the Principal or his/her designated representative. On-site supervision of the daily activities of the SRO will be performed by the Principal. Professional supervision, evaluation and discipline of the SRO will at all times be performed by the Chief of Police of the City, with input from the Principal as may be requested by the Chief.
- 1.03 The SRO will provide to students' instruction in various aspects of law enforcement, public safety, and education as directed and supervised by the Principal.
- 1.04 On-site supervision of the police officer assigned to the SRO Programs will be performed by the Principal. City, through the Chief of Police, will be responsible for the control, direction, and professional supervision of the police officer assigned to the SRO Programs. City's Chief of Police will be granted site access to perform supervisory requirements as necessary.

- 1.05 The City will ensure that the exercise of the law enforcement powers by the SRO is in compliance with the authority granted by the law.
- 1.06 The SRO will not function as a school disciplinarian or safety officer. It is not the responsibility of the SRO to intervene with the normal disciplinary procedures in the school. The SRO will perform the following duties:
- To perform law enforcement functions within the school setting.
  - To identify and prevent, through counseling and referral, delinquent behavior, including substance abuse.
  - To foster a better understanding of the law enforcement function.
  - To develop a better appreciation of citizens' rights, obligations and responsibilities.
  - To provide information about crime prevention.
  - To provide assistance and support for crime victims identified within the school setting.
  - To promote positive relations between the students and the law enforcement officer.
  - To enhance knowledge of the fundamental concepts and structure of the law.
  - To be familiar with confidentiality requirements.
  - Any records generated by the Officer as part of his/her SRO Program duties shall be considered a school record subject to the Family Educational Rights and Privacy Act and related regulations (34 CFR 99.30 and 99.31).
- 1.07 The SRO will be on duty at the school during regular school hours when students are required to attend and when the required SRO Training Programs are conducted, unless police department emergency needs or law enforcement requirements prohibit.
- 1.08 The SRO will not be required to attend extracurricular activities which are held beyond his/her regular workday or require the SRO to leave his/her jurisdiction, but the SRO will have the option to attend if they choose to do so.

## SECTION 2: DUTIES AND RESPONSIBILITIES OF THE BOARD

- 2.01 The Principal at South Middle will be the on-site contact person for the SRO. The Superintendent of the Board will designate the School Resource Officer Coordinator to serve as the county liaison for the program.
- 2.02 A performance review will be performed at the end of the school year by the Principal and submitted in writing to the Police Chief.
- 2.03 The Board will furnish the City funds in the total sum of \$46,013.22 (2/3<sup>rd</sup> total cost) to offset the cost of salary and related benefits for the employee of the City, who will provide the contracted service and act as SRO to the schools pursuant to the terms expressed in this Agreement.

### **SECTION 3: TERMS OF AGREEMENT**

- 3.01** This Agreement is made for a Ten month term beginning the 1<sup>st</sup> day of August, 2016 and ending the 30<sup>th</sup> day of June, 2017.
- 3.02** This Agreement will continue in effect until the expiration of the term described in paragraph 3.01 or until terminated by either of the parties in accordance with the terms listed in Section four (4) below.

### **SECTION 4: TERMINATION**

- 4.01** Either party may terminate this agreement by serving written notice upon the other party at least thirty (30) days in advance of such termination.,

### **SECTION 5: SEVERABILITY**

- 5.01** Should any part of this Agreement be declared invalid by a court of law or administrative body, such decision will not affect the remaining provisions of the Agreement and this Agreement shall be interpreted as if the invalid portion was never a part of this Agreement. If such determination of invalidity will materially affect any other rights or obligations of the parties hereunder, the parties hereto will negotiate in good faith to amend this Agreement in a manner satisfactory to the parties.

### **SECTION 6: ASSIGNMENT**

- 6.01** No Party to the Agreement will, directly nor indirectly, assign or purport to assign this Agreement or any of the rights or obligations provided in the Agreement in whole or in part to any third party without the prior written consent of the other party.

### **SECTION 7: NO WAIVER**

- 7.01** The failure of either party to exercise any of its rights herein contained will not preclude or prejudice it from exercising the same or any other right it may have under this Agreement, irrespective of any previous action or proceeding taken by it hereunder.

### **SECTION 8: COMPLETE AGREEMENT**

- 8.01** This Agreement is the complete Agreement of the parties; may be amended or modified only in writing; and supersedes, cancels, and terminates any and all prior agreements or understanding of the parties, whether written or oral, concerning the subject matter hereof.

### **SECTION 9: CHOICE OF LAW**

- 9.01** This Agreement will be governed by and interpreted according to the laws of the State of West Virginia. It will be binding upon and inure to the benefit of the successors of the City and the Board.

**SECTION 10: NOTICES**

**10.01 All notices or other communications required or permitted by the Agreement will be in writing and deemed effectively delivered upon mailing by certified mail, return receipt requested, or personal delivery to the following persons and addresses unless otherwise specified herein:**

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**Jeff Mikorski, City Manager  
City of Mogantown, WV**

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**Date**

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**Dr. Frank Devono, Superintendent  
Monongalia County Board of Education**

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**Date**

**RESOLUTION APPROVING AGREEMENT WITH THE MONONGALIA COUNTY  
BOARD OF EDUCATION PROVIDING A SCHOOL RESOURCE OFFICER AT  
MORGANTOWN HIGH SCHOOL**

The City of Morgantown hereby resolves that the City Manager is authorized to execute the attached "Agreement" providing for a School Resource Officer at Morgantown High School on behalf of the City.

Adopted this \_\_\_ day of July, 2016.

\_\_\_\_\_  
MAYOR

\_\_\_\_\_  
CITY CLERK

## **AGREEMENT**

This Agreement, made and entered into this \_\_\_ day of \_\_\_\_\_, 2016 by and between the City of Morgantown, West Virginia (hereafter referred to as "City") and the Monongalia County Board of Education, West Virginia (hereafter referred to as "Board").

**WITNESSETH:**

**WHEREAS**, the Board has established a School Resources Officer Program (hereafter referred to as "SRO Program"); and

**WHEREAS**, the Board agrees that the City have one police Officer serve as a School Resources Officer in the Monongalia County School System; and

**WHEREAS**, the City and the Board understand that the program is established for the purpose of assistance in the prevention of juvenile delinquency through programs specifically developed to respond to those factors and conditions which rise to delinquency; and

**WHEREAS**, the City and the Board realize, the SRO Program is a great benefit to school administration, students and the community as a whole.

**NOW THEREFORE**, in consideration of the mutual promises contained herein, the parties agree as follows:

### **SECTION 1: DUTIES AND RESPONSIBILITIES OF CITY**

- 1.01** The City will provide one (1) police officer as a School Resource Officer, to the Board for assignment at Morgantown High School.
- 1.02** The SRO will abide by County School Board Policies and Laws, as they relate to the SRO. The SRO will consult and coordinate instructional activities through the Principal. Educational activities conducted by the SRO, which are part of the regular instruction program of the school, will be at the direction of and supervised by the Principal or his/her designated representative. On-site supervision of the daily activities of the SRO will be performed by the Principal. Professional supervision, evaluation and discipline of the SRO will at all times be performed by the Chief of Police of the City, with input from the Principal as may be requested by the Chief.
- 1.03** The SRO will provide to students' instruction in various aspects of law enforcement, public safety, and education as directed and supervised by the Principal.
- 1.04** On-site supervision of the police officer assigned to the SRO Programs will be performed by the Principal. City, through the Chief of Police, will be responsible for the control, direction, and professional supervision of the police officer assigned to the SRO Programs. City's Chief of Police will be granted site access to perform supervisory requirements as necessary.

- 1.05 The City will ensure that the exercise of the law enforcement powers by the SRO is in compliance with the authority granted by the law.
- 1.06 The SRO will not function as a school disciplinarian or safety officer. It is not the responsibility of the SRO to intervene with the normal disciplinary procedures in the school. The SRO will perform the following duties:
- To perform law enforcement functions within the school setting.
  - To identify and prevent, through counseling and referral, delinquent behavior, including substance abuse.
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  - To develop a better appreciation of citizens' rights, obligations and responsibilities.
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## **SECTION 2: DUTIES AND RESPONSIBILITIES OF THE BOARD**

- 2.01 The Principal at Morgantown High will be the on-site contact person for the SRO. The Superintendent of the Board will designate the School Resource Officer Coordinator to serve as the county liaison for the program.
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- 2.03 The Board will furnish the City funds in the total sum of \$46,013.22 (2/3<sup>rd</sup> total cost) to offset the cost of salary and related benefits for the employee of the City, who will provide the contracted service and act as SRO to the schools pursuant to the terms expressed in this Agreement.

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**Jeff Mikorski, City Manager  
City of Mogantown, WV**

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**Date**

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**Dr. Frank Devono, Superintendent  
Monongalia County Board of Education**

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**Date**