



Office of the City Clerk

# The City of Morgantown

Linda L. Little, CMC  
389 Spruce Street, Room 10  
Morgantown, West Virginia 26505  
(304) 284-7439 Fax: (304) 284-7525  
llittle@cityofmorgantown.org

**MORGANTOWN CITY COUNCIL  
REGULAR MEETING  
August 7, 2012  
7:00 p.m.**

1. **CALL TO ORDER**
2. **ROLL CALL BY CITY CLERK**
3. **PLEDGE TO THE FLAG**
4. **APPROVAL OF MINUTES:** Regular Meeting July 17, 2012  
Special Meeting July 31, 2012
5. **CORRESPONDENCE**
6. **PUBLIC HEARING:**
  - A. **PUBLIC HEARING of AN ORDINANCE BY THE CITY OF MORGANTOWN AUTHORIZING THE EXECUTION OF A RIGHT-OF-WAY AGREEMENT BETWEEN THE CITY OF MORGANTOWN, GRANTOR, AND THE WEST VIRGINIA UNIVERSITY BOARD OF GOVERNORS, GRANTEE, AS THE SAME APPLIES TO GRANTEE'S INSTALLATION OF POWER AND LIGHT POLES NEAR THE INTERSECTION OF 1<sup>ST</sup> STREET AND HALL STREET WEST OF BEECHURST AVENUE.**
  - B. **PUBLIC HEARING of AN ORDINANCE AMENDING THE FY 2012-2013 ANNUAL BUDGET OF THE CITY OF MORGANTOWN AS SHOWN IN THE REVISED BUDGET ATTACHED HERETO AND MADE A PART OF THIS ORDINANCE AS THE SAME APPLIES TO THE COAL SEVERANCE FUND.**
  - C. **PUBLIC HEARING of AN ORDINANCE AMENDING THE FY 2012-2013 ANNUAL BUDGET OF THE CITY OF MORGANTOWN AS SHOWN IN THE REVISED BUDGET ATTACHED HERETO AND MADE A PART OF THIS ORDINANCE AS THE SAME APPLIES TO THE GENERAL FUND.**

**7. UNFINISHED BUSINESS:**

- A. Consideration of APPROVAL of SECOND READING (ADOPTION) of AN ORDINANCE BY THE CITY OF MORGANTOWN AUTHORIZING THE EXECUTION OF A RIGHT-OF-WAY AGREEMENT BETWEEN THE CITY OF MORGANTOWN, GRANTOR, AND THE WEST VIRGINIA UNIVERSITY BOARD OF GOVERNORS, GRANTEE, AS THE SAME APPLIES TO GRANTEE'S INSTALLATION OF POWER AND LIGHT POLES NEAR THE INTERSECTION OF 1<sup>ST</sup> STREET AND HALL STREET WEST OF BEECHURST AVENUE. (First Reading: July 17, 2012)**
- B. Consideration of APPROVAL of SECOND READING (ADOPTION) of AN ORDINANCE AMENDING THE FY 2012-2013 ANNUAL BUDGET OF THE CITY OF MORGANTOWN AS SHOWN IN THE REVISED BUDGET ATTACHED HERETO AND MADE A PART OF THIS ORDINANCE AS THE SAME APPLIES TO THE COAL SEVERANCE FUND. (First Reading: July 17, 2012)**
- C. Consideration of APPROVAL of SECOND READING (ADOPTION) of AN ORDINANCE AMENDING THE FY 2012-2013 ANNUAL BUDGET OF THE CITY OF MORGANTOWN AS SHOWN IN THE REVISED BUDGET ATTACHED HERETO AND MADE A PART OF THIS ORDINANCE AS THE SAME APPLIES TO THE GENERAL FUND. (First Reading: July 17, 2012)**
- D. BOARDS AND COMMISSIONS**

**8. SPECIAL COMMITTEE REPORTS**

**9. NEW BUSINESS:**

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

- B. Consideration of **APPROVAL** of **FIRST READING** of **AN ORDINANCE BY THE CITY OF MORGANTOWN ADDING A NEW SECTION 349.18 TO THE CITY OF MORGANTOWN TRAFFIC CODE PROHIBITING THE USE OF HANDHELD ELECTRONIC COMMUNICATION DEVICES WHILE DRIVING OR OPERATING A MOTOR VEHICLE.**
  - C. Consideration of **APPROVAL** of **FIRST READING** of **AN ORDINANCE ADOPTING A NEW ARTICLE 769, MOTION PHOTOGRAPHY PRODUCTION, WITHIN THE BUSINESS AND TAXATION CODE; REQUIRING MOTION PHOTOGRAPHY PRODUCTION PERMITS FOR MOTION PHOTOGRAPHY PRODUCTION ENDEAVORS ON PUBLIC PROPERTY OWNED OR CONTROLLED BY OR UNDER THE JURISDICTION OF THE CITY OF MORGANTOWN.**
  - D. Consideration of **APPROVAL** of a **RESOLUTION TO KEEP THE UPPER MON WV LOCKS OPEN.**
  - E. Consideration of **APPROVAL** of a **SUPPLEMENTAL RESOLUTION PROVIDING FOR THE ISSUANCE OF ITS COMBINED UTILITY SYSTEM REVENUE BONDS, SERIES 2012 A AND COMBINED UTILITY SYSTEM REVENUE BONDS, SERIES B(COLLECTIVELY, THE "BONDS").**
  - F. Consideration of **APPROVAL** of a **DRAW RESOLUTION PROVIDING FOR THE PAYMENT OF INVOICES RELATING TO THE BONDS.**
  - G. Consideration of **APPROVAL** of a **SWEEP RESOLUTION PERTAINING TO THE AUTOMATIC PAYMENT OF BONDS TO THE MUNICIPAL BOND COMMISSION.**
10. **PUBLIC PORTION WHICH SHALL BE SUBJECT TO RULES ESTABLISHED BY COUNCIL AND ADOPTED BY RESOLUTION**

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

**INFORMATION:**

1. **Presentation Regarding Updated Morgantown Comprehensive Plan Considerations**

**NEW BUSINESS:**

1. **Appointment of Audit Committee**
12. **REPORT FROM CITY CLERK**
13. **REPORT FROM CITY ATTORNEY**
14. **REPORT FROM COUNCIL MEMBERS**
15. **ADJOURNMENT**

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

**SPECIAL MEETING JULY 31, 2012:**

The special meeting of the Common Council of the City of Morgantown was held in the Council Chambers on Tuesday, July, 31, 2012 at 6:45 p.m.

**PRESENT:** Mayor Jim Manilla, City Manager Terrence Moore, Deputy City Manager Jeff Mikorski, City Clerk Linda Little, and Council Members Ron Bane, Wes Nugent, Marti Shamberger, Bill Byrne and Linda Herbst. (Councilor Selin Absent)

The meeting was called to order by Mayor Manilla.

**PUBLIC HEARING – AN ORDINANCE AUTHORIZING IT AS “LESSOR” TO ENTER INTO AN AIRLINE LEASE AGREEMENT WITH SILVER AIRWAYS, CORP., AS LESSEE” AS THE SAME APPLIES TO SILVER AIRWAYS, CORP.’S OPERATION AT THE MORGANTOWN MUNICIPAL AIRPORT.**

There being no appearances or objections, Mayor Manilla declared the public portion closed.

**UNFINISHED BUSINESS:**

**AN ORDINANCE AUTHORIZING A LEASE AGREEMENT WITH SILVER AIRWAY’S CORP., AT THE MUNICIPAL AIRPORT:** The below entitled Ordinance was presented for second reading:

AN ORDINANCE AUTHORIZING IT AS “LESSOR” TO ENTER INTO AN AIRLINE LEASE AGREEMENT WITH SILVER AIRWAYS, CORP., AS LESSEE” AS THE SAME APPLIES TO SILVER AIRWAYS, CORP’S OPERATION AT THE MORGANTOWN MUNICIPAL AIRPORT.

Motion by Byrne, second by Shamberger to adopt the above entitled ordinance. City Manager, Terrence Moore, gave a brief update about the lease and a reminder of the Inaugural Ceremony on August 2, 2012 to celebrate the arrival of Silver Airways at 10am at the Airport. Vote taken and motion carried 6-0. (Councilor Selin Absent)

**ADJOURNMENT:**

There being no further business, Council adjourned at 6:50 p.m.

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

\_\_\_\_\_  
Mayor

**\*A FULL TRANSCRIPT OF ALL COUNCIL MEETINGS IS AVAILABLE ON CD AT THE MORGANTOWN CITY LIBRARY.**

**REGULAR MEETING JULY 17, 2012:**

The regular meeting of the Common Council of the City of Morgantown was held in the Council Chambers on Tuesday, July 17, 2012 at 7:00 P.M.

**PRESENT:** City Manager Terrence Moore, Deputy City Manager Jeff Mikorski, City Clerk Linda Little, City Attorney Steve Fanok, Mayor Jim Manilla and Council Members: Ron Bane, Wes Nugent, Jenny Selin, Marti Shamberger, Linda Herbst and Bill Byrne.

**APPROVAL OF MINUTES:** The minutes of the Special & Regular Meetings of July 3, 2012 were approved as amended.

**CORRESPONDENCE:** Mayor Manilla acknowledged the WVU Honors College “City as Text” program, which gives incoming freshmen perspective on Morgantown’s history. Next, Chief Ed Preston presented awards to citizens who responded and assisted Officers during the recent, tragic shooting at Wal-Mart.

**Update Regarding 2012 Urban Deer Archery Hunt:** Mr. Rick Bebout updated Council on the dates and details of this year’s Urban Archery Deer Hunt program. He stated more properties will be added and rules will be tweaked to include up to seven deer, two deer per day. Discussion continued about the general provisions for the hunt. Mr. Moore added that updates will be provided leading up to the event.

**PUBLIC HEARING - AN ORDINANCE BY THE CITY OF MORGANTOWN AMENDING SECTIONS 153.01, 153.02, 153.04, 153.05, 153.07, AND 153.08 OF ITS ADMINISTRATIVE CODE, AS THE SAME APPLIES TO THE CITY OF MORGANTOWN HUMAN RIGHTS COMMISSION.**

Barb Howe 432 Riley Street, thanked Council for their support of the Commission, and thanked Mr. Mikorski and Ms. Little for accommodating retired persons on the application to volunteer for Boards and Commissions.

Don Spencer, 565 Harvard Avenue, thanked Council, Mr. Moore, Mr. Mikorski and Mr. Fanok for their work on the above entitled Ordinance.

There being no more appearances or objections, Mayor Manilla declared the public portion closed.

**UNFINISHED BUSINESS:**

**AN ORDINANCE AMENDING SECTIONS WHICH APPLIES TO THE HUMAN RIGHTS COMMISSION:** The below entitled Ordinance was presented for second reading:

AN ORDINANCE BY THE CITY OF MORGANTOWN AMENDING SECTIONS 153.01, 153.02, 153.04, 153.05, 153.07, AND 153.08 OF ITS ADMINISTRATIVE CODE, AS THE SAME APPLIES TO THE CITY OF MORGANTOWN HUMAN RIGHTS COMMISSION.

Motion by Shamberger second by Herbst, to adopt the above entitled Ordinance. Motion carried 7-0.

**BOARDS AND COMMISSIONS:** By acclamation, Jim Snyder was re-appointed to the Museum Commission.

**SPECIAL COMMITTEE REPORTS:** No Reports.

**NEW BUSINESS:**

**AN ORDINANCE AUTHORIZING A RIGHT-OF-WAY AGREEMENT WITH WVU BOG FOR POWER AND LIGHT POLES:** The below entitled Ordinance was presented for first reading:

AN ORDINANCE BY THE CITY OF MORGANTOWN AUTHORIZING THE EXECUTION OF A RIGHT-OF-WAY AGREEMENT BETWEEN THE CITY OF MORGANTOWN, GRANTOR, AND THE WEST VIRGINIA UNIVERSITY BOARD OF GOVERNORS, GRANTEE, AS THE SAME APPLIES TO GRANTEE'S INSTALLATION OF POWER AND LIGHT POLES NEAR THE INTERSECTION OF 1<sup>ST</sup> STREET AND HALL STREET WEST OF BEECHURST AVENUE.

Motion by Bane, second by Shamberger to pass the above entitled Ordinance to second reading. Motion carried 7-0.

**AN ORDINANCE AUTHORIZING AN AIRLINE LEASE AGREEMENT AT THE MUNICIPAL AIRPORT:** The below entitled Ordinance was presented for first reading:

AN ORDINANCE BY THE CITY OF MORGANTOWN AUTHORIZING IT AS "LESSOR" TO ENTER INTO AN AIRLINE LEASE AGREEMENT WITH SILVER AIRWAYS, CORP.; AS "LESSEE", AS THE SAME APPLIES TO SILVER AIRWAYS CORP.'S OPERATION AT THE MORGANTOWN MUNICIPAL AIRPORT

Motion by Shamberger, second by Selin to pass the above entitled Ordinance to second reading. Following explanation from the City Manager, motion carried 7-0.

**AN ORDINANCE AMENDING THE ANNUAL BUDGET, COAL SEVERANCE FUND:** The below entitled Ordinance was presented for first reading:

AN ORDINANCE AMENDING THE FY 2012-2013 ANNUAL BUDGET OF THE CITY OF MORGANTOWN AS SHOWN IN THE REVISED BUDGET ATTACHED HERETO AND MADE A PART OF THIS ORDINANCE AS THE SAME APPLIES TO THE COAL SEVERANCE FUND.

Motion by Bane, second by Selin to pass the above entitled Ordinance to second reading. Following explanation from the City Manager, motion carried 7-0.

**AN ORDINANCE AMENDING THE ANNUAL BUDGET, GENERAL FUND:** The below entitled Ordinance was presented for first reading:

AN ORDINANCE AMENDING THE FY 2012-2013 ANNUAL BUDGET OF THE CITY OF MORGANTOWN AS SHOWN IN THE REVISED BUDGET ATTACHED HERETO AND MADE A PART OF THIS ORDINANCE AS THE SAME APPLIES TO THE GENERAL FUND.

Motion by Selin, second by Herbst to pass the above entitled Ordinance to second reading. The City Manager offered explanation on the adjustments, and after discussion, motion carried 7-0.

**A RESOLUTION TO FILE AN OFFICER'S CERTIFICATE AND REDEMPTION NOTICE IN ORDER TO CLOSE THE TAX INCREMENT REVENUE BONDS FOR PARKING GARAGE PROJECT NO. 1 SERIES 2006 A:** The above entitled Resolution was presented for approval.

Motion by Nugent second by Selin, to approve above entitled Resolution. Motion carried 7-0.

**PUBLIC PORTION:**

Don Duval, 1082 Charles Avenue, remarked about sidewalk requirements throughout the years and his experience with sidewalk requirements in his neighborhood. He also commented that Sunnyside-Up should be dissolved and cited several circumstances where he disagrees with funds' use.

Renee Hernandez, 224 Overdale Street, stated that she is pleased with the reinstated "Downtown-Beat" Officers. She complimented MUB for fixing a sewer problem near her home, and also complimented the success of the Greenmont picnic. She commented on the Wal-Mart employees, as well as the enforcement of texting while driving offenses. She then reiterated her concerns over truck traffic and asked the Police to ensure trucks are obeying traffic laws.

Police Chief Ed Preston, clarified misinformation surrounding the enforcement of driving while using cell phones without hands free devices, and texting while driving offenses. Mr. Moore added that preparations are being made to present a municipal Ordinance to the same effect. The rules were then suspended in order to allow for Council discussion.

There being no more appearances, Mayor Manilla declared the public portion closed.

**CITY MANAGER'S REPORT:**

**INFORMATION:**

**1. Mountainline Transit Route Service Commitments**

Mr. Moore allowed commentary from Mountainline Director Dave Bruffy, who thanked Council for reinstating funds to the Authority. He spoke about the history, service and current operations of the Transit Authority.

**NEW BUSINESS:**

**1. Capital Escrow Budget Adjustment Recommendations**

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

**2. Bid Results for Laboratory Services**

Motion by Bane, second by Nugent to approve the bid results. Motion carried 7-0.

**3. Fair and Festival Permit Request: Twilight 5-Miler Run**

Motion by Nugent, second by Bane to approve the permit request. Motion carried 7-0.

**REPORT FROM CITY CLERK:** Ms. Little announced the WV Municipal League Meeting, and encouraged Council to register soon if they wish to attend.

**REPORT FROM CITY ATTORNEY:** Mr. Fanok yielded the floor to a citizen who arrived late and intended to speak during the public portion. The rules were suspended and Mr. Giuliani of 256 Cray Avenue was recognized. He spoke about current issues with the property near the Square at Falling Run. He asked

Council to inform the public of the City's intentions for use of the land on Falling Run Road and also inquired about the associated TIF and funds.

**REPORT FROM COUNCIL MEMBERS:**

Councilor Bane: Councilor Bane expressed gratitude towards WVU Hospitals and Mon Health System for resolving their differences and allowing commencement of the expansion project. He thanked Dave Bruffy for his presentation and encouraged the municipalities of Granville and Westover to contribute more to the Transit Authority, as they too, use its services. He asked that the public visit [www.busride.org](http://www.busride.org) to view the new route changes effective in July.

Councilor Nugent: Councilor Nugent responded to Ms. Hernandez that the July Traffic Commission meeting was cancelled. He announced the upcoming meetings of the Wiles Hill-Highland Park neighborhood association, Museum Commission, Kids Day in Downtown Morgantown, the Wiles Hill picnic and Night Out event, as well as Mountain Fest and related events.

Councilor Selin: Councilor Selin mentioned a dancing event at Krepp's Park this evening and announced the Suncrest neighborhood association meeting. She asked if parking for the Met Theatre could be improved by utilizing the Daniel's lot after hours for theatre patrons. She applauded the removal of the benches on Wall Street. She inquired about the possibility of a bicycle climbing lane on Beechurst Avenue and encouraged continued diligence with regard to truck traffic issues. She also suggested that way-finder signs be placed as soon as possible for the incoming Big 12 fans. Lastly, Councilor Selin commented on the possibility of solar panels to provide power to City buildings and structures.

Councilor Shamberger: Councilor Shamberger commended the employees from Wal-Mart for their bravery, and thanked Mr. Bebout for his hard work on the Urban Archery Deer Hunt.

Councilor Byrne: Councilor Byrne announced an upcoming Friends of Guanajuato event at Mariachi Loco restaurant and invited all to attend.

Councilor Herbst: Councilor Herbst reported that a solution is being worked for the parking meters behind the Met Theatre. She commented on the progress of the Farmer's Market Pavilion and announced the Suncrest neighborhood meeting. She reminded pet owners to keep their pets leashed and to clean up after them as well.

Mayor Manilla: Mayor Manilla announced upcoming events, including the Jim Dunn Memorial Twilight 5-Miler Run, the Hoop Group Jam Fest, and a showing of the "Marvelous Wonderettes" at the Met Theatre.

**EXECUTIVE SESSION:** Motion by Nugent, second by Bane, carried by acclamation, Council moved into executive session pursuant to West Virginia State Code section 6-9A-4(b)(9) in order to discuss matters involving or affecting the purchase, sale or lease of property, advance construction planning, the investment of public funds or other matters involving commercial competition, which if made public, might adversely affect the financial or other interest of the City of Morgantown, with Council Members, City Manager, Deputy City Manager, City Attorney and MUB Director Tim Ball present. Session commenced at 8:08 p.m.

**ADJOURNMENT:** There being no further items of business or discussion, the meeting adjourned by unanimous consent at 8:51 p.m.

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

\_\_\_\_\_  
Mayor

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## BOARDS AND COMMISSIONS - TERMS EXPIRED AND CURRENT VACANCIES

### MUSEUM COMMISSION:

**Jack Thompson has resigned and Pam Ball is looking for a replacement commissioner. Once confirmed, council can vote on that appointment.** Residents to serve at large, 5 year residency required.

### HUMAN RIGHTS COMMISSION:

**City Clerk has 13 candidates for Council to review biographical forms. This can be done at the August 28<sup>th</sup> COW. Council can interview candidates at a Special Meeting.** Appointed by City Council, resident of the City. To serve 2 year terms the first year. Then terms of first seven two year and three will serve one year. Thereafter terms will be staggered two year terms.

### URBAN LANDSCAPE COMMISSION:

**Also Seeking 1 qualified applicant to fill unexpired 2 year term of position of Urban Forester and Chamber of Commerce.** Nominated by CM, from each ward, 13 members with staggered terms, 1 councilmember, and non-ward members must represent specific category.

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

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

***\*Council decided on 3-21-06 by unanimous consent that if there is only one candidate for Boards & Commissions, the City Clerk will check with Council before scheduling a Special Meeting.***

8/2/2012

# *City of Morgantown*

## *Finance Department*

*389 Spruce Street*

*Morgantown, WV 26505*

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

*jsabatelli@cityofmorgantown.org*

# MEMO

**DATE:** 7/30/2012

**TO:** Terrence Moore, ICMA-CM  
City Manager

**FROM:** Joseph R. Sabatelli, CPA   
Finance Director

**RE:** Audit Committee

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The City of Morgantown is on the most recent audit procurement list sent out by the State Auditor's Office for the City. The State is allowing the City to go out for bid for the year ending June 30, 2012 only and to accept bids for this service from qualified public accounting firms as approved by the State. We are required to form an audit committee, to be approved by City Council, to review and score the bid proposals and make the selection of auditor. Audit committees of the City of Morgantown have typically included the Mayor, Finance Director and the then Assistant City Manager. Therefore, I am recommending that council approve the following individuals to be appointed to the audit committee:

Mayor Jim Manilla  
Deputy City Manager Jeff Mikorski  
Finance Director J.R. Sabatelli  
Budget & Accounting Manager Lori Livengood

I am requesting the Budget & Accounting Manager be included on this committee due to her vast knowledge of both City related accounting activities and overall knowledge related to auditing matters, as she will be an invaluable member of this committee. Please include this memo as a City Manager action item at the August 7<sup>th</sup> regular City Council meeting. No further action will be required from council upon approval of this committee, however they will be informed of the audit firm selected after this process is complete.

AN ORDINANCE BY THE CITY OF MORGANTOWN AUTHORIZING THE EXECUTION OF A RIGHT-OF-WAY AGREEMENT BETWEEN THE CITY OF MORGANTOWN, GRANTOR, AND THE WEST VIRGINIA UNIVERSITY BOARD OF GOVERNORS, GRANTEE, AS THE SAME APPLIES TO GRANTEE'S INSTALLATION OF POWER AND LIGHT POLES NEAR THE INTERSECTION OF 1<sup>ST</sup> STREET AND HALL STREET WEST OF BEECHURST AVENUE.

The City of Morgantown hereby ordains that its City Manager is authorized to execute the Right-of-Way Agreement, hereto attached, by and on behalf of the City of Morgantown.

This Ordinance shall be effective upon date of adoption.

FIRST READING:

\_\_\_\_\_

MAYOR

ADOPTED:

FILED:

\_\_\_\_\_

CITY CLERK

RECORDED:

**RIGHT OF WAY AGREEMENT –  
1ST STREET AND HALL STREET**

THIS RIGHT OF WAY AGREEMENT is made this 14th day of June, 2012, by and between the CITY OF MORGANTOWN, a municipal corporation, GRANTOR, and the WEST VIRGINIA UNIVERSITY BOARD OF GOVERNORS, on behalf of WEST VIRGINIA UNIVERSITY, a state agency, GRANTEE.

WITNESSETH: That for and in consideration of the payment of One Dollar (\$1.00), cash in hand paid, the receipt of which his hereby acknowledged the GRANTOR does now hereby grant unto the GRANTEE a right of way for the purpose of constructing, reconstructing, installing, and re-installing power and light poles in, on, and upon that certain tract or parcel, located near the intersection of 1st Street and Hall Street west of Beechurst Avenue, situate in the North Morgantown Subdivision, Blocks 1 and 6, located in the Fourth Ward of the City of Morgantown, Monongalia County, West Virginia and more particularly described as follows:

Beginning at a point located within the intersection of the right of way of 1<sup>st</sup> Street and Hall Street, said point being further identified as the south-western outside corner of the 10' right of way, said beginning point also being further referenced, N. 78 degrees 30 minutes 03 seconds W. 22.81' from a found 2" iron pipe monument identified as the north-western corner of Lot No. 10, Block 1, of the North Morgantown Subdivision, thence running with seven outside lines of the 10' right of way, N. 07 degrees 13 minutes 59 seconds E. 10.00' to a point, thence; S. 82 degrees 46 minutes 01 seconds E. 24.96' to a point, thence; N. 15 degrees 21 minutes 40 seconds W. 15.60' to a point located on the southern right of way line of 1<sup>st</sup> Street adjoining Lot No. 1, Block 6., thence running with that adjoining right of way line; N. 70 degrees 25 minutes 49 seconds E. 10.03' to a point, thence leaving the southern right of way line of 1<sup>st</sup> Street and Lot No. 1, Block 6 running inside of the 1<sup>st</sup> Street right of way; S. 15 degrees 21 minutes 40 seconds E. 25.07' to a point located on the northern right of way line of 1<sup>st</sup> Street, Lot No. 10, Block 1, thence running with that right of way line; S. 70 degrees 25 minutes 49 seconds W. 12.82' to a point, thence leaving the right of way line of 1<sup>st</sup> Street and running into the right of way line of Hall Street; N. 82 degrees 46 minutes 01 seconds W. 26.10' to the place of beginning containing a total of 519.17 square feet more or less of right of way as surveyed by Thrasher Engineering, Daniel L. Wheeler, Professional Surveyor during the month of June 2012.

This outside description of right of way area was written on June 27, 2012 by Daniel L. Wheeler, Professional Surveyor No. 530, Thrasher Engineering Company; and further depicted in Exhibit A, attached and incorporated herein.

For the consideration aforesaid, GRANTOR does now also hereby grant and convey unto GRANTEE, its successors and assigns, a temporary construction right of way of such width as is reasonable and necessary to carry out the construction or replacement of all or part of the above described electrical power and light poles.

GRANTEE agrees to provide to GRANTOR copies of as-built drawings showing the exact location of said electrical duct bank upon completion of construction.

GRANTEE covenants and agrees to replace, restore, and return at all times said roadway to its original and former condition, or as directed by the City Engineer, after each and every excavation for maintenance, repair, or replacement of the above described power and light poles. Prior to any such excavation, GRANTEE agrees to provide reasonable notice to GRANTOR and to be in compliance with all requirements of GRANTOR as to regulations, permits, or authorizations, if any. Furthermore, GRANTEE, at its expense, covenants and agrees to relocate upon request by GRANTOR the above described power and light poles.

This Agreement shall be binding upon the parties hereto, their successors or assigns.

#### **DECLARATION OF CONSIDERATION**

The undersigned hereby declare that the conveyance made in the document to which this declaration is appended is exempt from taxation under the provisions of Chapter 11, Article 22 of the Code of the State of West Virginia, for the reason that it is a conveyance made to an agency of the State of West Virginia.

IN WITNESS WHEREOF, the City of Morgantown, a municipal corporation, has caused its name to be hereunto subscribed by Terrence Moore, its City Manager, by authority duly given, and the West Virginia University Board of Governors, on behalf of West Virginia

University, a state agency, has caused its name to be hereunto subscribed by Narvel G. Weese, Jr., its Vice President for Administration and Finance, by authority duly given.

CITY OF MORGANTOWN

By: \_\_\_\_\_  
Terrence Moore  
City Manager

WEST VIRGINIA UNIVERSITY  
BOARD OF GOVERNORS, ON BEHALF OF  
WEST VIRGINIA UNIVERSITY,  
JAMES P. CLEMENTS, PRESIDENT

By: \_\_\_\_\_  
Narvel G. Weese Jr.  
Vice President for Administration and Finance

STATE OF WEST VIRGINIA,

COUNTY OF MONONGALIA, to wit:

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2012, by Terrence Moore, City Manager of the City of Morgantown, acting for and on behalf of the City of Morgantown, a municipal corporation.

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

\_\_\_\_\_  
Notary Public in and for the  
State of West Virginia

STATE OF WEST VIRGINIA,

COUNTY OF MONONGALIA, to wit:

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2012, by Narvel G. Weese, Jr., Vice President for Administration and Finance, acting for and on behalf of the West Virginia University Board of Governors, on behalf of West Virginia University, James P. Clements, President.

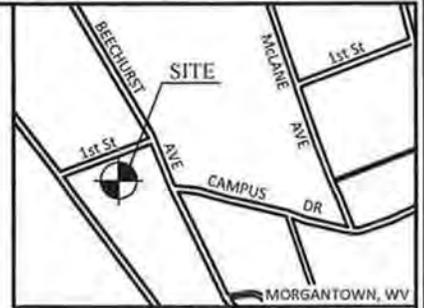
My commission expires: \_\_\_\_\_.

\_\_\_\_\_  
Notary Public in and for the  
State of West Virginia

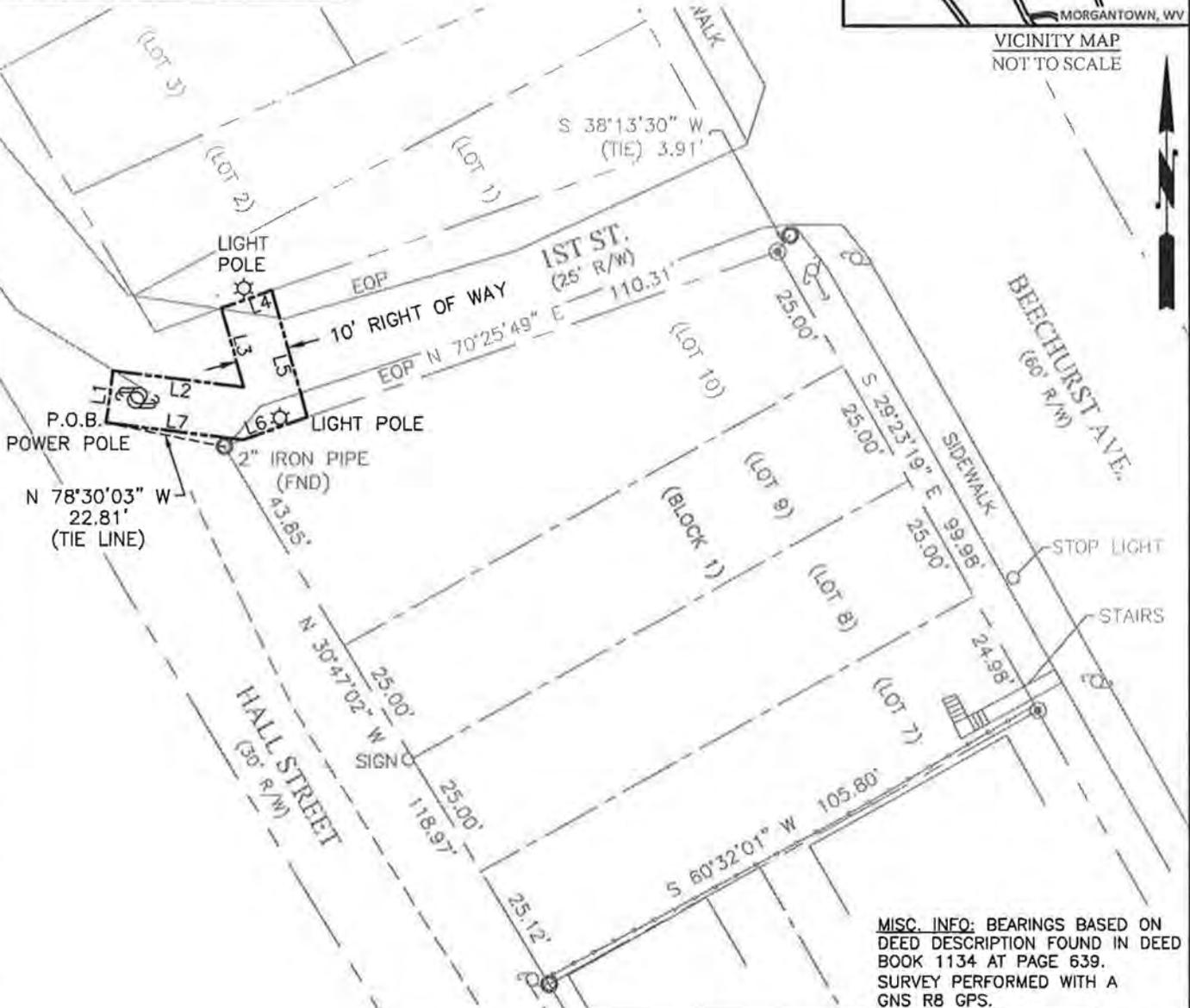
This Instrument Prepared By:  
Gary G. Furbee, II  
Senior Associate General Counsel  
West Virginia University  
WV State Bar No. 9531

LINE	BEARING	DISTANCE
L1	N 07°13'59" E	10.00'
L2	S 82°46'01" E	24.96'
L3	N 15°21'40" W	15.60'
L4	N 70°25'49" E	10.03'
L5	S 15°21'40" E	25.07'
L6	S 70°25'49" W	12.82'
L7	N 82°46'01" W	26.10'

RIGHT OF WAY AREA= 519.17 SQ.FT.



VICINITY MAP  
NOT TO SCALE



MISC. INFO: BEARINGS BASED ON DEED DESCRIPTION FOUND IN DEED BOOK 1134 AT PAGE 639. SURVEY PERFORMED WITH A GNS R8 GPS.

Daniel L. Wheeler, P.S. 530

**THRASHER**  
ENGINEERING

30 COLUMBIA BLVD.  
CLARKSBURG, WV 26301  
PHONE 304-624-4108

WEST VIRGINIA UNIVERSITY BOARD OF GOVERNERS

EXHIBIT "A"  
SHOWING POWER & LIGHT POLE  
RIGHT OF WAY LOCATION, GRANTED BY CITY  
OF MORGANTOWN, NORTH MORGANTOWN SUBDIVISION

MORGANTOWN, 4TH WARD CORP., MONONGALIA COUNTY, WEST VIRGINIA

6-6-12	REVISED 6-26-12	SCALE 1" = 30'	A
CADD FILE: R:\50-4660\SURVEY\POLE LOCATIONS.dwg			

CAD FILE: R:\050-4660\WV-Beechurst Venuis Parking-Utility Location\SURVEY\POLE LOCATIONS.dwg  
 PLOT DATE/TIME: 6/26/2012 - 3:21pm  
 LAYOUT: EXHIBIT A  
 USER: kpoth

# ***City of Morgantown***

## ***Finance Department***

***389 Spruce Street***

***Morgantown, WV 26505***

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

***jsabatelli@cityofmorgantown.org***

# **MEMO**

**DATE:** July 6, 2012

**TO:** Terrence Moore, City Manager

**FROM:** J.R. Sabatelli, Finance Director 

**RE:** Coal Severance Budget Revision 1

---

Included herewith you will find the proposed ordinance and "Request for Revision to Approved Budget" for the FY2013 Coal Severance Budget. An explanation of the proposed changes follows:

The Unencumbered Fund Balance is adjusted to reflect the actual carryover at June 30, 2012.

The increase of \$30,000 in the Contributions/Transfers to Other Funds and increase of \$1,127 in the Contingencies are a result of the increase in Coal Severance Taxes received during the fiscal year ending June 30, 2012.

**AN ORDINANCE AMENDING THE FY 2012-2013 ANNUAL BUDGET OF THE CITY OF MORGANTOWN AS SHOWN IN THE REVISED BUDGET ATTACHED HERETO AND MADE A PART OF THIS ORDINANCE AS THE SAME APPLIES TO THE COAL SEVERANCE FUND.**

The City of Morgantown hereby ordains:

That the FY 2012-2013 Annual Budget of the Coal Severance Fund of the City of Morgantown is amended as shown in the revised budget (Revision 01) attached hereto and made a part of this ordinance.

First Reading:

Adopted:

\_\_\_\_\_  
Mayor

Filed:

Recorded:

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

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

Person To Contact Regarding  
 Budget Revision: **J.R. Sabatelli**  
 Phone: **304-284-7407**  
 Fax: **304-284-7418**

**REQUEST FOR REVISION TO APPROVED BUDGET**

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

City of Morgantown  
 GOVERNMENT ENTITY

389 Spruce Street  
 STREET OR PO BOX

Morgantown 26505  
 CITY ZIP CODE

CONTROL NUMBER  
**2012-2013**  
 FY  
**Coal Severance**  
 FUND  
**1**  
 REV. NO.  
**1 of 1**  
 PG. OF NO.

**Municipality**  
 Government Type

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

ACCOUNT NUMBER	ACCOUNT DESCRIPTION	PREVIOUSLY APPROVED AMOUNT	(INCREASE)	(DECREASE)	REVISED AMOUNT
298	Assigned Fund Balance	11,029	31,127		42,156
	#N/A				
<b>NET INCREASE/(DECREASE) Revenues (ALL PAGES)</b>			<b>31,127</b>		

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

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

(WV CODE 7-1-9)

ACCOUNT NUMBER	ACCOUNT DESCRIPTION	PREVIOUSLY APPROVED AMOUNT	(INCREASE)	(DECREASE)	REVISED AMOUNT
444	Contributions / Transfers to Other Funds	140,000	30,000		170,000
699	Contingencies*	3,329	1,127		4,456
	#N/A				
<b>NET INCREASE/(DECREASE) Expenditures</b>			<b>31,127</b>		

APPROVED BY THE STATE AUDITOR

BY: Director, Local Government Services Division Date

AUTHORIZED SIGNATURE OF ENTITY

APPROVAL DATE

# *City of Morgantown*

## *Finance Department*

*389 Spruce Street*

*Morgantown, WV 26505*

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

*jsabatelli@cityofmorgantown.org*

# MEMO

**DATE:** July 12, 2012

**TO:** Terrence Moore, ICMA-CM, City Manager

**FROM:** J.R. Sabatelli, CPA, Finance Director 

**RE:** General Fund Budget Revision 1

---

Included herewith you will find the proposed ordinance and "Request for Revision to Approved Budget" for the FY2013 General Fund Budget. An explanation of the proposed changes follows:

The adjustments to revenue reflect a decrease from the projected and approved carryover from the previous fiscal year (FY12) to the current projected carryover based on actual figures.

The adjustments to expenditures reflect the transfer of funds within the Department of Development Services due to internal restructurings and increases in Public Information and Travel and Training to meet ISO standard requirements. Additionally, the net savings associated with refinancing the public safety building complex, an increase in workers compensation insurance rates for the entire current fiscal year and a reduction in the contributions available to the Capital Escrow Fund. While most of the adjustments included in this recommended budget revision may be considered a wash, the decrease in the contribution to the Capital Escrow Fund is a direct result of the lack of available carryover to support normal operations. A slightly more detailed breakdown of individual lines affected in each department is included as supplementary information.

**AN ORDINANCE AMENDING THE FY 2012-2013 ANNUAL BUDGET OF THE CITY OF MORGANTOWN AS SHOWN IN THE REVISED BUDGET ATTACHED HERETO AND MADE A PART OF THIS ORDINANCE AS THE SAME APPLIES TO THE GENERAL FUND.**

The City of Morgantown hereby ordains:

That the FY 2012-2013 Annual Budget of the General Fund of the City of Morgantown is amended as shown in the revised budget (Revision 01) attached hereto and made a part of this ordinance.

First Reading:

Adopted:

\_\_\_\_\_  
Mayor

Filed:

Recorded:

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

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

**REQUEST FOR REVISION TO APPROVED BUDGET**

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

CONTROL NUMBER  
**2012-2013**  
 FY  
**General Fund**  
 FUND  
**1**  
 REV. NO.  
**1 of 1**  
 PG. OF NO.

City of Morgantown  
 GOVERNMENT ENTITY

389 Spruce Street  
 STREET OR PO BOX

**Municipality**  
 Government Type

Person To Contact Regarding  
 Budget Revision: **J.R. Sabatelli**  
 Phone: **304-284-7407**  
 Fax: **304-284-7418**

Morgantown  
 CITY  
 26505  
 ZIP CODE

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

ACCOUNT NUMBER	ACCOUNT DESCRIPTION	PREVIOUSLY APPROVED AMOUNT	(INCREASE)	(DECREASE)	REVISED AMOUNT
299	Unassigned Fund Balance	500,000		380,000	120,000
	#N/A				

**NET INCREASE/(DECREASE) Revenues (ALL PAGES)** -380,000

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

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

(WV CODE 7-1-9)

ACCOUNT NUMBER	ACCOUNT DESCRIPTION	PREVIOUSLY APPROVED AMOUNT	(INCREASE)	(DECREASE)	REVISED AMOUNT
420	Engineering	454,399	3,049		457,448
436	Building Inspection	872,667	38,567		911,234
437	Planning & Zoning	275,308		41,570	233,738
444	Contributions / Transfers to Other Funds	1,893,858		380,000	1,513,858
699	Contingencies*	22,963		1,909	21,054
700	Police Department	6,405,144	18,793		6,423,937
706	Fire Department	4,275,518	20,091		4,295,609
750	Streets and Highways	2,306,177	19,190		2,325,367
441	Other buildings	654,972		56,211	598,761
	#N/A				
	#N/A				

**NET INCREASE/(DECREASE) Expenditures** -380,000

APPROVED BY THE STATE AUDITOR

BY: Director, Local Government Services Division Date

AUTHORIZED SIGNATURE OF ENTITY

APPROVAL DATE

City of Morgantown  
 General Fund  
 Budget Revision #1  
 Fiscal Year 2013

Wage related adjustments:

Department 420

Engineering:

	Current	New	Revision
WC	6,156.00	9,205.00	3,049.00

Department 436

Code Enforcement:

	Current	New	Revision
Wages	458,069.00	481,670.00	23,601.00
FICA	28,834.00	30,298.00	1,464.00
Med	6,744.00	7,086.00	342.00
WC	8,597.00	13,640.00	5,043.00
Retire	54,925.00	57,711.00	2,786.00
			<u>33,236.00</u>

Department 437

Planning:

	Current	New	Revision
Wages	167,584.00	136,096.00	(31,488.00)
FICA	10,390.00	7,198.00	(3,192.00)
Med	2,430.00	1,684.00	(746.00)
WC	503.00	440.00	(63.00)
Retire	19,792.00	13,711.00	(6,081.00)
			<u>(41,570.00)</u>

Department 700

Police:

	Current	New	Revision
WC	105,095.00	123,888.00	18,793.00

Department 706

Fire:

	Current	New	Revision
WC	98,506.00	118,597.00	20,091.00

Department 750

Streets:

	Current	New	Revision
WC	96,422.00	115,612.00	19,190.00

Total wage related items			52,789.00
--------------------------	--	--	-----------

Non-wage items requiring adjustment:

	Current	New	Revision
Dept 436 Code Enforcement			
Printing & Copying-Public Info	3,000.00	4,556.00	1,556.00
Travel and Training	14,450.00	18,225.00	3,775.00
Dept 70 Operating Transfers			
Contrib to Capital Escrow	1,893,858.00	1,513,858.00	(380,000.00)
Public Safety Bldg Lease Purch	250,244.00	194,033.00	(56,211.00)
Total nonwage	2,161,552.00	1,730,672.00	(430,880.00)
Total Increase overall			(378,091.00)
Totals by Department			
Dept 420 Engineering			3,049.00
Dept 436 Code Enforcment			38,567.00
Dept 437 Planning			(41,570.00)
Dept 700 Police			18,793.00
Dept 706 Fire			20,091.00
Dept 750 Street			19,190.00
Dept 70 Operating Transfers			(436,211.00)
Contingencies			(1,909.00)
			<u>(380,000.00)</u>

Revenue Adjustment

	Current	New	Revision
Prior Year Carryover	500,000.00	120,000.00	(380,000.00)
	<u>500,000.00</u>	<u>120,000.00</u>	<u>(380,000.00)</u>



**DEVELOPMENT  
SERVICES  
DEPARTMENT**

# The City of Morgantown

389 SPRUCE STREET  
MORGANTOWN, WEST VIRGINIA 26505  
(304) 284-7431 TDD (304) 284-7512  
FAX (304) 284-7534 www.morgantown.com

July 13, 2012

John Rice  
Rice Rentals, Inc.  
966 Valleyview Avenue  
Morgantown, WV 26505

**RE: RZ12-02 / Rice Rentals / 502 Stewart Street  
Zoning Map Amendment from R-2 to B-1  
Tax Map 14, Parcels 450 and 451**

Dear Mr. Rice:

This is to notify you that the Morgantown Planning Commission voted on July 12, 2012 to submit a recommendation of approval to City Council for your zoning map amendment request referenced above.

Please note the following dates when City Council will consider your request. These dates are dependent up City Council's favorable action at each step of the approval process.

**City Council Meetings**

- Committee of the Whole..... Tuesday, July 31, 2012; 7:00 PM  
City Council Chambers
- 1<sup>st</sup> Reading:..... Tuesday, August 7, 2012; 7:00 PM  
City Council Chambers
- Public Hearing and 2<sup>nd</sup> Reading: ..... Tuesday, September 4, 2012; 7:00 PM  
City Council Chambers

Please note that attendance at these meetings is not mandatory.

Do not hesitate to contact me should you have any questions or require further clarification.

Respectfully,

Christopher M. Fletcher, AICP  
Director of Development Services

cc: Terrence Moore, City Manager  
Linda Little, City Clerk



## MORGANTOWN PLANNING COMMISSION

July 12, 2012  
6:30 PM  
City Council Chambers

### President:

Peter DeMasters, 6<sup>th</sup> Ward

### Vice-President:

Carol Pyles, 7<sup>th</sup> Ward

### Planning Commissioners:

Sam Loretta, 1<sup>st</sup> Ward

Tim Stranko, 2<sup>nd</sup> Ward

William Wyant, 3<sup>rd</sup> Ward

Bill Petros, 4<sup>th</sup> Ward

Mike Shuman, 5<sup>th</sup> Ward

Ken Martis, Admin.

Jennifer Selin, City Councilor

## STAFF REPORT

**CASE NO:** RZ12-02 / Rice Rentals / 502 Stewart Street

### **REQUEST and LOCATION:**

Request by John Rice, on behalf of Rice Rentals, Inc., for a Zoning Map Amendment from R-2, Single- and Two-Family Dwelling District to B-1, Neighborhood Business District for property at 502 Stewart Street

### **TAX MAP NUMBER(s) and ZONING DESCRIPTION:**

Tax Map 14, Parcels 450 and 451; R-2, Single- and Two-Family Residential District

### **SURROUNDING ZONING:**

North and West: R-1A, Single-family Residential District

South and East: R-2, Single and Two-Family Residential District

### **BACKGROUND:**

The petitioner seeks to reclassify Parcels 450 and 451 of Tax Map 14 from R-2, Two-Family Residential District to B-1, Neighborhood Business District. Addendum A of this report illustrates the location of the subject realty.

### **ANALYSIS:**

According to the Finance Department, the subject property has a long history of mixed commercial and residential uses and has been occupied as a restaurant and neighborhood convenience store for the past fifteen to twenty years. Some of the names of these establishments include *Anthony's Pizza*, *Mountaineer Pizza*, *Colasante's Carryout*, *Market Place*, and *Express Mart*. Additionally, there is a one registered overstore dwelling unit on the second floor.

Because the B-1 Neighborhood Business District does not currently exist within the immediate vicinity of the petitioner's property, the proposed zoning map amendment is not considered a zoning district boundary adjustment.

According to Article 1345.01 of the Planning and Zoning Code, the purpose of the B-1, Neighborhood Business District is to:

"Provide areas for convenient business uses, which tend to meet the daily shopping and service needs of residents of an immediate neighborhood, and which contain pedestrian-oriented, human-scaled construction that is designed to be compatible with the surrounding neighborhood character. Because of the proximity to residential neighborhoods, high quality design is essential in order to preserve the integrity of those neighborhoods."

### **Development Services**

Christopher Fletcher, AICP  
Director

### **Planning Division**

389 Spruce Street  
Morgantown, WV 26505  
304.284.7431



# MORGANTOWN PLANNING COMMISSION

July 12, 2012  
6:30 PM  
City Council Chambers

**President:**

Peter DeMasters, 6<sup>th</sup> Ward

**Vice-President:**

Carol Pyles, 7<sup>th</sup> Ward

**Planning Commissioners:**

Sam Loretta, 1<sup>st</sup> Ward

Tim Stranko, 2<sup>nd</sup> Ward

William Wyant, 3<sup>rd</sup> Ward

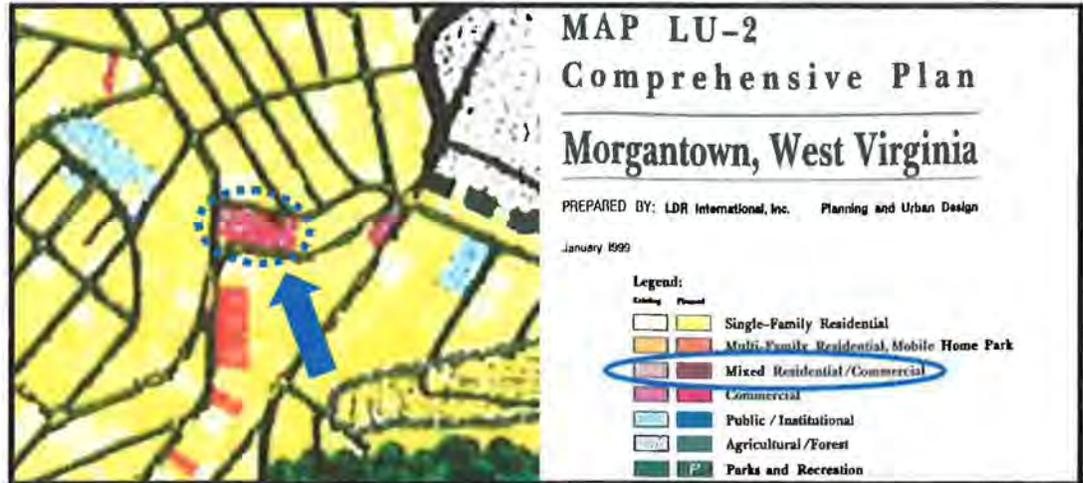
Bill Petros, 4<sup>th</sup> Ward

Mike Shuman, 5<sup>th</sup> Ward

Ken Martis, Admin.

Jennifer Selin, City Councilor

The following figure is a portion of Map LU-2 of the 1999 Comprehensive Plan and illustrates that the planned use for the subject property was "Mixed Residential/Commercial."



A *Planners Dictionary* provides the following definition for "spot zoning" (Planning Advisory Service Report Number 521/522; by the American Planning Association; April 2004; page 384):

"An arbitrary zoning or rezoning of a small tract of land, usually surrounded by other uses or zoning categories that are of a markedly or substantially different intensity, that is not consistent with the comprehensive land use plan, and that primarily promotes the private interest of the owner rather than the general welfare."

West Virginia State Code §8A-7-8 provides that if a zoning amendment is inconsistent with the adopted Comprehensive Plan, then City Council, with the advice of the Planning Commission, must find that there have been major changes of an economic, physical or social nature within the area involved which were not anticipated when the comprehensive plan was adopted and that those changes have substantially altered the basic characteristics of the area.

It is the opinion of the Planning Division that the petitioner's proposed zoning map amendment should not be considered spot zoning and appears to be consistent with the adopted Comprehensive Plan based on the following points:

1. The 1999 Comprehensive Plan recommended land uses (see Map LU-2) for the subject realty was mixed residential/commercial.
2. Staff has no working knowledge as to why the zoning classification for the subject realty has remained R-2. However, the major zoning ordinance amendment of 2006 significantly modified the legislative intent, permitted land uses, and desired development density and scope of the B-1 District resulting in a business district that better reflects the character of Morgantown's neighborhoods and its neighborhood commercial experience.

**Development Services**

Christopher Fletcher, AICP  
Director

**Planning Division**

389 Spruce Street  
Morgantown, WV 26505  
304.284.7431



## MORGANTOWN PLANNING COMMISSION

July 12, 2012  
6:30 PM  
City Council Chambers

**President:**

Peter DeMasters, 6<sup>th</sup> Ward

**Vice-President:**

Carol Pyles, 7<sup>th</sup> Ward

**Planning Commissioners:**

Sam Loretta, 1<sup>st</sup> Ward

Tim Stranko, 2<sup>nd</sup> Ward

William Wyant, 3<sup>rd</sup> Ward

Bill Petros, 4<sup>th</sup> Ward

Mike Shuman, 5<sup>th</sup> Ward

Ken Martis, Admin.

Jennifer Selin, City Councilor

3. The structure on the subject property appears to have been constructed for the purpose of commercial occupancy. According to the petitioner, the original portion of the structure was built in the 1930s and served as a gas station for many years; and, an addition was constructed to the building in the 1960s and that portion of the building served as a neighborhood grocery and meat deli.
4. The structure on the subject property appears to have been occupied by a convenience store and fast-food or family restaurant serving the shopping and service needs of the immediate neighborhood for at least the past 15 to 20 years.
5. The existing commercial uses occupying the structure are permitted by-right in the B-1 District but only by conditional use approval in the R-2 District.
6. Mixed-use and overstore dwelling types are not permitted in the R-2 District but are permitted by-right in the B-1 District. Therefore, the existing apartment on the second story of the existing structure is considered a nonconforming use within the current R-2 District classification.

Zoning map amendment requests should be evaluated on their land-use merits alone. The petitioner's development intentions are extraneous and the Commission should consider the request on its merits as a land-use decision. In conducting such an analysis, the Commission should determine if the B-1, Neighborhood Business District is the appropriate zoning classification for the subject realty, weighing all possible future development and land use scenarios as permitted by the Planning and Zoning Code; particularly, Article 1345 "B-1, Neighborhood Business District" and Table 1331.05.01 "Permitted Land Uses".

**STAFF RECOMMENDATION:**

The Planning Division advises the Planning Commission to determine that:

- The subject property appears to have been developed and used for many years by neighborhood-scaled commercial establishments serving the shopping and service needs of residents within the immediate neighborhood.
- The proposed zoning map amendment appears to be consistent with the 1999 Comprehensive Plan's recommended mixed residential/commercial planned land uses; the purpose for which appears to recognize the site's past, present, and continued function.
- The proposed zoning map amendment should not be considered an enactment of spot zoning as it does not appear to arbitrarily nor solely benefit the private interest of the owner. The proposed reclassification appears to correspondingly promote the interest and convenience of the immediate vicinity by recognizing the B-1 District as more appropriate given the property's historical function and service as a neighborhood-scaled commercial site.

Therefore, the Planning Division advises the Planning Commission to forward a recommendation to City Council to approve the requested zoning map amendment so that Parcels 450 and 451 of Tax Map 14 are reclassified from R-2, Single- and Two-Family Residential District to B-1, Neighborhood Business District.

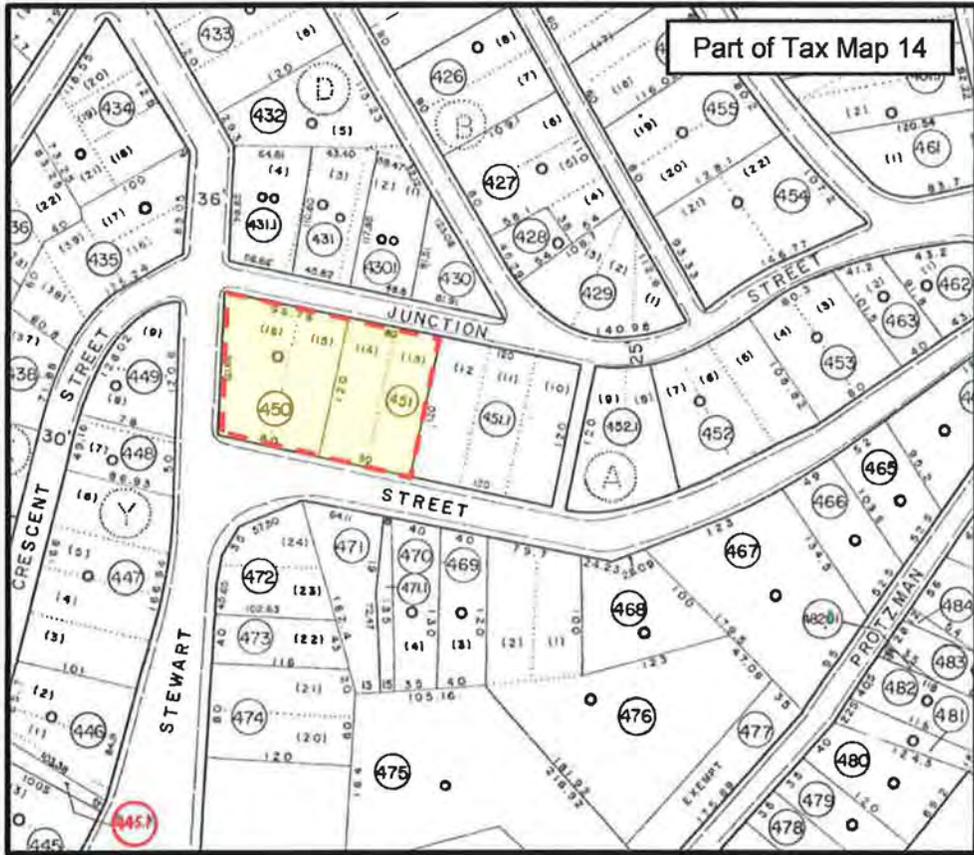
**Development Services**

Christopher Fletcher, AICP  
Director

**Planning Division**

389 Spruce Street  
Morgantown, WV 26505  
304.284.7431

**STAFF REPORT ADDENDUM A**  
**RZ12-02 / Rice Rentals / 502 Stewart Street**





**City of Morgantown, West Virginia**  
**APPLICATION FOR**  
**FOR ZONING MAP AMENDMENT**

<b>OFFICE USE</b>	
CASE NO.	RZ12-02
RECEIVED:	06/05/12
COMPLETE:	

**Zoning Map Amendment Process – See Addendum A of this Application**

(PLEASE TYPE OR PRINT IN BLACK INK)

<b>I. OWNER / APPLICANT</b>			
Name:	Rice Rentals, Inc.	Phone:	(304)598-7368
Mailing Address:	966 Valleyview Ave.	Mobile:	(304)288-6393
	Street Morgantown	W.V.	26505
	City	State	Zip
Email:	ricerentals@aol.com		
<b>II. AGENT / CONTACT INFORMATION</b>			
Name:	John Rice	Phone:	
Mailing Address:	966 Valleyview	Mobile:	(304)288-6393
	Street Morgantown	W.V.	26505
	City	State	Zip
Email:	ourjr3322@yahoo.com		
Mailings –	Send all correspondence to (check one): <input type="checkbox"/> Applicant OR <input checked="" type="checkbox"/> Agent/Contact		
<b>IV. PROPERTY</b>			
Street Address (if assigned):	502 Stewart St.		
Tax Map(s) #:	14	Parcel(s) #:	450&451
		Size (sq. ft. or acres):	20000sq.ft.approx.
Current Zoning Classification:	R-2	Proposed Zoning Classification:	B-1
Current Land Use:	business / RESIDENTIAL	Proposed Land Use*:	business / RESIDENTIAL
<i>*The Planning Commission does not take proposed use into consideration. The question is asked merely for staff to determine if the proposed district allows the intended use.</i>			
<b>V. ATTEST</b>			
I hereby certify that I am the owner of record of the named property, or that this application is authorized by the owner of record and that I have been authorized by the owner to make this application as his/her authorized agent and I agree to conform to all applicable laws of this jurisdiction, whether specified herein or not. I certify that I have read and examined this document and know the same to be true and correct. The undersigned has the power to authorize and does hereby authorize City of Morgantown representatives on official business to enter the subject property as necessary to process the application and enforce related approvals and conditions.			
Rice Rentals Inc./ John Rice			06/05/2012
Type/Print Name of Applicant/Agent	Type/Print Name of Applicant/Agent		Date

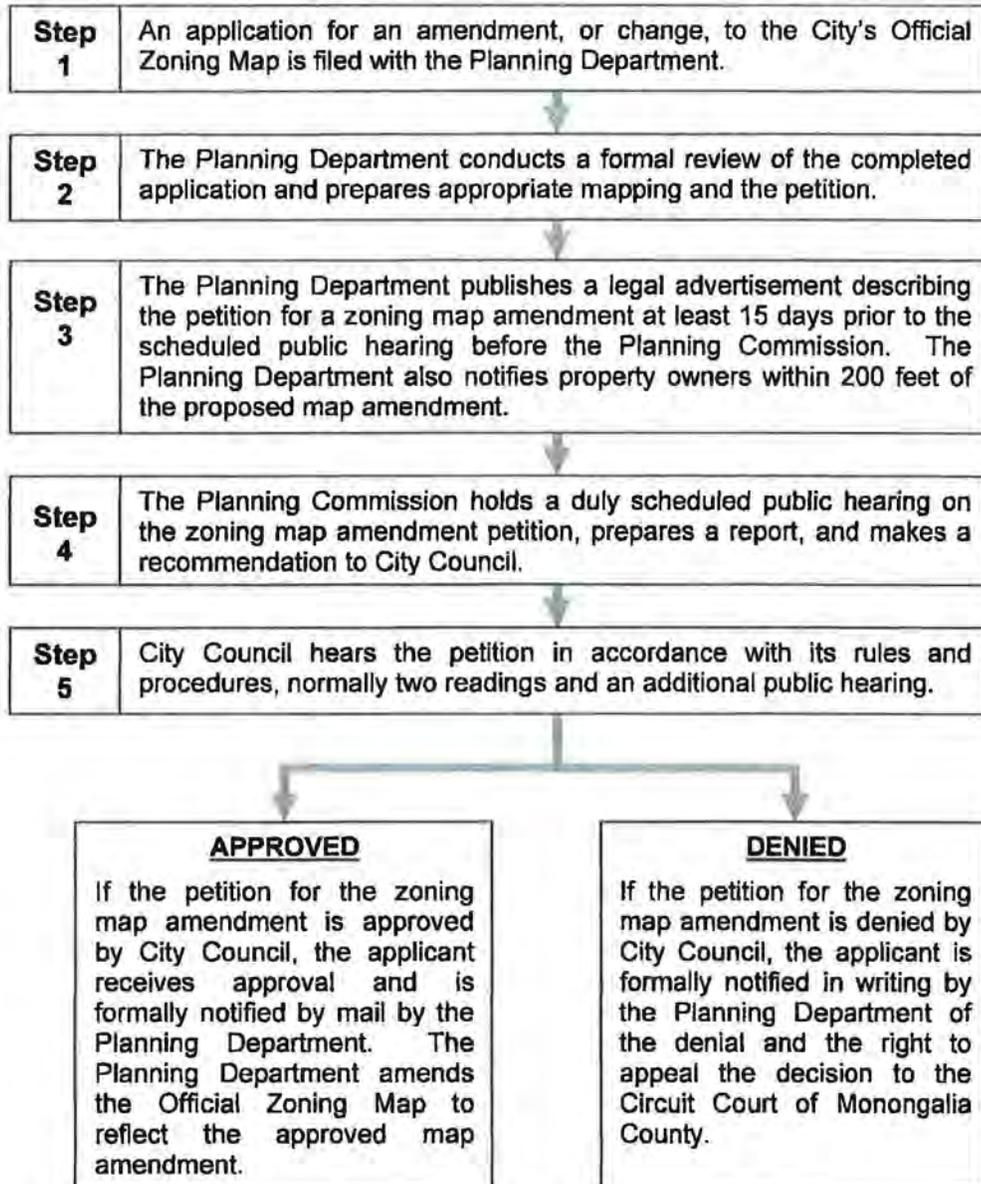
**Zoning Map Amendment Fee - \$75**



# APPLICATION FOR FOR ZONING MAP AMENDMENT

OFFICE USE	
CASE NO.	RTD-02
RECEIVED:	06/05/12
COMPLETE:	

## ADDENDUM A - Zoning Map Amendment Process



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

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

Property included in this consideration is identified in the Monongalia County Assessor's records as Parcels 450 and 451 of County Tax Map 14; Morgantown Corporation District.

THE CITY OF MORGANTOWN HEREBY ORDAINS:

1. That the zoning classification for Parcels 450 and 451 of County Tax Map 14 of the Monongalia County tax assessment as described herein and illustrated on the exhibit hereto attached and declared to be a part of this Ordinance to be read herewith as if the same was fully set forth herein is reclassified from (R-2) Single- and Two-Family Residential District to (B-1) Neighborhood Business District.
2. That the Official Zoning Map be accordingly changed to show said zoning reclassification.

This Ordinance shall be effective from the date of adoption.

FIRST READING:

\_\_\_\_\_

Mayor

ADOPTED:

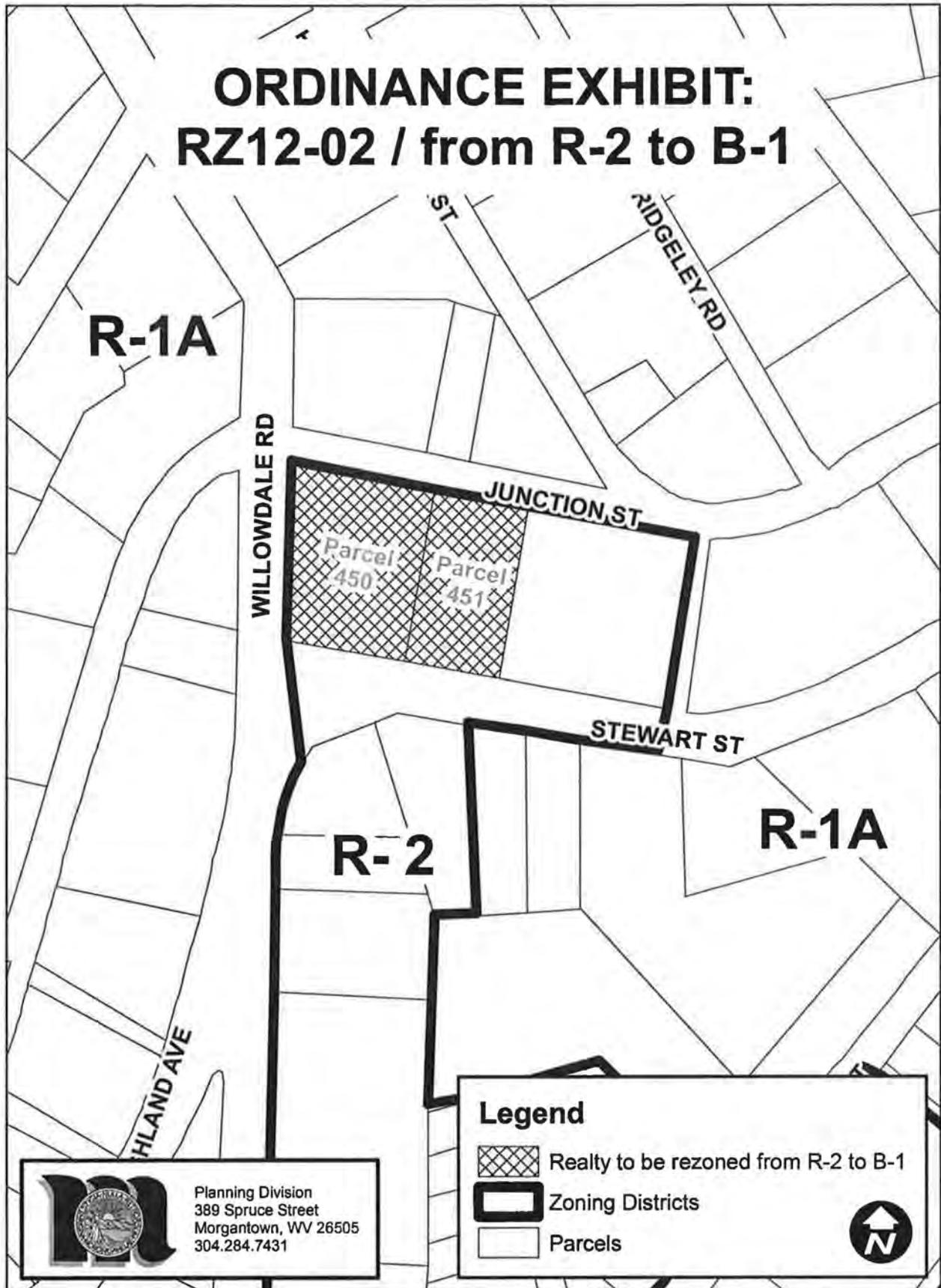
FILED:

RECORDED:

\_\_\_\_\_

City Clerk

# ORDINANCE EXHIBIT: RZ12-02 / from R-2 to B-1



**AN ORDINANCE BY THE CITY OF MORGANTOWN ADDING A NEW SECTION 349.18 TO THE CITY OF MORGANTOWN TRAFFIC CODE PROHIBITING THE USE OF HANDHELD ELECTRONIC COMMUNICATION DEVICES WHILE DRIVING OR OPERATING A MOTOR VEHICLE.**

The City of Morgantown hereby ordains that a new section 349.18 is added to its Traffic Code which reads as follows:

**349.18 PROHIBITED USE OF AN ELECTRONIC COMMUNICATIONS DEVICE, DRIVING WITHOUT HANDHELD FEATURES; DEFINITIONS; EXCEPTIONS; PENALTIES.**

- (a) Except as provided in subsection (c) of this section, a person may not drive or operate a motor vehicle on a public street or highway while:
- (1) Texting; or
  - (2) Using a cell phone or other electronic communications device, unless the use is accomplished by hands-free equipment.
- (b) For purposes of this section, the following terms shall mean:
- (1) "Cell phone" shall mean a cellular, analog, wireless or digital telephone.
  - (2) "Driving" or "operating a motor vehicle" means operating a motor vehicle, with the motor running, including while temporarily stationary because of traffic, a traffic control device, or other momentary delays, but does not include operating a motor vehicle after the driver has moved the vehicle to the side of, or off, a highway and halted in a location where the vehicle can safely remain stationary.
  - (3) "Electronic communication device" means a cell telephone, personal digital assistant, electronic device with mobile data access, laptop computer, pager, broadband personal communication device, 2-way messaging device, electronic game, or portable computing device. For the purposes of this section, an "electronic communication device" does not include:
    - (A) Voice radios, mobile radios, land mobile radios, commercial mobile radios or two way radios with the capability to transmit and receive voice transmissions utilizing a push-to-talk or press-to-transmit function; or
    - (B) Other voice radios used by a law-enforcement officer, an emergency services provider, an employee or agent of public safety organizations, first responders, Amateur Radio Operators

(HAM) licensed by the Federal Communications Commission and school bus operators.

- (4) "Engaging in a call" means when a person talks into or listens on an electronic communication device, but shall not include when a person dials or enters a phone number on a pushpad or screen to initiate the call.
- (5) "Hands-free electronic communication device" means an electronic communication device that has an internal feature or function, or that is equipped with an attachment or addition, whether or not permanently part of such electronic communication device, by which a user engages in a call without the use of either hand or both hands.
- (6) "Hands-free equipment" means the internal feature or function of a hands-free electronic communication device or the attachment or addition to a hands-free electronic communication device by which a user may engage in a call or text without the use of either hand or both hands.
- (7) "Texting" means manually entering alphanumeric text into, or reading text from, an electronic communication device or the attachment or addition to a hands-free electronic communication device by which a user may engage in a call or text without the use of either hand or both hands.
  - (A) Reading, selecting or entering a telephone number, an extension number, or voicemail retrieval codes and commands into an electronic device by the pressing of the device in order to initiate or receive a phone call or using voice commands to initiate or receive a telephone call;
  - (B) Inputting, selecting or reading information on a global positioning system or navigation system; or
  - (C) Using a device capable of performing multiple functions, including fleet management systems, dispatching devices, smart phones, citizens band radios or music players, for a purpose that is not otherwise prohibited in this section.
- (8) "Using a cell phone or other electronic communication device" means holding in a person's hand or hands an electronic communication device while:
  - (A) Viewing or transmitting images or data;
  - (B) Playing games;
  - (C) Composing, sending, reading, viewing, accessing, browsing, transmitting, saving or retrieving email, text messages, or other electronic data; or

(D) Engaging in a call.

- (c) Subsection (a) of this section shall not apply to:
- (1) A law-enforcement officer, a firefighter, an emergency medical technician, a paramedic or the operator of an authorized emergency vehicle in the performance of their official duties;
  - (2) A person using an electronic communication device to report to appropriate authorities a fire, a traffic accident, a serious road hazard, or a medical or hazardous materials emergencies.
  - (3) The activation or deactivation of hands-free equipment or a function of hands-free equipment.
- (d) This section does not supersede the provisions of section three-a, article two, chapter seventeen-b of the West Virginia Code or any more restrictive provisions for drivers of commercial motor vehicles prescribed by the provisions of chapter seventeen-e of the West Virginia Code or federal law or rule.
- (e) Any person who violates the provisions of subsection (a) of this section is guilty of a traffic offense and, upon conviction thereof, shall for a first offense be fined \$100; for a second offense be fined \$200; and for a third or subsequent offense be fined \$300. No court costs or other fees shall be assessed for a violation of subsection (a) of this section.
- (f) Driving or operating a motor vehicle on a public street or highway while texting shall be enforced as a primary offense as of July 1, 2012. Driving or operating a motor vehicle on a public street or highway while using a cell phone or other electronic communication device without hands-free equipment shall be enforced as a secondary offense as of July 1, 2012, and as a primary offense as of July 1, 2013 for purposes of citation.
- (g) Nothing contained in this section shall be construed to authorize seizure of a cell phone or electronic device by any law-enforcement agency.

This Ordinance shall be effective upon date of adoption.

FIRST READING:

\_\_\_\_\_  
MAYOR

ADOPTED:

FILED:

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

RECORDED:

**AN ORDINANCE ADOPTING A NEW ARTICLE 769, MOTION PHOTOGRAPHY PRODUCTION , WITHIN THE BUSINESS AND TAXATION CODE; REQUIRING MOTION PHOTOGRAPHY PRODUCTION PERMITS FOR MOTION PHOTOGRAPHY PRODUCTION ENDEVEAORS ON PUBLIC PROPERTY OWNED OR CONTROLLED BY OR UNDER THE JURISDICTION OF THE CITY OF MORGANTOWN.**

The City of Morgantown hereby ordains that a new Article 769 is added to the Business and Taxation Code which reads as follows:

**ARTICLE 769  
MOTION PHOTOGRAPHY PRODUCTION**

**769.01 PURPOSE.**

The purpose of this Article is to establish a permitting process for motion photography production endeavors on public property owned or controlled by or under the jurisdiction of the City of Morgantown. This Article does not exempt an applicant from other City Code Provisions that may pertain to the motion photography production endeavor.

**769.02 DEFINITIONS.**

The following words, terms and phrases, when used in this article, shall have the meanings respectively ascribed to them in this section, except where the context clearly indicates a different meaning:

- (a) "City" means the City of Morgantown.
- (b) "City equipment" means any tangible property, other than real property, purchased by public funds and utilized in the normal course and scope of providing governmental service by the City.
- (c) "City facility" means any public street, sidewalk, place or building owned or controlled by or under the jurisdiction of the city to include, but not limited to, city parks and recreation facilities, city hall, the police station, central communications center, all fire stations, central services warehouse.
- (d) "Motion photography" means the commercial, non-personal taking or making of a motion picture, television, videotape, or film production utilizing city equipment or utilizing city facilities. This term shall include, and a production permit shall be required for, such productions on private property, not a studio, involving the erection of tents or other temporary structures or involving the use of pyrotechnics, explosives, or other incendiary devices. This term shall not include the shooting of film at studios constructed for such purpose where no city equipment or city facilities are involved and shall not include any news, news feature, or documentary production.
- (e) "Person" means an individual, corporation, partnership or any other group acting as a unit.
- (f) "Production Permit" (also referred to herein as "Permit") means the permit required by this Article.

#### 769.03 PERMIT AUTHORIZATION.

The City Manager or his/her designee is hereby authorized to act as the agent for the City in the receipt and processing of applications for production permits. After review and approval by appropriate City Administration, including the Fire Marshal, the Police Chief, and the City Manager, the City Manager or his/her designee shall issue the permit.

The permit authorized in this Article will not eliminate the need to acquire permits that are required in different Sections of the City Code, including NFPA 140, the city and state's code standard on Motion Picture and Television Production Studio Soundstages, Approved Production Facilities, and Production Locations. All applicants will be expected to be familiar with this code and apply for permits accordingly. Examples of additional permits that may be required include, but are not limited to, permits for pyrotechnics, explosives, or other incendiary devices, grading, and building and construction.

#### 769.04 PERMIT REQUIRED; SUSPENSION OR REVOCATION.

- (a) No person shall advertise, engage in, participate in, or start any motion photography production unless a production permit shall have been obtained from the City Manager or his/her designee.
- (b) Failure to comply with the terms and conditions of the production permit once issued shall be grounds for immediate suspension of the production until such time as the noncompliance is remedied. The suspension shall be initially communicated orally, followed by a written suspension order. Continued failure to comply with the terms and conditions of the production permit may result in revocation of the permit. Revocation or suspension procedure will be carried out by the City Manager or his/her designee. No person shall continue production in violation of the suspension or revocation.

#### 769.05 APPLICATION FOR PERMIT.

- (a) Any person seeking the issuance of a production permit shall file an application in the Office of the City Manager on forms provided by the City. Said application shall be filed not more than 180 days before, and not less than thirty working days before the commencement of production. The application shall be signed, under oath, by an authorized representative of the applicant.
- (b) The application shall contain the following information:
  - (1) Locations of the production.
  - (2) Duration and type of production.
  - (3) Proof of policy of liability insurance, or bond, in which the City is named as an additional insured for a combined single limit of \$1,000,000.
  - (4) Special effects to be utilized, especially incendiary or explosive devices, with proof of \$5,000,000 liability insurance therefore. In addition, the application shall list the person in charge of such

special effects together with his/her qualifications and licensing by applicable federal and state agencies.

- (5) An Agreement to indemnify and hold harmless the City of Morgantown will also be required.
- (6) Proposed utilization of City equipment.
- (7) Necessity for closures of public streets or sidewalks and for what duration.
- (8) A written summary or explanation of the portion of the production to be shot within the City.
- (9) Number and type of vehicles or equipment and number of personnel to be on location with the production.
- (10) An agreement to pay for any extraordinary services provided by the City.
- (11) Certificate signed under oath that the footage shot on public property shall not contain nudity and will not be pornographic in nature.
- (12) Any additional information that shall be reasonably deemed necessary by the City Manager or his/her designee.

#### 769.06 RESTORATION.

If some or all of a motion photography production is to take place on public property and the production involves the erection of temporary structures or temporary modification of an existing structure or the introduction of an object or substance onto the property, the applicant for the production permit shall be required to restore the property to the condition existing prior to the production. In addition, the City may require that the applicant provide a performance bond in an amount to be determined by the City, to insure such restoration.

#### 769.07 COSTS FOR EXTRAORDINARY SERVICES.

The City shall recover direct costs for extraordinary services rendered in connection with a production. Such costs shall include, but not be limited to, charges for personnel and equipment committed in support of the production which are outside the normal scope of government services. Based on the information contained in the permit application, an estimate of these costs will be provided to the applicant prior to issuance of the permit. The City may require prepayment of all or a portion of these estimated costs prior to issuance of the permit. At the conclusion of the production, actual costs below or in excess of the estimates will be refunded by the City or paid by the applicant, respectively. The City is under no obligation to provide City personnel or equipment, and such will be provided only if the City Manager or his/her designee approves.

#### 769.08 PERMIT FEE.

Upon filing an application for a production permit, the applicant shall pay a sum of twenty dollars (\$20.00), and the payment of such sum shall be a prerequisite to the processing of the permit application.

#### 769.09 VIOLATION PENALTIES.

- (a) It shall be unlawful for a person, firm or corporation to be in conflict with or in violation of any of the provisions of this Article. Any person who shall violate a provision of this Article, or fail to comply therewith, or with any of the requirements thereof, shall be fined not more than five hundred dollars (\$500.00). Each such person shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any provision of this Article is committed or continued.
- (b) The imposition of the penalties herein prescribed shall not preclude the City from instituting an appropriate action or proceeding to prevent the continuation of activity that is in violation of this Article.

769.10 PERIOD OF VALIDITY; RENEWALS

Any Production Permit issued under the provisions of this Article shall be valid for a period of six months from and after the date it is issued. If the motion photography production has not been completed within six months from the date of such permit, the same may be renewed for an additional period of six months without assessment of any fee therefore. If any motion photography production is not actually begun within six months after the date of the original permit therefore, no renewal permit shall be granted, but a new application therefore shall be made and an additional fee paid.

769.11 SEVERABILITY.

The provisions of this ordinance are severable. If any provision of this ordinance or its application to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application.

This Ordinance shall be effective upon date of adoption.

FIRST READING:

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MAYOR

ADOPTED:

FILED:

---

CITY CLERK

RECORDED:



Communications Office

# The City of Morgantown

Susan Sullivan, PCM  
389 Spruce Street, Room 16  
Morgantown, West Virginia 26505  
(304) 284-7426 Fax: (304) 284-7430  
ssullivan@cityofmorgantown.org

## Application for Motion Photography Production Permit

Thank you for choosing the City of Morgantown for your film or video project! We have a multifaceted city with many diverse neighborhoods that can serve a variety of scene settings for your project. We've been the setting for several prominent films in the past, and we're happy to expand that repertoire with yours.

We do ask that you follow proper procedure to get your project permitted for work here within city limits. Please fill out the attached form and return it to the Public Communications Office at least 30 days prior to the start date to ensure that City Officials have ample time to review and approve this permit. It is the responsibility of project organizers, directors, and/or producers to take this into consideration and submit your forms in a timely manner. You may also be called to review your application. The City is willing to work with producers to achieve a best situation for both you and the residents and businesses involved.

Any last minute changes can be submitted up to 48 business hours before shooting starts to the Public Communications Manager. The City Manager's office must sign off on these changes.

Please read Steps 4 and 5 closely. It is the responsibility of project organizers, directors, and/or producers to know and understand these rules. An infraction of any of these rules could be categorized as either a criminal, arrestable offense or an infractionary ticketable offense by either the Morgantown Police Department or the Morgantown Fire Marshal's office.

If you have any questions during your time working with the City of Morgantown, please contact the Public Communications Office at (304) 284-7426 or the City Manager's Office at (304) 284-7405.

Thanks for your interest, and we look forward to working with you!

Sincerely,

Susan Sullivan  
Public Communications Manager







## Project Locations

List where you plan to shoot within the City. (Please include both public areas and private locations, streets and sidewalks, and if and how long you require closure.)


*Please attach additional pages for additional locations.*

## Total Project Duration

Projected Start Date	
Projected End Date	

If the project runs through Saturday and Sunday, do you plan to work through the weekend?	Yes	No
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## Additional Details

Number of Cast and Crew		
Number of Trucks over 24'		
Number of Trucks under 24'		
Studio/Stage work within City?	Yes	No
Post Production work within City?	Yes	No
Will roads/streets be blocked?	Yes	No

*Please note that the presence of a police officer may be required if roads need blocked.*

Do you plan to use pyrotechnics?	Yes	No
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*Please note that use of pyrotechnics requires a state permit under NFPA 140.*

...open flames?	Yes	No
...welding?	Yes	No
...flammable or combustible liquids or gases?		
...aircraft?	Yes	No

*Please note that use of open flames, welding, flammable or combustible liquids or gases, or aircraft may require the presence of a Fire Marshal and standby fire personnel. Information on fees associated with a fire or police presence is available in the cover letter.*

Do you plan to use any type of weapon?	Yes	No
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*Please note that use of any weapons, real or makeshift, may require the presence of a police officer.*

Do you plan to use a motor vehicle inside a building?	Yes	No
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Do you require portable, mobile, or stationary power-generating equipment?	Yes	No
--	-----	----

Are your locations near bodies of water or where water may gather?	Yes	No
--	-----	----

Do you require the use of city equipment?	Yes	No
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*Please note that there may be a service charge if city equipment is required.*

## Step 4: Insurance

The City Manager's Office requires that insurance certificates for your project be on file with our office prior to applying for a permit.

### Large Scale Projects:

The City Manager's Office requires a General Liability policy for at least \$1 million naming "The City of Morgantown" to be in effect for all shooting, scouting, and rigging permits.

The City Manager's Office requires proof of \$5 million liability insurance coverage if special effects such as fire or incendiary or explosive devices are used in this production.

### Students:

Student filmmakers can meet liability insurance obligations through coverage under their school's insurance program. If your school has insurance on file with our office, you need to obtain a letter from your school stating your name and dates of the shoot. Permits will only be issued to the student(s) named in the school letter.

### Other:

If your project is not large-scale or is not related to school projects, you may still pursue your project, but at a limited range.

For example, you will not be able to get Police Assistance in blocking streets.

*The City of Morgantown does not accept liability for any damages or issues that occur during the shoot if roads are blocked and obstructed without specific permission.*

Policy Company Name	
Policy Number	

## Code of Conduct Agreement

All productions are expected to adhere to the Code of Conduct listed below or face possible revocation of its film permit or other action.

When filming in a residential neighborhood or business district, proper notification is to be provided to each merchant or neighbor who is directly affected by the company (this includes parking, base camps and meal areas) at least 48 hours prior to filming. The filming notice should include:

- name of company
- name of production/phone number of production
- kind of production (e.g. feature film, TV pilot, commercial, etc.)
- type of activity, and duration (i.e., times, dates and number of days, including prep and strike)
- company contact (location manager, unit production manager) name and cell number.

Production vehicles arriving on location in or near a residential neighborhood shall not enter the area before the time stipulated on the permit, turning off engines as soon as possible. Engine idling is prohibited. Permits are never issued before 6 a.m. in residential areas unless filming occurs overnight. Do not park generator trucks or campers with running generators in front of residential buildings if possible.

Crew parking on set is strictly prohibited.

Illegally holding parking on streets not requested on permit is strictly prohibited.

Moving or towing of the public's vehicles is prohibited without the express permission of the City Managers' Office in conjunction with the Morgantown Police Department and/or its requested wrecker company in rotation, managed by MECCA 911, the Monongalia Emergency Centralized Communications Agency.

Catered meals must be served and consumed at interior locations. Sit-down meals are not permitted to occur on city streets or sidewalks. All trash must be disposed of properly upon completion of meal. Production cannot use Allied Waste trash cans or leave trash bags at curbside among residential or business trash.

Cast and crew, including parking PAs (production assistants) shall refrain from the use of rude or inappropriate behavior when interacting with the general public. Crews should be polite and respectful.

Removing, trimming and/or cutting of vegetation or trees without proper authorization is prohibited by the Urban Landscape Commission.

Intermittent holding or redirection of vehicular traffic for picture is to be performed by Morgantown Police officers or Morgantown traffic agents only. Production Assistants and/or crew cannot hold or redirect vehicular traffic. A 13.5 foot emergency traffic lane must be maintained at all times.

The company will comply at all times with the provisions of the filming permit. The Morgantown Police Department and the Morgantown Fire Marshal's Office have the authority to stop production for the day for violations of Morgantown and West Virginia laws and ordinances listed above.

## **Your Permission**

A copy of this directive must be distributed to all production personnel. Failure to comply with the following directives may result in revocation of permit.

### **Before the shoot**

Permit applications and schedules should be submitted to the Public Communications Office no later than 30 business days before the shoot.

Familiarize yourself with the neighborhood in which you're shooting. Be considerate of schools, churches, senior centers, funeral homes, etc.

Assure businesses that you will allow customer access and truck deliveries.

NO PARKING signs shall be posted a minimum of 48 hours in advance. Parking may not be held more than 24 hours in advance.

When used, NO PARKING signs should be posted before the last legal time that someone could have parked.

Use elastic bands or string, NOT tape, when posting resident letters or parking signs on trees.

Provide blackout material to residents' windows for night exterior shoots.

All necessary permissions for government agency-run properties (i.e. Authorized parking, parks, MTA properties, bridges, courthouses, etc.) must be obtained.

### **During the Shoot**

Locations departments and parking production assistants should be sensitive to neighborhood needs while holding parking

In advance. Do not park production vehicles in bike lanes, bus stops, driveways, at fire hydrants, loading docks or in front of active theater marquees.

All crew members, including parking production assistants, must wear and display I.D. badges at all times.

Do not block building or business entrances. Keep equipment in front of buildings that are working directly with the shoot only. Do not trespass onto other neighbors' or merchants' private property, including stoops. Do not stage equipment in front of closed storefronts when you have an early call. Business and residents must be allowed to receive all deliveries.

Ensure safe pedestrian passage through and around your set at all times. Cover cables with mats, keep equipment curbside or in curb lanes, don't allow crew members to congregate in pedestrian passageways. When cameras are not rolling pedestrians must be allowed to walk along any city sidewalk and gain access to any building.

Find nearby lots to park non-essential vehicles if you are going to be at a location for multiple days.

Do not park catering trucks or honeywagons in front of active restaurants. Barbecuing, use of propane or open flames is prohibited on location. Craft service tents are permitted in curb lanes only, not on sidewalks, unless specified on the filming permit.

Campers should be tied-in and powered from one source.

All generators must be baffled with fireproof/non-flammable material.

Productions that film prior to 8:00am and after 10:00pm must keep noise to a minimum. Filming of exterior gunshots must occur between the hours of 9:00am and 9:00pm in residential neighborhoods.

Non-domestic animals on set are required to have permits from the Department of Health and Human Resources and be accompanied by handlers at all times.

Copies of all permits issued must be available on set for general public viewing.

### **After the Shoot**

Clean up after your shoot. Make a clean sweep of the area to ensure that nothing is left behind, including equipment, garbage, all resident letters, NO PARKING signs and hanging materials that your production posted. You have 12 hours to complete this task.

Contact the Public Communications Office for assistance at (304) 284-7426 or by calling the City Managers' Office at (304) 284-7405. After hours, please call the Public Communications Manager at (304) 294-5274.



City of Morgantown



**MOTION PHOTOGRAPHY**



**PERMIT ISSUED**

APPROVED APPLICATION TOGETHER WITH ANY PLANS DEEMED NECESSARY OR  
REQUIRED BY LAW IS ON FILE IN THE CITY MANAGERS OFFICE

Location \_\_\_\_\_

Description of Project \_\_\_\_\_

Applicant/Production Company \_\_\_\_\_

Date of Issue \_\_\_\_\_

Date of Expiration \_\_\_\_\_

Permit # \_\_\_\_\_

Communications Office

DISPLAY THIS CARD PROMINENTLY



304-284-7426

## A RESOLUTION TO KEEP UPPER MON WV LOCKS OPEN

- Whereas,*** locks on the Upper Monongahela river in West Virginia are essential to support river commerce, recreation, and economic development of the Monongahela River watershed in West Virginia; and,
- Whereas,*** the leadership of the federal government, through actions by the administration and congress, is essential for funding and enabling the maintenance and operation of the nation's navigable river systems as well as for permitting the US Army Corps of Engineers (COE) to work innovatively with States, citizens, local governments, business organizations, river recreational entities, and others to accomplish this need through innovative solutions; and
- Whereas,*** the headwaters of many of our nation's navigable rivers have suffered a decline in river industrial commerce, resulting in severe cutbacks in federal funding for maintenance and operation of locks and dams on these rivers by the COE, including the hours the locks are open for transit by river traffic; and
- Whereas,*** the US Army Corps of Engineers, via their Inland Marine Transportation System LEVELS OF SERVICE GUIDE, March 2012, has determined that inadequate funding of our nation's navigable river facilities (e.g., locks and dams) has created grave financial problems for maintaining this system on the Mon River, thus requiring that low-use locks be shut down to free up funds for high-use locks, and that the low level of commercial lockages at the locks on the upper Mon in WV, requires that as of 1 November 2012 : (1) Morgantown lock will operate one shift per day, weekends and holidays only; (2) Hildebrand and Opekiska locks will be commercial lockages by appointment only-no recreational lockages; and
- Whereas,*** local citizens working as an Upper Mon River Association (UMRA) advocate for the federal resources to protect, maintain, and operate safe locks and dams to support local commerce, recreation and economic development:

**Now, Therefore, Be It Resolved,** the City Council of Morgantown West Virginia calls upon Congressional Representatives to support 1) authorization and funding for studies of how the federal government might partner with states and local communities on innovative ways to fund and operate river navigation facilities and services, and 2) the long-standing recommendation of UMRA in coordination with the Pittsburgh District COE, to add support of recreational boating, fishing and other river based recreational and similar economic development activities to the mission and duties of the US Army Corps of Engineers for their operation of navigable rivers.

***Be It Further Resolved***, the City Council of Morgantown West Virginia supports additional specific actions presented by UMRA (and co-sponsored by the Mon River Recreation & Commerce Committee of the Morgantown Area Chamber of Commerce) to the Pittsburgh District COE to be undertaken as interim solutions in lieu of the planned closing of upper Mon locks on 1 November 2012 until the federal government keeps locks open not only for river commerce but also to enhance river watershed economic development including river recreation.

**(1) Open the upper Mon locks for 45 days during the 1 April through 31 October recreational boating season. It is recommended that three day weekend operations be scheduled for Friday through Sunday, and on holidays. (This would facilitate fishing tournaments which are of great economic benefit to the upper Mon region and would also allow recreational boaters to full access to the upper Mon. This mode of operation also would exercise the locks to ensure they remain operable.)**

**(2) Authorize the use of contractual, temporary part-time or seasonal employees or even auxiliary volunteer methods to provide lock operators other than permanent Pittsburgh District COE employees. (Evaluate the possibility of a Corps of Engineers Pittsburgh District Auxiliary, to provide, train, and certify volunteer lock operators. This auxiliary, perhaps modeled after the successful Coast Guard Auxiliary system, perhaps could undertake other assistance to Pittsburgh District missions.)**

**(3) Investigate innovative ways to fund operation of the locks. (Consider creating an Upper Mon Port Authority that governments and businesses, others could join and contribute funds for running the locks. This approach would possibly require Congressional action.)**

**(4) Fully maintain by the Pittsburgh District COE the upper Mon locks and dams upon closure in order to provide public safety as well as protection of the facilities so that in the future these facilities can be quickly returned to service, when political, recreational and/or business factors require that the locks be reopened.**

**(5) Maintain the nine foot channel depth on the upper Mon so that dams and boat ramps will not be allowed to be silted in.**

**(6) Provide a public boat ramp access to the Hildebrand pool.**

**(7) Provide an alternate public boat ramp access to the Morgantown pool which is less susceptible to silting than the Uffington boat ramp.**

**(8) Dredging or relocate the Prickett's Fort boat public launch ramp. (All boat ramps are important to bass tournaments.)**

**(9) Provide a means at the upper Mon locks for portage of canoes, kayaks, and other small boats, around the locks.**

**(10) Establish fishing platform access at the Morgantown lock and dam on the south approach wall to the dam.**

**(11) Provide a walk path access to the river bank from the rail trail on the Morgantown side of the river from the Morgantown lock and dam down to Decker's Creek.**

**(12) Classify WV Division of Natural Resources lockages as commercial lockages.**

**(13) Exercise the operation of locks and dams sufficiently to limit closure impact on fish mobility on the river and to permit survival of mussels.**

**(14) Explore the possibility of remote control of lockages at three upper Mon locks from the Point Marion lock and dam.**

Adopted this \_\_\_\_\_ day of August, 2012.

\_\_\_\_\_  
Mayor, City of Morgantown

Attest: \_\_\_\_\_

City Clerk

THE CITY OF MORGANTOWN

Combined Utility System Revenue Bonds, Series 2012 A  
(West Virginia DWTRF Program); and  
Combined Utility System Revenue Bonds, Series 2012 B  
(West Virginia DWTRF Program)

SUPPLEMENTAL RESOLUTION

SUPPLEMENTAL RESOLUTION AUTHORIZING THE REPEAL OF ORDINANCE 11-26; PROVIDING AS TO PRINCIPAL AMOUNTS, DATES, MATURITY DATES, REDEMPTION PROVISIONS, INTEREST RATES, INTEREST AND PRINCIPAL PAYMENT DATES, SALE PRICES AND OTHER TERMS OF THE COMBINED UTILITY SYSTEM REVENUE BONDS, SERIES 2012 A (WEST VIRGINIA DWTRF PROGRAM) AND COMBINED UTILITY SYSTEM REVENUE BONDS, SERIES 2012 B (WEST VIRGINIA DWTRF PROGRAM) OF THE CITY OF MORGANTOWN; APPROVING AND RATIFYING THE LOAN AGREEMENT RELATING TO SUCH BONDS AND THE SALE AND DELIVERY OF SUCH BONDS TO THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY; DESIGNATING A REGISTRAR, PAYING AGENT AND DEPOSITORY BANK; AND MAKING OTHER PROVISIONS AS TO THE BONDS.

WHEREAS, the City council (the "Governing Body") of The City of Morgantown (the "Issuer" or "Governmental Agency") has duly and officially adopted and enacted a bond ordinance, effective January 3, 2012 (the "Bond Ordinance"), entitled:

ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF EXTENSIONS, ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE WATER PORTION OF THE EXISTING PUBLIC COMBINED WATERWORKS, SEWERAGE AND STORMWATER SYSTEM OF THE CITY OF MORGANTOWN AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF THROUGH THE ISSUANCE BY THE CITY OF NOT MORE THAN \$1,100,000 IN AGGREGATE PRINCIPAL AMOUNT OF COMBINED UTILITY SYSTEM REVENUE BONDS, SERIES 2012 A (WEST VIRGINIA DWTRF PROGRAM) AND NOT MORE THAN \$1,600,000 IN AGGREGATE PRINCIPAL AMOUNT OF COMBINED UTILITY SYSTEM REVENUE BONDS, SERIES

2012 B (WEST VIRGINIA DWTRF PROGRAM); PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE OF SUCH BONDS; APPROVING, RATIFYING AND CONFIRMING A LOAN AGREEMENT RELATING TO SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO.

WHEREAS, The Issuer has heretofore passed Ordinance No. 11-26 on July 5, 2011, among other things authorizing Bonds to finance the Project and due to a revised funding scenario, desire to repeal Ordinance No. 11-26.

WHEREAS, the Issuer desires to amend the Bond Ordinance through this Supplemental Resolution (collectively, the "Bond Legislation")

WHEREAS, the Bond Ordinance provides for the issuance of the Combined Utility System Revenue Bonds, Series 2012 A (West Virginia DWTRF Program) and Combined Utility System Revenue Bonds, Series 2012 B (West Virginia DWTRF Program), of the Issuer (collectively, the "Bonds" and individually, the "Series 2012 A Bonds" and the "Series 2012 B Bonds"), in the respective aggregate principal amounts not to exceed \$1,100,000 and \$1,600,000 and has authorized the execution and delivery of a Loan Agreement relating to the Bonds, including all schedules and exhibits attached thereto, by and among the Issuer, the West Virginia Water Development Authority (the "Authority"), and the West Virginia Bureau for Public Health (the "BPH") (the "Loan Agreement"), all in accordance with Chapter 8, Article 20 and Chapter 16, Article 13C of the West Virginia Code of 1931, as amended (collectively, the "Act"); and that other matters relating to the Bonds be herein provided for;

WHEREAS, the Loan Agreement has been presented to the Issuer at this meeting;

WHEREAS, the Series 2012 A Bonds and Series 2012 B Bonds are proposed to be purchased by the Authority pursuant to the Loan Agreement; and

WHEREAS, the Governing Body deems it essential and desirable that this supplemental resolution (the "Supplemental Resolution") be adopted, that the Loan Agreement be approved and ratified by the Issuer, that the exact principal amounts, the dates, the maturity dates, the redemption provisions, the interest rates, the interest and principal payment dates and the sale prices of the Series 2012 A Bonds and Series 2012 B Bonds be fixed hereby in the manner stated herein, and that other matters relating to the Series 2012 A Bonds and Series 2012 B Bonds be herein provided for;

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

Section 1. The Issuer hereby approves the Conformed Bond Ordinance attached hereto as Exhibit A.

Section 2. Pursuant to the Bond Ordinance and the Act, this Supplemental Resolution is adopted and there are hereby authorized and ordered to be issued the Combined Utility System Revenue Bonds, Series 2012 A (West Virginia DWTRF Program), of the Issuer, originally represented by a single bond, numbered AR-1, in the original aggregate principal amount of \$570,000, of the Issuer (the "Series 2012 A Bonds). The Series 2012 A Bonds shall be dated the date of delivery thereof, shall finally mature March 1, 2044 and shall bear interest at the rate of 0.5% per annum. The principal of the Series 2012 A Bonds shall be payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing June 1, 2014 to and including March 1, 2044 and in the amounts as set forth in the "Schedule Y" attached to the Loan Agreement for the Series 2012 A Bonds and incorporated in and made a part of the Series 2012 A Bonds. The interest of the Series 2012 A Bonds shall be payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing June 1, 2014, to and including March 1, 2044 and in the amounts as set forth in the "Schedule Y" attached to the Loan Agreement for the Series 2012 A Bonds and incorporated in and made a part of the Series 2012 A Bonds. The Series 2012 A Bonds shall be subject to redemption upon the written consent of the Authority and the BPH, and upon payment of the interest and redemption premium, if any, and otherwise in compliance with the Loan Agreement, so long as the Authority shall be the registered owner of the Series 2012 A Bonds. The Issuer does hereby approve and shall pay the Administrative Fee equal to 0.5% of the principal amount of the Series 2012 A Bonds set forth in the Schedule Y attached to the Loan Agreement.

Section 3. Pursuant to the Bond Ordinance and the Act, this Supplemental Resolution is adopted and there are hereby authorized and ordered to be issued the Combined Utility System Revenue Bonds, Series 2012 B (West Virginia DWTRF Program), of the Issuer, originally represented by a single bond, numbered BR-1, in the original aggregate principal amount of \$444,835. The Series 2012 B Bonds shall be dated the date of delivery thereof and shall bear no interest. The principal amounts advanced under the Series 2012 B Bonds will be deemed forgiven on the 30th day of June in the fiscal year in which advanced. The Series 2012 B Bonds shall be deemed no longer outstanding after the last advance is forgiven. The Series 2012 B Bonds may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority and the BPH, and otherwise in compliance with the Loan Agreement. The Series 2012 B Bonds are not subject to an Administrative Fee.

Section 4. All other provisions relating to the Series 2012 A Bonds and Series 2012 B Bonds and the text of each series of the Series 2012 A Bonds and Series 2012 B Bonds shall be in substantially the forms provided in the Bond Legislation.

Section 5. The Issuer does hereby authorize, approve, ratify and accept the Loan Agreement, a copy of which is incorporated herein by reference, and the execution and delivery of the Loan Agreement by the Mayor, and the performance of the obligations contained therein, on behalf of the Issuer, are hereby authorized, directed, ratified and approved. The Issuer hereby affirms all covenants and representations made in the Loan Agreement and in the applications to the BPH and the Authority. The price of the Series 2012 A Bonds and Series 2012 B Bonds shall be 100% of par value, there being no interest accrued thereon, provided that the proceeds of the Series 2012 A Bonds and Series 2012 B Bonds shall be advanced from time to time as requisitioned by the Issuer.

Section 6. The Issuer does hereby appoint and designate The Huntington National Bank, Charleston, West Virginia, to serve as Registrar (the "Registrar") for the Series 2012 A Bonds and Series 2012 B Bonds under the Bond Ordinance and does approve and accept the Registrar's Agreement

to be dated the date of delivery of the Series 2012 A Bonds and Series 2012 B Bonds, by and between the Issuer and the Registrar, and the execution and delivery of the Registrar's Agreement by the Mayor, and the performance of the obligations contained therein, on behalf of the Issuer, are hereby authorized, approved and directed.

Section 7. The Issuer does hereby appoint and designate the West Virginia Municipal Bond Commission, Charleston, West Virginia, to serve as Paying Agent for the Series 2012 Bonds under the Bond Legislation.

Section 8. The Issuer does hereby appoint and designate United Bank, Inc., Charleston, West Virginia, to serve as Depository Bank under the Bond Legislation.

Section 9. Series 2012 A Bonds proceeds in the amount of \$-0- shall be deposited in the Series 2012 A Bonds Reserve Account to fully fund the Series 2012 A Bonds Reserve Account.

Section 10. The balance of the proceeds of the Series 2012 A Bonds shall be deposited in or credited to the Series 2012 Bonds Construction Trust Funds for payment of the costs of the Project, including, without limitation, costs of issuance of the Series 2012 A Bonds and related costs.

Section 11. The proceeds of the Series 2012 B Bonds shall be deposited in or credited to the Series 2012 Bonds Construction Trust Funds for payment of the costs of the Project, including, without limitation, costs of issuance of the Series 2012 B Bonds and related costs.

Section 12. The Mayor and the Clerk are hereby authorized and directed to execute and deliver such other documents and certificates required or desirable in connection with the Series 2012 Bonds hereby and by the Bond Legislation approved and provided for, to the end that the Series 2012 Bonds may be delivered on or about August 24, 2012, to the Authority pursuant to the Loan Agreement.

Section 13. The Morgantown Utility Board is hereby authorized to review and approve draw resolutions for the payment of invoices for the Project.

Section 14. The acquisition and construction of the Project and the financing thereof in part with proceeds of the Series 2012 A Bonds and Series 2012 B Bonds are in the public interest, serve a public purpose of the Issuer and will promote the health, welfare and safety of the residents of the Issuer.

Section 15. The Issuer does hereby ratify, approve and accept all contracts relating to the financing, acquisition and construction of the Project.

Section 16. Repeal Ordinance No. 1460: The Issuer hereby repeals in its entirety Ordinance No. 11-26 adopted on July 5, 2011.

Section 17. This Supplemental Resolution shall be effective immediately following adoption hereof.

Adopted this 7th day of August, 2012.

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Mayor

CERTIFICATION

Certified a true copy of a Supplemental Resolution duly adopted by the Council of The City of Morgantown on the 7th day of August, 2012.

Dated: August 24, 2012.

[SEAL]

\_\_\_\_\_  
Clerk

627490,00043

**MORGANTOWN**  
**IJDC Project No. 2011W-1249**  
**RESOLUTION OF APPROVING INVOICES RELATING TO ACQUISITION AND CONSTRUCTION**  
**AND OTHER SERVICES FOR THE PROPOSED WHISPERING WOODS WATER PROJECT AND**  
**AUTHORIZING PAYMENT THEREOF,**

**WHEREAS**, invoices attached hereto have been reviewed and incorporated herein by reference in relation to the construction of the Water Project funded by DWTRF; IJDC, MUB and the County and find as follows:

- a) That none of the items for which payment is proposed to be made has formed the basis for any disbursement theretofore made.
- b) That each item for which the payment is proposed to be paid is or was necessary in connection with the Project and constitutes a Cost of the Project.
- c) That each of such costs has been otherwise properly incurred.
- d) That the payment for each of the items proposed is due and owing.

**NOW, THEREFOR, BE IT RESOLVED** as follows: There is hereby authorized and directed the payment of the attached invoices as follows:

Vendor	Total	DWTRF (2012 A)	DWTRF (2012 B)	IJDC Grant	MUB/County
Steptoe & Johnson (bond)	27,000.00	27,000.00	0.00	0.00	0.00
Huntington Bank	1,000.00	1,000.00	0.00	0.00	0.00
Steptoe & Johnson (local)	6,332.70	0.00	0.00	6,332.70	0.00
<b>Total</b>	<b>34,332.70</b>	<b>28,000.00</b>	<b>0.00</b>	<b>6,332.70</b>	<b>0.00</b>

**ADOPTED BY the City of Morgantown**, at the meeting held on the 7th day of August, 2012.

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

## **SWEEP RESOLUTION**

**WHEREAS**, The City of Morgantown (the "Issuer") is a governmental body and political subdivision of West Virginia;

**WHEREAS**, the Issuer has issued bonds, as more specifically set forth on Exhibit A, attached hereto and incorporated herein by reference (the "Bonds");

**WHEREAS**, the Issuer makes monthly debt service payments on the Bonds by check to the West Virginia Municipal Bond Commission (the "MBC") which in turn pays the owners of the Bonds and deposits funds in the reserve accounts;

**WHEREAS**, the MBC may accept such monthly payments by electronic funds transfer thereby eliminating delay in payments and lost checks;

**WHEREAS**, the Issuer find and determines that it is in the best interest of the Issuer, its citizens and the owners of the Bonds that the monthly debt service and reserve fund payments be made by electronic transfer with the State Treasurer **sweeping** the Issuer's account.

### **NOW THEREFORE BE IT RESOLVED AS FOLLOWS:**

- 1) The monthly debt service payments on the Bonds, as set forth in Exhibit A, shall be made to the MBC by electronic transfer by the State Treasurer from the accounts set forth in Exhibit A in such form and at such directions as are provided by the MBC.
- 2) The Mayor and the Clerk are hereby authorized to sign and execute all such documents as are necessary to facilitate the electronic transfer of the Bond debt service and reserve fund payments.
- 3) This resolution shall be effective immediately upon adoption.

Adopted this 7th day of August, 2012.

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Clerk