



# The City of Morgantown

389 Spruce Street  
Morgantown, West Virginia 26505  
(304) 284-7439 Fax: (304) 284-7525  
www.morgantownwv.gov

Office of the City Clerk

**AMENDED AGENDA**  
**MORGANTOWN CITY COUNCIL**  
**REGULAR MEETING**  
**May 5, 2020**  
**7:00 p.m.**

City buildings remain closed to the public to protect public health during the COVID-19 pandemic. Personal attendance at the meeting will not be permitted. When it is time, the public may participate in the public portion by videoconference at the following link:

<https://cityofmorgantown.my.webex.com/meet/cityofmorgantown> with meeting number (access code) 793 734 477, or by calling in at the following number 408-418-9388 and using the access code 793 734 477. All members of the public may view the meeting on Channel 15 and by streaming hosted on the City's website at [www.morgantownwv.gov](http://www.morgantownwv.gov). If you do not wish to speak at the meeting, please view it by these methods to conserve capacity on the videoconference. Any person who wishes to speak at the meeting may complete the form at <https://www.morgantownwv.gov/FormCenter/Public-Comment-Sign-Up-Sheet-14/Public-Comment-Committee-of-the-Whole-fo-61> or provide their name, phone number they will use to participate, and the topic on which they would like to speak by texting 304-288-0847 or texting 304-288-7072. You may sign up to speak at any time until the meeting begins. Additionally, the public may submit written comments for the public portion of the meeting by sending written comments via email to the City Clerk at [cwade@morgantownwv.gov](mailto:cwade@morgantownwv.gov). In the email, please use the subject line "Public Comment 05/5/2020" and indicate in the body of the email if you would like your comment read aloud during the public portion of the meeting.

1. **CALL TO ORDER:**

2. **ROLL CALL:**

3. **APPROVAL OF MINUTES:** April 21, 2020, Special Meeting minutes; April 21, 2020, Regular Meeting minutes; April 28, 2020, Special Meeting minutes; April 28, 2020, Committee of the Whole Meeting minutes.

4. **CORRESPONDENCE:** Gene Vance Day Proclamation

5. **PUBLIC HEARINGS:**

A. AN ORDINANCE AUTHORIZING A ZONING AMENDMENT FOR THE RONALD MCDONALD HOUSE

B. AN ORDINANCE AMENDING THE FY 2020-2021 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

C. AN ORDINANCE AUTHORIZING AN EASEMENT TO FRONTIER AT THE MORGANTOWN MUNICIPAL AIRPORT

6. **UNFINISHED BUSINESS:**

- A. Consideration of **APPROVAL** of (**SECOND READING**) of **AN ORDINANCE AUTHORIZING A ZONING AMENDMENT FOR THE RONALD MCDONALD HOUSE** (First reading April 7, 2020)
- B. Consideration of **APPROVAL** of (**SECOND READING**) of **AN ORDINANCE AMENDING THE FY 2020-2021 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 April 21, 2020)
- C. Consideration of **APPROVAL** of (**SECOND READING**) of **AN ORDINANCE AUTHORIZING AN EASEMENT TO FRONTIER AT THE MORGANTOWN MUNICIPAL AIRPORT** (First reading April 21, 2020)

**D. BOARDS & COMMISSIONS:**

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

**8. SPECIAL COMMITTEE REPORTS:**

**9. CONSENT AGENDA:**

**10. NEW BUSINESS:**

- A. Consideration of **APPROVAL** of (**FIRST READING**) of **AN ORDINANCE AMENDING ARTICLE 545 REGULATING WEAPONS**
- B. Consideration of **APPROVAL** of (**FIRST READING**) of **AN ORDINANCE AMENDING ARTICLE 747 ESTABLISHING FIRE PROTECTION SERVICE CHARGES**
- C. Consideration of **CITY COUNCIL MEETING RULES**
- D. Consideration of **LGBTQ+ LIAISON POSITIONS**
- E. Consideration of **APPROVAL** of **A RESOLUTION ADOPTING AIRPORT RULES AND REGULATIONS AND MINIMUM STANDARDS**
- F. Consideration of **APPROVAL** of **A RESOLUTION APPROVING THE 2021-2026 CAPITAL IMPROVEMENT PLAN**
- G. Consideration of **APPROVAL** of **A RESOLUTION APPROVING THE 2020-2021 BUDGET FOR THE MORGANTOWN CAPITAL ESCROW FUND**

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

**Information:**

- A. Update - Minority Liaison Coordinating Council
- B. Update - Appointment of Interim Police Chief
- C. CARES Act Funds for Morgantown Municipal Airport Runway Extension Project
- D. City's Update on the Coronavirus (COVID-19) in West Virginia

**New Business:**

**A. Request for Advance of Funding from WV Coalition to End Homelessness**

**B. City Infrastructure Improvement Bond**

**C. Implementation of Focused Workweek Pilot Program**

**12. REPORT FROM CITY CLERK:**

**13. REPORT FROM CITY ATTORNEY:**

**14. REPORT FROM COUNCIL MEMBERS:**

**15. EXECUTIVE SESSION: Pursuant to West Virginia Code Section 6-9A-4 (2) (B) (12) to discuss potential or pending litigation**

**16. ADJOURNMENT:**

# City of Morgantown

## SPECIAL MEETING April 21, 2020

The Special Meeting of the Common Council of the City of Morgantown was held via Webex on Tuesday, April 7, 2020, at 6:09 p.m.

City buildings remain closed to the public to protect public health during the COVID-19 pandemic. Personal attendance at the meeting will not be permitted. When it is time, the public may participate by videoconference at the following link:

<https://cityofmorgantown.my.webex.com/cityofmorgantown.my/j.php?MTID=m7d4b797e4fadbcc76429c7b06b6848e2> with meeting number (access code) 799 045 542, and meeting password P3a8Kv7GaRZ (73285874 from phones or video systems) or by calling in at the following number 408-418-9388 and using the access code 799 045 542 and password 73285874.

**PRESENT:** Via Webex were Mayor William A. Kawecki, and Council Members Zackery Cruze, Jenny Selin, Ron Dulaney, Dave Harshbarger, and Barry Wendell. Deputy Mayor Rachel Fetty arrived shortly after roll call.

The meeting was called to order by Mayor Kawecki.

**EXECUTIVE SESSION:** Pursuant to WV State Code Section 6-9A-4 (b) (2) (A) To discuss Personnel Matters in considering new appointments for Board and Commissions. Motion by Councilor, second by Councilor, to go into executive session. Motion carried by acclamation. Present: City Council. Time: 6:10 p.m.

### **Museum Commission**

6:00 p.m. – Darryl DeGripp

6:20 p.m. – Neil Burton

### **ADJOURNMENT:**

There being no further business, motion by Councilor Selin, second by Councilor Dulaney, to adjourn the meeting. Time: 7:00 p.m.

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City Clerk

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Mayor

# City of Morgantown

## SPECIAL MEETING April 28, 2020

The Special Meeting of the Common Council of the City of Morgantown was held via Webex on Tuesday, April 28, 2020, at 6:04 p.m.

**City buildings remain closed to the public to protect public health during the COVID-19 pandemic. Personal attendance at the meeting will not be permitted. When it is time, the public may participate by videoconference at the following link:**

**<https://cityofmorgantown.my.webex.com/meet/cityofmorgantown> with meeting number (access code) 793 734 477, or by calling in at the following number 408-418-9388 and using the access code 793 734 477.**

**PRESENT:** Via Webex were Mayor William A. Kawecki, and Council Members Jenny Selin, Ron Dulaney, Dave Harshbarger, and Barry Wendell. Deputy Mayor Rachel Fetty, and Zackery Cruze were absent.

The meeting was called to order by Mayor Kawecki.

**EXECUTIVE SESSION:** Pursuant to WV State Code Section 6-9A-4 (b) (2) (A) To discuss Personnel Matters in considering new appointments for Board and Commissions. Motion by Councilor Harshbarger, second by Councilor Wendell, to go into executive session. Motion carried by acclamation. Present: City Council. Time: 6:07 p.m.

### **Met Theatre Commission**

6:00 p.m. – Marian Hollinger – Phone Interview

6:20 p.m. – Jennifer Hathaway

### **ADJOURNMENT:**

There being no further business, motion by Councilor Harshbarger, second by Councilor Selin, to adjourn the meeting. Time: 6:54 p.m.

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City Clerk

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Mayor

# City of Morgantown

## COMMITTEE OF THE WHOLE MEETING April 28, 2020

City buildings remain closed to the public to protect public health during the COVID-19 pandemic. Personal attendance at the meeting will not be permitted. When it is time, the public may participate in the public portion by videoconference at the following link: <https://cityofmorgantown.my.webex.com/meet/cityofmorgantown> with meeting number (access code) 793 734 477, or by calling in at the following number 408-418-9388 and using the access code 793 734 477. All members of the public may view the meeting on Channel 15 and by streaming hosted on the City's website at [www.morgantownwv.gov](http://www.morgantownwv.gov). If you do not wish to speak at the meeting, please view it by these methods to conserve capacity on the videoconference. Any person who wishes to speak at the meeting may complete the form at <http://morgantownwv.gov/FormCenter/Public-Comment-Sign-Up-Sheet-14/Public-Comment-Committee-of-the-Whole-fo-61>, or provide their name, phone number they will use to participate, and the topic on which they would like to speak by texting 304-288-0847 or 304-288-7072. You may sign up to speak at any time until the meeting begins. Additionally, the public may submit written comments for the public portion of the meeting by sending written comments via email to the City Clerk at [cwade@morgantownwv.gov](mailto:cwade@morgantownwv.gov). In the email, please use the subject line "Public Comment 04/28/2020" and indicate in the body of the email if you would like your comment read aloud during the public portion of the meeting.

The Committee of the Whole Meeting of the Common Council of the City of Morgantown was held by via Webex on Tuesday, April 28, 2020, at 7:08 p.m.

**PRESENT:** City Manager Paul Brake, Assistant City Manager Emily Muzzarelli, City Attorney Ryan Simonton, Mayor William A. Kawecki, Deputy Mayor Rachel Fetty, Council Members Zack Cruze, Jenny Selin, Ron Dulaney, Dave Harshbarger, and Barry Wendell.

The meeting was called to order by Deputy Mayor Fetty.

### **PRESENTATIONS:**

#### **1. MUB – Proposed refinance of outstanding bond issue – Series 2010A**

Tim Ball General Manager of Morgantown Utility Board presented to council a request to refinance the outstanding bond issue Series 2010A.

Tim Ball explained the outstanding bond issue Series 2010A that was put into effect to upgrade the water treatment plant on Don Knotts Boulevard. Tim Ball suggested and proposed to refinance the outstanding bond issue Series 2010A for reasons such as COVID-19 related costs and lost revenue.

#### **2. Human Rights Commission Liaison Positions**

Ash Cutright LGBTQ+ liaison for the Human Rights Commission presented to council with a request for City of Morgantown LGBTQ+ Liaison positions. The general goal of appointing these two positions is to focus on the city concerns and public safety needs of the LGBTQ+ community.

#### **3. Recycle Right Morgantown Campaign Update**

Vanessa Reaves Recycle Right Morgantown Campaign Manager presented to council with information regarding the Recycle Right Morgantown campaign.

#### **4. Focused Workweek Research Presentation**

Emily Muzzarelli Assistant City Manager presented to council a request for consideration of implementing a four-day focused workweek. She presented a focused workweek pilot program that would last for one year, beginning July 4, 2020. Business hours for multiple city offices would be from 7 a.m. to 5:30 p.m. Monday through Thursday, and buildings would be closed Fridays.

### **PUBLIC PORTION:**

Deputy Mayor Fetty opened the public portion and asked if there was anyone wishing to speak.

# City of Morgantown

Assistant City Manager Emily Muzzarelli read written comments expressing support for the Human Rights Commission LGBTQ+ Liaison Positions and urged council to consider approving at the next regular meeting:

1. Lucy Romeo
2. Emily Womelsdorf
3. Shelby Lloyd
4. Mollie Kennedy
5. Jan Derry

There being no one else wishing to speak, Deputy Mayor Fetty closed the Public Portion.

## **ITEMS FOR DISCUSSION:**

### **1. MUB – Proposed refinance of outstanding bond issue – Series 2010A**

After discussion, this item will be moved to a future meeting agenda. City Attorney stated that city staff will work with Bond Council to prepare it.

### **2. Human Rights Commission Liaison Positions**

After discussion, this item was moved to the May 5, 2020, Regular Meeting Agenda.

### **3. Focused Workweek Research Presentation**

After discussion, this item was moved to the May 5, 2020, Regular Meeting agenda.

### **4. Ordinance Authorizing Revisions to Article 545 – Weapons**

After discussion, this item was moved to the May 5, 2020, Regular Meeting agenda.

### **5. Ordinance Authorizing Revisions to Article 747 – Fire Protection Service Charges**

After discussion, this item was moved to the May 5, 2020, Regular Meeting agenda.

### **6. Morgantown Municipal Airport - Minimum Standards for Commercial Aeronautical Service Providers**

After discussion, this item was moved to the May 5, 2020, Regular Meeting agenda.

### **7. City's Update on the Coronavirus (COVID-19) in West Virginia**

City Manager Paul Brake provided council with an update regarding the city's response to the COVID-19 pandemic. The city will work under the Governor's plan for reopening West Virginia.

Tentatively, the city is looking at reopening on May 18 with protective measures taken to protect employees, such as installation of Plexiglass barriers, routine cleaning, and social distancing.

## **ADJOURNMENT:**

There being no further business, motion by Councilor Wendell, second by Mayor Kawecki, to adjourn the meeting. Time: 9:58 p.m.

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City Clerk

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Mayor



Office of the Mayor

# The City of Morgantown

389 Spruce Street  
Morgantown, West Virginia 26505  
(304) 284-7439

## Proclamation

- Whereas,** the 9<sup>th</sup> Annual Gene Vance Jr. Day will be observed in Morgantown, WV on the 16th Day of May in honor and support of the brave service members of the United States Armed Forces leading Overseas Contingency Operations previously known as the Global War on Terror. Those who boldly serve, those who have fallen, and those who have been traumatically injured while safeguarding the nation; and
- Whereas,** the 9<sup>th</sup> Annual day recognizes the United States of America's leadership of the longest continuing armed global conflict in its history in memory of SSG Gene A. Vance Jr.'s heroic and selfless actions in the US response to events of 9/11, as the first National Guardsman to be killed in direct action since Vietnam and the first WV National Guardsman to die in direct action since WWII; and
- Whereas,** the 9<sup>th</sup> Annual day symbolizes honor, care, hope and healing for thousands of returning as well as severely wounded veterans, their allies, respective families and communities facing challenges never experienced before in history; and
- Whereas,** 2020 is the 19<sup>th</sup> anniversary year of the tragic 9/11 attacks on our nation. The remarkable sacrifices and commitment the Armed Forces and First Responders make to and for this nation and the unyielding dedication of the Gene Vance Jr. Foundation for the Catastrophically Injured are worthy of recognition and, it is fitting therefore that Vance, the foundation in his honor and all the servicemen and servicewomen be honored today, and every day.

**Now therefore, I, William A. Kawecki, Mayor of the City of Morgantown, West Virginia, on behalf of the City Council on this 5th day of May, do hereby proclaim the 16th day of May 2020 as**

## Gene Vance Jr. Day

in the City of Morgantown and encourage all citizens to join in remembrance and appreciation of the brave members of the Armed Forces of the United States -who have served, and who continue to serve-in order to protect our freedom.

Seal:



*William A. Kawecki*  
William A. Kawecki, Mayor

AN ORDINANCE PROVIDING FOR THE ZONING RECLASSIFICATION OF CERTAIN PARCELS OF REAL ESTATE IN THE FOURTH AND SEVENTH WARDS OF THE CITY OF MORGANTOWN FROM R-1, SINGLE-FAMILY RESIDENTIAL DISTRICT AND R-3, MULTI-FAMILY RESIDENTIAL DISTRICT TO B-2, SERVICE 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 WERE FULLY SET FORTH HEREIN.

Properties included in this ordinance are identified as Morgantown Fourth Ward Tax District, Tax Map 12, part of Parcel 1.1 and Morgantown Seventh Ward Tax District, Tax Map 11, Parcels 88, 89, 90, and 91.

THE CITY OF MORGANTOWN HEREBY ORDAINS:

1. That the zoning designation for that portion of Parcel 1.1 of County Tax Map 12 in the Morgantown Fourth Ward Tax District 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 were fully set forth herein is reclassified from R-1, Single-Family Residential District to B-2, Service Business District.
2. That the zoning designation for Parcels 88, 89, 90, and 91 of County Tax Map 11 in the Morgantown Seventh Ward Tax District 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 were fully set forth herein are reclassified from R-3, Multi-Family Residential District to B-2, Service Business District.
3. That the Official Zoning Map be accordingly changed to show said zoning classifications.

This Ordinance shall be effective from the date of adoption and the Official Zoning Map shall be duly noted with the effective date of adoption.

FIRST READING:

\_\_\_\_\_  
Mayor

ADOPTED:

FILED:

RECORDED:

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

**B-2**

**Parcels 88 & 89  
Tax Map 11  
District 15**

**Parcel 91  
Tax Map 11  
District 15**

**Parcel 90  
Tax Map 11  
District 15**

**Part of:  
Parcel 1.1  
Tax Map 12  
District 12**

**R-3**

**R-1**

**ORDINANCE EXHIBIT  
Case No. RZ20-02**



THE CITY OF  
**MORGANTOWN**  
WEST VIRGINIA

**Legend**

 Area to be Rezoned to B-2

 Zoning

 Parcels



**AN ORDINANCE AMENDING THE FY 2020-2021 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 2020-2021 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:

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Mayor

Filed:

Recorded:

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City Clerk

CITY OF MORGANTOWN					
GENERAL FUND - REVISION 01					
FY 2020-2021					
ACCT		BUDGET	PROPOSED	PROPOSED	
NO	REVENUES	FY21	REV 01	AMENDED BUDGET	EXPLANATION OF PROPOSED ADJUSTMENTS
305	B&O Tax Regular	13,900,000	(1,390,000)	12,510,000	10% decline for full year
306	Wine & Liquor Tax	625,000	(156,000)	469,000	25% decline - bars and restaurants closures
308	Hotel Occupancy Tax	1,100,000	(275,000)	825,000	25% decline - hotel occupancy rates are down approximately 90%
309	Amusement Tax	10,000	(2,500)	7,500	25% decline
314	Municipal Sales & Use Tax	1,268,812	(127,000)	1,141,812	10% decline for full year
397	Video Lottery	110,000	(27,500)	82,500	25% decline
376	Gaming Income	11,000	(2,500)	8,500	25% decline
329	Inspection Fees Housing	215,000	(120,000)	95,000	Removal of revenue associated with annual inspection for rentals
341	Municipal Service Fee	4,600,000	(460,000)	4,140,000	10% decline for full year
380	Interest Revenue	80,000	(40,000)	40,000	50% decline - interest rate cut and lower cash balances
365	Federal Grant - Fire Equipment	65,000	(15,000)	50,000	Reduced per Fire Department Capital Outlay reduction
299	Unassigned Fund Balance	1,180,000	(500,000)	680,000	Estimate of the FY 2020 decline in revenues will result in a lower
			(3,115,500)		
ACCT		BUDGET	PROPOSED	PROPOSED	
NO	EXPENDITURES	FY21	REV 01	AMENDED BUDGET	EXPLANATION OF PROPOSED ADJUSTMENTS
699	Contingency	235,879	369,694	605,573	Excess of total revenues to total expenses, up to 10% of General Fund budget allowed to be carried as Contingency amount
409	Mayor	11,282	(2,260)	9,022	25% reduction in salary for full year
410	City Council	56,438	(3,500)	52,938	Cut National League of Cities membership
412	City Manager	996,368	(102,034)	894,334	Reductions include interns, pay increases, travel & training, and contracted services
414	Finance	1,157,921	(57,829)	1,100,092	Reductions include pay increases, travel & training, contracted & professional services, and capital outlays
415	City Clerk	232,884	(4,465)	228,419	Travel and training reductions
416	Municipal Court	311,174	(20,998)	290,176	Reductions include intern, travel & training, and capital outlays
420	Engineering	611,463	(233,477)	377,986	Reductions include two frozen staff positions, travel & training, and contracted & professional services
422	Human Resources	408,130	(68,794)	339,336	Reductions include pay increases, employee wellness, and capital outlays
436	Code	1,392,349	(94,356)	1,297,993	Reduction includes one new FTE based on removal of annual rental inspections
437	Planning	439,703	(119,047)	320,656	Reductions include one frozen staff position, travel & training, professional services, and capital outlays
438	Elections	31,661	(1,534)	30,127	General duties performed by City Clerk Department
439	Information Tech	551,547	(51,441)	500,106	Reductions include intern, overtime, travel & training, and capital outlays
440	City Hall	789,813	(29,465)	760,348	Reductions include overtime and contracted services
444	Capital Escrow - MSF	1,800,000	(500,000)	1,300,000	Reallocation of MSF revenue from Public Works and Police equipment to Police Department staffing costs
444	Capital Escrow - B&O Construction	2,746,000	(730,790)	2,015,210	Deferred capital improvements and reduction to agency allocations
700	Police	9,374,945	(486,226)	8,888,719	Reductions include five frozen staff positions, overtime, travel & training, and operating supplies
706	Fire	6,989,607	(244,573)	6,745,034	Reductions include travel & training, operating supplies, and capital outlays
750	Street	2,891,949	(235,692)	2,656,257	Reductions include one frozen staff position, travel & training, operating supplies, and maintenance costs
752	Signs and Signals	804,287	(34,219)	770,068	Reduction includes overtime
754	Equipment Maintenance	634,686	(16,355)	618,331	Reductions include overtime and operating supplies
759	Contribution - Mountain Line	356,500	(35,650)	320,850	10% reduction in allocation
900	Contribution - BOPARC	1,514,000	(81,000)	1,433,000	6% reduction in allocation
900	Contribution - BOPARC	232,900	(68,750)	164,150	25% of Hotel Occupancy Tax reduction
901	Contribution - CVB	550,000	(137,500)	412,500	50% of Hotel Occupancy Tax reduction
916	Contribution - Library	845,581	(47,844)	797,737	6% reduction in allocation
950	Urban Landscape	313,893	(77,395)	236,498	Reductions include one new FTE, pay increase, and interns
			(3,115,500)		

**General Fund****Budget Revision #1 Expenditure Reduction Detail****Expenditures Adjustments by Type**

COLA elimination	353,000	Current budget includes 2.5% at approximate cost of \$353,000
Remove new FTE's	111,630	Urban Landscape and Code
Remove interns for all departments	63,600	City Manager, GIS, Communications, Court, Engineering, IT and Urban Landscape
Remove summer weed crew	62,700	Street department temporary FT summer help
Remove other pay increases	52,880	Finance, HR, CM, UL and Code
Vacant positions not filled	312,040	Engineering, Planning, and Street - 4 positions frozen for FY 2021
Vacant Police positions not filled	314,100	5 of 10 vacant positions frozen for FY 2021
Cut overtime	191,750	Reduction primarily based on Department Head feedback
Travel & training	101,500	Department Head reductions
Dues & subscriptions	4,500	Department Head reductions
Employee wellness	15,000	Department Head reductions
Contracted services	59,500	Department Head reductions
Professional services	65,000	Department Head reductions
Supplies	38,350	Department Head reductions
Capital outlays	92,000	Department Head reductions
Other expenditures	48,587	Department Head reductions
BOPARC	81,000	No increase in funding from FY 2020
BOPARC - Hotel Occupancy Tax	68,750	25% allocation reduced based on projected 25% reduction in tax revenue
CVB - Hotel Occupancy Tax	137,500	50% allocation reduced based on projected 25% reduction in tax revenue
Library	47,863	No increase in funding from FY 2020
Mountain Line reduction	35,650	Reduce funding 10% from FY 2020
Capital Escrow - B&O Construction	500,000	Deferred capital improvements
Capital Escrow - Municipal Service Fee	500,000	Deferred Police and Public Works equipment purchases
Capital Escrow - Agency Allocations	230,790	Cut new requests and additional amount requests to agencies for FY 2021
<b>Total Expenditure Adjustment</b>	<u>3,487,690</u>	
<b>Contingency account addition</b>	<u>372,190</u>	Increases balance to \$605,573
<b>Total Expenditure Budget Revision #1</b>	<u><u>3,115,500</u></u>	

**EXPENDITURES (CONT'D)**

LGSD: BR City of Morgantown

City of Morgantown

CONTROL NUMBER:

2020-2021

General

1

BUDGET REVISION REQUEST-SUPPLEMENT

FY

FUND

REV#

ACCOUNT NUMBER	ACCOUNT CATEGORY	PREVIOUSLY APPROVED AMOUNT	INCREASE	DECREASE	REVISED AMOUNT
439	Data Processing	551,547		51,441	500,106
440	City Hall	789,813		29,465	760,348
444	Contributions / Transfers to Other Funds	5,608,519		1,230,790	4,377,729
699	Contingencies*	235,879	369,694		605,573
700	Police Department	9,374,945		486,226	8,888,719
706	Fire Department	6,989,607		244,573	6,745,034
750	Streets and Highways	2,891,949		235,692	2,656,257
752	Signs and Signals	804,287		34,219	770,068
754	Central Garage	634,686		16,355	618,331
759	Public Transit	356,500		35,650	320,850
900	Parks & Recreation	1,746,900		149,750	1,597,150
901	Visitors Bureau	550,000		137,500	412,500
916	Library	845,581		47,844	797,737
950	Beautification Programs	313,893		77,395	236,498
	#N/A				
<b>NET INCREASE/(DECREASE) Expenditures (this page)</b>					<b>-2,407,206</b>



**REQUEST FOR REVISION TO APPROVED BUDGET**

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

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  
 Fiscal Year: **2020-2021**  
 Ending: **General**  
 Fund: **1**  
 Revision Number: **1**  
 Pages: **1 of 1**

City of Morgantown  
 GOVERNMENT ENTITY

389 Spruce Street  
 STREET OR PO BOX

Municipality  
 Government Type

Person To Contact Regarding Request:

Name: **James M. Goff**

Phone: **304-284-7407**

Fax: **304-284-7418**

Morgantown 26508  
 CITY ZIP CODE

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

ACCOUNT NUMBER	ACCOUNT DESCRIPTION	PREVIOUSLY APPROVED AMOUNT	(INCREASE)	(DECREASE)	REVISED AMOUNT
299	Unassigned Fund Balance	1,180,000		500,000	680,000
305	Business and Occupation Tax	16,646,000		1,390,000	15,256,000
306	Wine & Liquor Tax	625,000		156,000	469,000
308	Hotel Occupancy Tax	1,100,000		275,000	825,000
309	Amusement Tax	10,000		2,500	7,500
314	Sale Tax	1,268,812		127,000	1,141,812

**NET INCREASE/(DECREASE) Revenues (ALL PAGES)** -3,115,500

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
409	Mayor's Office	11,282		2,260	9,022
410	City Council	56,438		3,500	52,938
412	City Manager's Office	996,368		102,034	894,334
414	Finance Office	1,157,921		57,829	1,100,092
415	City Clerk	232,884		4,465	228,419
416	Police Judge's Office	311,174		20,998	290,176
420	Engineering	611,463		233,477	377,986
422	Personnel Office	408,130		68,794	339,336
436	Building Inspection	1,392,349		94,356	1,297,993
437	Planning & Zoning	439,703		119,047	320,656
438	Elections	31,661		1,534	30,127

**NET INCREASE/(DECREASE) Expenditures** -3,115,500

APPROVED BY THE STATE AUDITOR

BY: Deputy State Auditor, Local Government Services Division Date

AUTHORIZED SIGNATURE OF ENTITY

APPROVAL DATE

**AN ORDINANCE AUTHORIZING AN EASEMENT TO FRONTIER AT THE  
MORGANTOWN MUNICIPAL AIRPORT**

The City of Morgantown hereby ordains that the City Manager is authorized to execute the attached easement agreement, which is incorporated by reference into this Ordinance, together with any ancillary documents necessary to the easement.

This ordinance is effective upon adoption.

First Reading: \_\_\_\_\_  
Mayor

Second Reading: \_\_\_\_\_

Adopted: Clerk

Filed:

## RIGHT-OF-WAY AND EASEMENT AGREEMENT

THIS RIGHT-OF-WAY AND EASEMENT AGREEMENT, made and executed this \_\_\_\_ day of \_\_\_\_\_, 2020, by and between THE CITY OF MORGANTOWN, West Virginia, a municipal corporation, party of the first party, GRANTOR, and FRONTIER WEST VIRGINIA INC., a West Virginia corporation duly authorized to conduct business in the state of West Virginia, party of the second part, GRANTEE.

WITNESSETH: That for and in consideration of the payment of **Two Thousand Two Hundred Seventy-Eight Dollars and eighty cents (\$2,278.80)**, cash in hand paid, the receipt of which is hereby acknowledged, and other good and valuable consideration hereinafter detailed, GRANTOR does now hereby grant and convey unto the GRANTEE, its successors and/or assigns, a non-exclusive right-of-way and easement for the laying, relaying, constructing, reconstructing, placing, replacing, repairing, operating, maintaining, and removing the following:

- (1) 791 linear feet, more or less, 1 – 2” BURIED INNERDUCT
- (2) 791 linear feet, more or less, 1 – COPPER CABLE WITH PULL STRING
- (3) Related facilities that are necessary and appurtenant to the facilities identified in the foregoing paragraphs (1) to (2), provided that such facilities are placed underground or are authorized by a Determination of No Hazard to Air Navigation issued by FAA

in and upon the part of the property of Grantor described herein and lying and being within the Sixth Ward of the City of Morgantown, Monongalia County, West Virginia, and shown on Tax Map 32A, Parcel 1, being a part of the property conveyed to The City of Morgantown in a deed of record with the Office of the Clerk of Monongalia County at Deed Book 364, page 469 (the “Property”).

The right-of-way and easement shall encompass the following area (the “Easement Area”):

### 15’ Permanent Utility Easement

Beginning at an existing Mon Power utility pole bearing number H3-379 which bears, North 21 degrees 54 minutes 50 seconds West, a distance of 16.63 feet from a gate post found in the lands of N/F City of Morgantown (Tax Map 32A Parcel 1 Deed Book 364 Page 469);  
Thence, through said N/F City of Morgantown (Parcel 1) for thirteen (13) lines, North 35 degrees 41 minutes 45 seconds East, a distance of 19.96 feet to a proposed utility pole;  
Thence, North 65 degrees 28 minutes 50 seconds East, a distance of 16.73 feet to a point;  
Thence, North 52 degrees 57 minutes 17 seconds East, a distance of 12.70 feet to a point;  
Thence, North 41 degrees 14 minutes 39 seconds East, a distance of 10.95 feet to a point;  
Thence, North 22 degrees 10 minutes 30 seconds East, a distance of 27.34 feet to a point;  
Thence, North 04 degrees 06 minutes 16 seconds East, a distance of 227.72 feet to a point;  
Thence, North 08 degrees 22 minutes 49 seconds East, a distance of 107.99 feet to a point;  
Thence, North 09 degrees 12 minutes 03 seconds East, a distance of 58.40 feet to a point;  
Thence, North 19 degrees 33 minutes 32 seconds East, a distance of 7.50 feet to a point;  
Thence, North 19 degrees 32 minutes 38 seconds East, passing through a Proposed Underground Electric pull box at a distance of 7.50 feet for a total distance 19.96 feet to a point, said proposed

permanent utility easement width for this call is 15.00 feet left and 7.50 feet right for a total width of 22.50 feet;  
Thence, North 19 degrees 31 minutes 44 seconds East, a distance of 90.61 feet to a point;  
Thence, North 22 degrees 45 minutes 27 seconds East, a distance of 99.73 feet to a point;  
Thence, North 28 degrees 49 minutes 41 seconds East, a distance of 8.43 feet to a point on the CL of a Proposed 10' Permanent Utility Easement;  
Thence, leaving said CL of Proposed 10' Permanent Utility Easement and continuing through said N/F City of Morgantown (Parcel 1) for six (6) lines, North 28 degrees 52 minutes 23 seconds East, a distance of 88.04 feet to a point;  
Thence, North 32 degrees 02 minutes 40 seconds East, a distance of 28.45 feet to a point;  
Thence, North 42 degrees 34 minutes 25 seconds East, a distance of 17.62 feet to a point;  
Thence, North 51 degrees 03 minutes 10 seconds East, a distance of 15.04 feet to a point;  
Thence, North 58 degrees 15 minutes 53 seconds East, a distance of 23.33 feet to a point;  
Thence, North 59 degrees 45 minutes 20 seconds East, a distance of 320.22 to the Point of Terminus.

The Permanent Utility Easement shall be 15.00 feet in width, 7.50 feet on either side of the above described centerline unless otherwise noted having a total area of 0.42 acres more or less, as shown on an exhibit and made a part of this description.

### **10' Permanent Utility Easement**

Beginning at a point on a Proposed 15' Permanent Utility Easement which bears, North 14 degrees 06 minutes 06 seconds East, a distance of 698.39 feet from a gate post found in the lands of N/F City of Morgantown (Tax Map 32A Parcel 1 Deed Book 364 Page 469);  
Thence, leaving said Proposed 15' Permanent Utility Easement and through said N/F City of Morgantown (Parcel 1), South 61 degrees 07 minutes 51 seconds East, a distance of 70.37 feet to the Point of Terminus. The Point of Terminus will be at Frontier's existing pedestal labeled pedestal number 2347PEDH2.

The Permanent Utility Easement shall be 10.00 feet in width, 5.00 feet on either side of the above-described centerline having a total area of 629 square feet more or less, as shown on an exhibit and made a part of this description.

The location of said rights-of-way and easements are more particularly shown upon the drawing and description attached as **Exhibit 1** to this Agreement. There is also granted such reasonable temporary easements for construction and burial that may be needed by the GRANTEE, which temporary easements shall not interfere with airport operations and shall extend no further than thirty (30) feet on either side of the Easement Area.

For the consideration aforesaid, GRANTOR does now also hereby grant and convey unto the GRANTEE, its contractors, licensees, lessees, sublessees, successors and/or assigns, the right of ingress, egress, and regress to and from the Easement Area for the purposes described in this Agreement and subject to the conditions of this Agreement.

The facility(ies) and/or structure(s) shall be constructed, maintained, and repaired at GRANTEE's sole cost and expense.

The rights granted in this Agreement, and all entry upon the Easement Area and any work to construct, install, maintain, and/or repair the facility(ies) and/or structure(s) (the "Work"), shall be subject to the following conditions:

(a) all Work shall be performed by GRANTEE, or its contractors, licensees, lessees, sublessees, successors and/or assigns, as expeditiously as possible in accordance with good construction practices and so as to minimize interference with the use of the GRANTOR's property;

(b) any surface or subsurface damage to paved areas or other improvements in the GRANTOR's property caused in whole or in part by GRANTEE, or its contractors, licensees, lessees, sublessees, successors and/or assigns, in connection with the Work shall be promptly repaired by Grantee to a condition equal to that existing before any such Work or actions were undertaken, or as directed by the City Engineer; and

(c) Whenever entry onto GRANTOR's property is required for construction, maintenance, or repairs, GRANTEE, or its contractors, licensees, lessees, sublessees, successors and/or assigns, shall obtain approval from an authorized representative of GRANTOR prior to entry, and shall conduct such entry only at such times as permitted by Grantor, provided that GRANTOR shall exercise its best efforts to ensure prompt approval of entry and approval shall not be unreasonably withheld;

(d) GRANTOR will not be responsible for repair or replacement of any item or material placed in the property pursuant to this Agreement, or of any item relying upon materials or items placed in the property;

(e) In the event the property or work of GRANTEE would compromise the safety of life or property upon or adjacent to GRANTOR's property, at the direction of the City Engineer, GRANTEE shall promptly repair the condition compromising safety and restore the surface or subsurface damage to GRANTOR's property to a condition equal to that existing before any such Work or actions were undertaken.

(f) GRANTOR retains the right to fill, excavate, erect structures upon, and otherwise alter the ground and elevation thereof above GRANTEE's facilities placed pursuant to this easement and right-of-way agreement, and GRANTOR shall not be responsible for any costs incurred by GRANTEE as a result of such activities. Each and every obligation of GRANTEE to repair or restore property shall include the duty to restore the property to the elevation, contour, and condition of the property as it existed immediately prior to GRANTEE's Work, regardless of whether those conditions were the conditions in existence on the date of this Agreement;

(g) GRANTEE will place, replace, repair, maintain, and otherwise access all facilities authorized by this right-of-way and easement agreement by directional boring and will not perform excavation to access such facilities, subject only to the following exceptions:

(1) placement of the aboveground pole and placement or repair of lines or wires that may be attached thereto;

;

(2) upon prior written approval of GRANTOR to access facilities by excavation or other means.

(h) If requested by GRANTOR, GRANTEE shall relocate said facilities to a mutually agreeable location on GRANTOR's lands, at GRANTEE's expense, when determined necessary by GRANTOR in connection with maintenance or improvements to GRANTOR's property. If GRANTOR requires that relocation will occur outside the Easement Area, the parties will enter into a separate agreement providing for dedication of the new easement area and abandonment of the easement where facilities will no longer be located.

(i) GRANTEE shall name GRANTOR as an additional insured on its commercial general liability insurance policy covering the Work and with limits of \$1,000,000 per occurrence and \$2,000,000 annual aggregate and shall provide evidence of the same upon demand by Grantor.

GRANTEE and its successor and assigns do hereby agree to defend, indemnify, hold harmless, and release the City from any and all claims, demands, lawsuits, or liability in any way related to the use of the right-of-way and easement granted in this Agreement, including without limitation the conduct of the Work and the function of any structure(s) placed in the easement area, except for claims based only upon the negligence of GRANTOR, others acting on GRANTOR's behalf, or causes outside of the control of Grantee.

(j) Upon either the removal of the subsurface structure(s) placed in the easement area or the cessation of use of such structure(s) for a period of 6 months, the easement to GRANTEE and its successors and assigns shall terminate, and no additional or other use of the easement area will be permitted; provided, however, that the defense and indemnity obligations of GRANTEE and its successors and assigns shall survive the termination of the easement.

This right-of-way and easement is subject to all exceptions, reservations, conditions, restrictions, easements, protective and restrictive covenants, and rights-of-way of record in the Office of the Clerk of Monongalia County, West Virginia or capable of observation affecting the Property. This right-of-way and easement is subject to all rules and regulations of, and obligations to, the Federal Aviation Administration, including without limiting the generality of the foregoing the "Master Agreement on Terms and Conditions of Accepting Airport Improvement Program Grants" issued by the Federal Aviation Administration, as it may be amended, revised, renamed, or restated.

This Agreement shall be binding upon the parties and their respective successors and/or assigns. The rights of way and easements granted herein shall be appurtenant to and run with the land thereby benefited and burdened.

This Agreement may be executed in multiple counterparts, each of which shall, for all purposes, be deemed an original and all of which, taken together, shall constitute one and the same agreement.

#### **DECLARATION OF CONSIDERATION**

Under the penalties of fine and imprisonment as provided by law, the undersigned hereby declares that the transfer involved in the document to which this Declaration is appended is a transfer to or from the State of West Virginia, or to or from any of its instrumentalities, agencies or political subdivisions, and therefore is not subject to West Virginia excise tax and is exempt

under the provisions of Chapter 11, Article 22, Section 1 of the West Virginia Code, 1931, as amended.

WITNESS the following signature and seal:

**THE CITY OF MORGANTOWN, West Virginia,**  
a municipal corporation

By: \_\_\_\_\_  
Paul J. Brake, ICMA-CM, C. Ec. D.  
Its: City Manager

STATE OF WEST VIRGINIA  
COUNTY OF MONONGALIA, TO-WIT:

The undersigned, a Notary Public in and for the County and State aforesaid, does hereby CERTIFY that Paul Brake, The City Manager of City of Morgantown, West Virginia, a municipal corporation, whose name is signed to the foregoing agreement, has this day sworn to, affirmed, subscribed and acknowledged the same before me in said County, as the free act and deed of said corporation, upon authority duly granted.

Given under my hand this \_\_\_\_ day of \_\_\_\_\_, 2020.

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

{SEAL}

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

Prepared without title examination on behalf of Grantor by Ryan Simonton, Kay Casto & Chaney, PLLC, 1085 Van Voorhis Rd., Suite 100, Morgantown, WV 26505.



**DESCRIPTION OF EASEMENTS**  
showing  
**PROPOSED PERMANENT UTILITY EASEMENTS**  
for  
**FIRST ENERGY CORPORATION**

A CERTAIN EASEMENT SITUATE ALONG UNITED STATES ROUTE 119, MORGANTOWN 6<sup>TH</sup> WARD DISTRICT, CITY OF MORGANTOWN, MONONGALIA COUNTY, WEST VIRGINIA, BEING MORE PARTICULARLY BOUNDED AND DESCRIBED AS FOLLOWS:

**15' Permanent Utility Easement**

**Beginning** at a an existing Mon Power utility pole bearing number H3-379 which bears, North 21 degrees 54 minutes 50 seconds West, a distance of 16.63 feet from a gate post found in the lands of N/F City of Morgantown (Tax Map 32A Parcel 1 Deed Book 364 Page 469);

**Thence**, through said N/F City of Morgantown (Parcel 1) for thirteen (13) lines, North 35 degrees 41 minutes 45 seconds East, a distance of 19.96 feet to a proposed utility pole;

**Thence**, North 65 degrees 28 minutes 50 seconds East, a distance of 16.73 feet to a point;

**Thence**, North 52 degrees 57 minutes 17 seconds East, a distance of 12.70 feet to a point;

**Thence**, North 41 degrees 14 minutes 39 seconds East, a distance of 10.95 feet to a point;

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**Thence**, North 09 degrees 12 minutes 03 seconds East, a distance of 58.40 feet to a point;

**Thence**, North 19 degrees 33 minutes 32 seconds East, a distance of 7.50 feet to a point;

**Thence**, North 19 degrees 32 minutes 38 seconds East, passing through a Proposed Underground Electric pull box at a distance of 7.50 feet for a total distance 19.96 feet to a point, said proposed permanent utility easement width for this call is 15.00 feet left and 7.50 feet right for a total width of 22.50 feet;

**Thence**, North 19 degrees 31 minutes 44 seconds East, a distance of 90.61 feet to a point;

**Thence**, North 22 degrees 45 minutes 27 seconds East, a distance of 99.73 feet to a point;

**Thence**, North 28 degrees 49 minutes 41 seconds East, a distance of 8.43 feet to a point on the CL of a Proposed 10' Permanent Utility Easement;

R:\050-7040 - MORGANTOWN MUNICIPAL AIRPORT - FIRST ENERGY\Survey\EASEMENT DESCRIPTION.doc

**Thence**, leaving said CL of Proposed 10' Permanent Utility Easement and continuing through said N/F City of Morgantown (Parcel 1) for six (6) lines, North 28 degrees 52 minutes 23 seconds East, a distance of 88.04 feet to a point;

**Thence**, North 32 degrees 02 minutes 40 seconds East, a distance of 28.45 feet to a point;

**Thence**, North 42 degrees 34 minutes 25 seconds East, a distance of 17.62 feet to a point;

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**Thence**, leaving said Proposed 15' Permanent Utility Easement and through said N/F City of Morgantown (Parcel 1), South 61 degrees 07 minutes 51 seconds East, a distance of 70.37 feet to the Point of Terminus.

The Permanent Utility Easement shall be 10.00 feet in width, 5.00 feet on either side of the above-described centerline having a total area of 629 square feet more or less, as shown on a exhibit and made a part of this description.

## FAA 1A SURVEY CERTIFICATION

**Applicant:** First Energy Corporation

**Site Address:** 230-76 Co Rd 857  
Morgantown, WV 26505

**Structure Type:**  Proposed Pole  
 Existing Pole  
 Roof Top  
 Water Tank  
 Other \_\_\_\_\_

**Geographic Location**

**NAD83 Latitude:** 39° 38' 59.60" North  
**NAD83 Longitude:** 79° 55' 14.91" West  
**NAVD88 Elevation:** 1233.08 feet @ ground

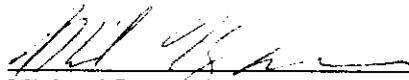
**Pole Details**

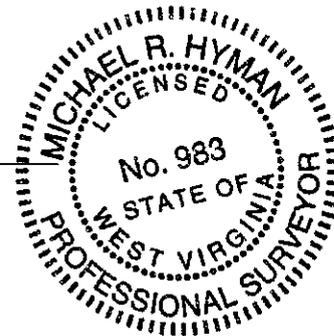
Proposed Pole:

Feature	Height of Pole	Elevation (AMSL)
Top of Pole	39'	1272.08'

**Certification:** I certify that the geographic location of the proposed pole shown above was determined using GPS VRS observations and is accurate to within  $\pm$  20.0' horizontal and  $\pm$  3.0' vertical.

**Signature:**

  
Michael R. Hyman, PS 983



**Thrasher Group Project:** 101-050-7040  
**Date Field Work:** April 18, 2019

## AN ORDINANCE AMENDING ARTICLE 545 REGULATING WEAPONS

WHEREAS, the West Virginia state legislature passed, and the Governor of West Virginia signed, 2020 Senate Bill 96, effective June 2, 2020, which limits the authority of municipalities to regulate deadly weapons within their boundaries; and

WHEREAS, the West Virginia state legislature passed, and the Governor of West Virginia signed, 2020 House Bill 4618, effective June 3, 2020, amending the limitations on sale of deadly weapons and accordingly limiting, in conjunction with Senate Bill 96, the manner in which municipalities may limit the sale of deadly weapons; and

WHEREAS, the current Article 545 contains limitations on the carrying or use of deadly weapons that are preempted by the adoption of Senate Bill 96 and House Bill 4618 and require amendment to remain consistent with state law;

NOW, THEREFORE, The City of Morgantown hereby ordains that Article 545 is amended as follows:

### 545.01 DEFINITIONS.

As used in this article, ~~unless the context otherwise requires~~ the following terms shall have the meanings given, which shall be consistent with the definitions established by West Virginia Code Section 61-7-2 and 61A-1-101:

- ~~(a) "Blackjack" means a short bludgeon consisting, at the striking end, of an encased piece of lead or some other heavy substance and, at the handle end, a strap or springy shaft which increases the force of impact when a person or object is struck. "Blackjack" includes, but is not limited to, a billy, billy club, sand club, sandbag or slapjack.~~
- ~~(b) "Gravity knife" means any knife that has a blade released from the handle by the force of gravity or the application of centrifugal force, and when so released is locked in place by means of a button, spring, lever or other locking or catching device.~~
- ~~(c) "Knife" means an instrument, intended to be used or readily adaptable to be used as a weapon, consisting of a sharp edged or sharp pointed blade, usually made of steel, attached to a handle, which is capable of inflicting cutting, stabbing or tearing wounds. "Knife" includes, but is not limited to, any dagger, dirk, poniard or stiletto with a blade over three and one half inches in length, any switchblade knife or gravity knife, and any other instrument capable of inflicting cutting, stabbing or tearing wounds. A pocket knife with a blade three and one half inches or less in length, a hunting or fishing knife carried for hunting, fishing,~~

sports or other recreational uses, or a knife designed for use as a tool or household implement shall not be included within the term "knife" as defined herein, unless such knife is knowingly used or intended to be used to produce serious bodily injury or death.

- ~~—(d) "Switchblade knife" means any knife having a spring-operated blade which opens automatically upon pressure being applied to a button, catch or other releasing device in its handle.~~
- ~~—(e) "Nunchuka" means a flailing instrument consisting of two or more rigid parts, connected by a chain, cable, rope or other nonrigid, flexible or springy material, constructed in such a manner as to allow the rigid parts to swing freely, so that one rigid part may be used as a handle and the other rigid part may be used as the striking end.~~
- ~~—(f) "Metallic or false knuckles" means a set of finger rings attached to a transverse piece, to be worn over the front of the hand for use as a weapon, and constructed in such a manner that, when striking another person with the fist or closed hand, considerable physical damage may be inflicted upon the person struck. The term "metallic or false knuckles" includes any such instrument, without reference to the metal or other substance or substances from which the metallic or false knuckles are made.~~
- ~~—(g) "Pistol" means a short firearm having a chamber which is integral with the barrel, designed to be aimed and fired by the use of a single hand.~~
- ~~—(h) "Revolver" means a short firearm having a cylinder of several chambers that are brought successively into line with the barrel to be discharged, designed to be aimed and fired by the use of a single hand.~~
- ~~—(i) "Deadly weapon" means an instrument which is designed to be used to produce serious bodily injury or death, or is readily adaptable to such use. The term "deadly weapon" includes, but is not limited to, the instruments defined in subsections (a) to (h) hereof inclusive, or other deadly weapons of like kind or character which may be easily concealed on or about the person. For the purposes of West Virginia Code 18-3-1a and 61-7-11a, in addition to the definition of "knife" set forth in subsection (c) hereof, "deadly weapon" also includes any instrument included within the definition of "knife" with a blade of three and one-half inches or less in length. Additionally, for the purposes of West Virginia Code 18-3-1a and 61-7-11a, "deadly weapon" includes explosives, chemical, biological and radiological materials. Notwithstanding any other provision of this section, the term "deadly weapon" does not include any item or material owned by the school or county board, intended for curricular use, and used by the student at the time of the alleged offense solely for curricular purposes.~~
- ~~—(j) "Concealed" means hidden from ordinary observation so as to prevent disclosure or recognition. A deadly weapon is concealed when it is carried on or about the person in such a manner that another person in the ordinary course of events would not be placed on notice that the deadly weapon was being carried. For purposes of concealed handgun licensees, a licensee shall be deemed to be carrying on or about his or her person while in or on a motor vehicle if the firearm is located in a storage area in or on the motor vehicle.~~
- ~~—(k) "Firearm" means any weapon which will expel a projectile by action of an explosion.~~
- ~~—(l) "Controlled substance" has the same meaning as is ascribed to that term in West Virginia~~

Code 61A-1-101(d).

~~(m) "Drug" has the same meaning as is ascribed to that term in West Virginia Code 61A-1-101(l). (WVaC 61-7-2)~~

(a) Controlled Substance - a drug, substance or immediate precursor in Schedules I through V of article two of Chapter 60A of the West Virginia Code.

(b) Deadly Weapon – an instrument which is designed to be used to produce serious bodily injury or death or is readily adaptable to such use. The term Deadly Weapon includes, but is not limited to, the instruments defined in subdivisions (1) through (8), inclusive, of this Paragraph (b) or other deadly weapons of like kind or character which may be easily concealed on or about the person. The term Deadly Weapon does not include pepper spray as defined in this section when used by any person over the age of 16 solely for self-defense purposes. The following instruments are deadly weapons:

(1) Blackjack – a short bludgeon consisting, at the striking end, of an encased piece of lead or some other heavy substance and, at the handle end, a strap or springy shaft which increases the force of impact when a person or object is struck. The term “blackjack” includes, but is not limited to, a billy, billy club, sand club, sandbag, or slapjack.

(2) Gravity Knife – any knife that has a blade released from the handle by the force of gravity or the application of centrifugal force and when so released is locked in place by means of a button, spring, lever, or other locking or catching device.

(3) Knife – an instrument, intended to be used or readily adaptable to be used as a weapon, consisting of a sharp-edged or sharp-pointed blade, usually made of steel, attached to a handle which is capable of inflicting cutting, stabbing, or tearing wounds. The term “knife” includes, but is not limited to, any dagger, dirk, poniard, or stiletto, with a blade over three and one-half inches in length, any switchblade knife or gravity knife, and any other instrument capable of inflicting cutting, stabbing, or tearing wounds. A pocket knife with a blade three and one-half inches or less in length, a hunting or fishing knife carried for hunting, fishing, sports, or other recreational uses, or a knife designed for use as a tool or household implement is not included within the term “knife” as defined in this subsection unless the knife is knowingly used or intended to be used to produce serious bodily injury or death.

(4) Switchblade knife – any knife having a spring-operated blade which opens automatically upon pressure being applied to a button, catch, or other releasing device in its handle.

(5) Nunchaku – a flailing instrument consisting of two or more rigid parts, connected by a chain, cable, rope, or other nonrigid, flexible, or springy material, constructed in such a manner as to allow the rigid parts to swing freely so that one rigid part may be used as a handle and the other rigid part may be used as the striking end.

(6) Metallic or false knuckles – a set of finger rings attached to a transverse piece to be worn over the front of the hand for use as a weapon and constructed in such a manner that, when striking another person with the fist or closed hand, considerable physical damage may be inflicted upon the person struck. The

terms “metallic or false knuckles” includes any such instrument without reference to the metal or other substance or substances from which the metallic or false knuckles are made.

(7) Pistol – means a short firearm having a chamber which is integral with the barrel, designed to be aimed and fired by the use of a single hand.

(8) Revolver – means a short firearm having a cylinder of several chambers that are brought successively into line with the barrel to be discharged, designed to be aimed and fired by the use of a single hand.

(c) Drug – (1) Substances recognized as drugs in the official “United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States or official National Formulary”, or any supplement to any of them; (2) substances intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or animals; (3) substances (other than food) intended to affect the structure or any function of the body of man or animals; and (4) substances intended for use as a component of any article specified in subdivision (1), (2) or (3) of this subdivision. It does not include devices or their components, parts or accessories.

(d) Firearm – any weapon which will expel a projectile by action of an explosion.

(e) Pepper Spray - a temporarily disabling aerosol that is composed partly of capsicum oleoresin and causes irritation, blinding of the eyes, and inflammation of the nose, throat, and skin that is intended for self-defense use.

#### **545.02 CARRYING CONCEALED DEADLY WEAPONS WITHOUT LICENSE.**

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

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

#### **545.03 EXCEPTIONS AS TO PROHIBITIONS AGAINST CARRYING CONCEALED DEADLY WEAPONS.**

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

(1) Any person at least eighteen years of age and fewer than twenty-one years of age who is:

A. Carrying a deadly weapon upon his or her own premises;

B. Carrying a firearm, unloaded, from the place of purchase to his or her home, residence or place of business or to a place of repair and back to his or her home, residence or place of business; or

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

D. A member of a properly organized target-shooting club authorized by law to obtain firearms by purchase or requisition from this State or from the United States for the purpose of target practice from carrying any pistol, as defined in this

article, unloaded, from his or her home, residence or place of business to a place of target practice and from any place of target practice back to his or her home, residence or place of business, for using any such weapon at a place of target practice in training and improving his or her skill in the use of the weapons;

- E. A law-enforcement officer or law-enforcement official or chief executive as defined in West Virginia Code 30-29-1;
- F. An employee of the West Virginia Division of Corrections, duly appointed pursuant to the provisions of West Virginia Code 25-1- 11c while the employee is on duty;
- G. A member of the United States armed forces, reserve or National Guard;
- H. A resident of another state who holds a valid permit or license to possess or carry a handgun issued by a state or a political subdivision subject to the provisions and limitations set forth in West Virginia Code 61-7-6a;
- I. A federal law-enforcement officer or federal police officer authorized to carry a weapon in the performance of the officer's duty;
- J. A parole officer appointed pursuant to West Virginia Code 62-12- 14 in the performance of his or her duties.

(b) The following judicial officers and prosecutors are exempt from paying any application fees or licensure fees required under West Virginia Code Article 61-7. However, they shall make application and satisfy all licensure and handgun safety and training requirements to obtain a license as set forth in West Virginia Code 61-7-4:

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

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

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

- (1) Has been convicted in any court of a crime punishable by imprisonment for a term exceeding one year;
- (2) Is habitually addicted to alcohol;
- (3) Is an unlawful user of or habitually addicted to any controlled substance;
- (4) Has been adjudicated to be mentally incompetent or who has been involuntarily committed to a mental institution pursuant to the provisions of West Virginia Code Chapter twenty-seven or in similar law of another jurisdiction: provided, that once an individual has been adjudicated as a mental defective or involuntarily committed to a mental institution, he or

she shall be duly notified that they are to immediately surrender any firearms in their ownership or possession; provided, however, that the Mental Hygiene Commissioner or Circuit Judge shall first make a determination of the appropriate public or private individual or entity to act as conservator for the surrendered property;

- (5) Is an alien illegally or unlawfully in the United States;
  - (6) Has been discharged from the armed forces under dishonorable conditions;
  - (7) Is subject to a domestic violence protective order that:
    - A. Was issued after a hearing of which such person received actual notice and at which such person had an opportunity to participate;
    - B. Restrains such person from harassing, stalking or threatening an intimate partner of such person or child of such intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child; and
    - C.
      1. Includes a finding that such person represents a credible threat to the physical safety of such intimate partner or child; or
      2. By its terms explicitly prohibits the use, attempted use or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury; or
  - (8) Has been convicted of a misdemeanor offense of assault or battery either under the provisions of West Virginia Code 61-2-28, or the provisions of West Virginia Code 61-2-9(a) or (b), or a federal or state statute with the same essential elements in which the victim was a current or former spouse, current or former sexual or intimate partner, person with whom the defendant has a child in common, person with whom the defendant cohabits or has cohabited, a parent or guardian, the defendant's child or ward or a member of the defendant's household at the time of the offense or has been convicted in any court of any jurisdiction of a comparable misdemeanor crime of domestic violence.
- (b) Any person may carry a concealed deadly weapon without a license therefor who is:
- (1) At least twenty-one years of age;
  - (2) A United States citizen or legal resident thereof;
  - (3) Not prohibited from possessing a firearm under the provisions of this Article 545 or West Virginia Code 61-7-7; and
  - (4) Not prohibited from possessing a firearm under the provisions of 18 U.S.C. § 922(g) or (n).
- (c) Any person prohibited from possessing a firearm by the provisions of subsection (a) of this section may petition the circuit court of the county in which he or she resides to regain the ability to possess a firearm and if the court finds by clear and convincing evidence that the person is competent and capable of exercising the responsibility concomitant with the possession of a firearm, the court may enter an order allowing the person to possess a firearm if such possession would not violate any federal law: provided, that a person prohibited from possessing a firearm by the provisions of subsection (a)(4) of this section may petition to regain the ability to possess a firearm in accordance with West Virginia Code 61-7A-5.
- (d) Any person who has been convicted of an offense which disqualifies him or her from possessing a firearm by virtue of a criminal conviction whose conviction was expunged or set

aside or who subsequent thereto receives an unconditional pardon for said offense shall not be prohibited from possessing a firearm by the provisions of the section.

#### **545.05 POSSESSION OF DEADLY WEAPONS BY MINORS PROHIBITED.**

(a) Notwithstanding any other provision of this article to the contrary, a person under the age of eighteen years who is not married or otherwise emancipated shall not possess or carry concealed or openly any deadly weapon: provided, that a minor may possess a firearm upon premises owned by such minor or his family or on the premises of another with the permission of his or her parent or guardian and in the case of property other than his or her own or that of his family, with the permission of the owner or lessee of such property. Nothing in this section shall prohibit a minor from possessing a firearm while hunting in a lawful manner or while traveling from a place where he or she may lawfully possess a deadly weapon, to a hunting site, and returning to a place where he or she may lawfully possess such weapon.

(b) A violation of this section by a person under the age of eighteen years shall subject the child to the jurisdiction of the circuit court under the provisions of West Virginia Code 49-5-1 et seq., and such minor may be proceeded against in the same manner as if he or she had committed an act which if committed by an adult would be a crime, and may be adjudicated delinquent.

#### **545.06 POSSESSION OF MACHINE GUNS.**

No person shall carry, transport or have in his possession, any machine gun, submachine gun or any other fully automatic weapon unless he or she has fully complied with applicable Federal statutes and all applicable rules and regulations of the Secretary of the Treasury of the United States relating to such firearms.

#### **545.07 DISPLAY OR SALE OF DEADLY WEAPONS.**

~~No person shall publicly display and offer for rent or sale, or, where the person is other than a natural person, knowingly permit an employee thereof to publicly display and offer for rent or sale, to any passersby on any street, road or alley, any deadly weapon, machine gun, submachine gun or other fully automatic weapon, any rifle, shotgun or ammunition for same.~~

A person may not knowingly sell, rent, give or lend, or, where the person is other than a natural person, knowingly permit an employee thereof to knowingly sell, rent, give or lend, any deadly weapon other than a firearm to a person prohibited from possessing a deadly weapon other than a firearm by any provision of West Virginia Code Chapter 61, Article 7.

#### **545.08 BRANDISHING DEADLY WEAPONS.**

No person armed with a firearm or other deadly weapon, whether licensed to carry the same or not, shall carry, brandish or use such weapon in a way or manner to cause, or threaten, a breach of the peace.

#### **545.09 POSSESSING DEADLY WEAPONS ON PREMISES OF EDUCATIONAL FACILITIES.**

(EDITOR'S NOTE: Former Section 545.09 which was derived from West Virginia Code 61-7-11a is no longer included in the Codified Ordinances. By Acts 1995 Chapter 90, the West Virginia Legislature reclassified such offense as a felony. Charges for possessing deadly weapons on premises of educational facilities should now be filed under state law.)

### **545.10 FIREWORKS.**

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

(b) Definitions. As used in this section:

- (1) "Agricultural and wildlife fireworks" means fireworks devices distributed to farmers, ranchers and growers through a wildlife management program administered by the United States Department of the Interior or the Division of Natural Resources of this state;
- (2) "Amusement park" means any person or organization which holds a permit for the operation of an amusement ride or amusement attraction under article ten, chapter twenty-one of the West Virginia Code;
- (3) "APA Standard 87-1" means the APA Standard 87-1 published by the American Pyrotechnics Association, as amended, and incorporated by reference into Title 49 of the Code of Federal Regulations;
- (4) "Articles pyrotechnic" means pyrotechnic devices for professional use that are similar to consumer fireworks in chemical composition and construction but not intended for consumer use, that meet the weight limits for consumer fireworks but are not labeled as such, and that are classified as UN0431 or UN0432 under 49 C.F.R. §172.101 (2014);
- (5) "Consumer fireworks" means small fireworks devices that are designed to produce visible effects by combustion that are required to comply with the construction, chemical composition and labeling regulations promulgated by the United State Consumer Product Safety Commission under 16 C.F.R. Parts 1500 and 1507 (2014). and that are listed in APA Standard 87-1. Consumer fireworks do not include sparkling devices, novelties, toy caps or model rockets;
- (6) "Consumer fireworks certificate" means a certificate issued under section four of West Virginia Code Chapter 29, Article 3E;
- (7) "Display fireworks" means large fireworks to be used solely by professional pyrotechnicians licensed by the State Fire Marshal and designed primarily to produce visible or audible effects by combustion, deflagration or detonation and includes, but is not limited to, salutes containing more than two grains (one hundred thirty milligrams) of explosive materials, aerial shells containing more than forty grams of pyrotechnic composition and other display pieces that exceed the limits of explosive materials for classification as consumer fireworks and are classified as fireworks UN0333, UN0334, or UN0335 under 49 C.F.R. §172.101 (2014);
- (8) "Distributor" means a person who sells fireworks to wholesalers and

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

compounds capable of burning independently of the oxygen of the atmosphere and designed and intended to produce an audible, visual, mechanical or thermal effect as an integral part of a motion picture, radio, television, theatrical or opera production or live entertainment;

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

(28) "Toy caps" means that term as defined under APA 87-L section 3.3: and

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

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

(d) Requirements for a Retailer of Consumer Fireworks.

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

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

A. Submit an application to the State Fire Marshal;

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

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

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

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

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

(4) A consumer fireworks certificate is not transferable.

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

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

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

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

(e) Requirements for a Public Fireworks Display.

(1) Any municipality, county, fair association, amusement park or other

organization shall have a permit to present a public display of fireworks from the State Fire Marshall.

- (2) To receive a permit, a municipality, fair association, amusement park, and other organization shall:
  - A. Submit an application to the State Fire Marshal;
  - B. Pay the required fee, not to exceed \$50.00;
  - C. Furnish proof of financial responsibility to satisfy claims for damages to property or personal injuries arising out of any act or omission on the part of the party seeking the permit or an employee thereof, in the amount, character and form as the State Fire Marshal determines to be necessary for the protection of the public; and
  - D. Provide any other information a the State Fire Marshal may require by legislative rule.
- (3) The State Fire Marshal shall require the municipality, county, fair association, amusement park and other organizations to give written notice to the local police and fire authorities at least five days prior to the display for which the permit is sought.
- (4) A permit is not transferable.
- (5) The display shall be operated by a competent operator licensed or certified as to competency by the State Fire Marshal and shall be of such composition, character, and so located, discharged or fired so as to be safe in the opinion of the Chief of the Morgantown Fire Department.
- (6) The permittee shall require a bond from the licensee in a sum not less than \$1,000 conditioned on compliance with the provision of the West Virginia Code Chapter 29, Article 3E and the rules of the State Fire Marshal except where the licensee is an insured government entity.

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

- (1) The use of fireworks by railroads or other transportation agencies for signaling purposes or illumination;
- (2) The use of agricultural and wildlife fireworks;
- (3) The sale or use of blank cartridges for a theatrical performance, use by military organization or signal or ceremonial purposes in athletics or sports; or
- (4) The possession, sale or disposal of fireworks incidental to the public display of fireworks by wholesalers or other persons who have a permit to possess, store and sell explosives from the Bureau of Alcohol, Tobacco, Firearms, and Explosives of the United States Department of Justice and the State Fire Marshal.

(g) Regulation of Consumer Fireworks. The use of consumer fireworks is prohibited within the City.

(h) Violations of this Section; Penalties. In addition to the regulations provided in subsection (g) above, the following acts constitute a violation of this section:

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

- (2) A person may not intentionally ignite or discharge any consumer fireworks or sparkling devices within or throw the same from a motor vehicle or building.
- (3) A person may not intentionally ignite or discharge any consumer firework or sparkling devices into or at a motor vehicle or building, or at any person or group of people.
- (4) A person may not intentionally ignite or discharge any consumer fireworks or sparkling devices while the person:
  - A. Is under the influence of alcohol;
  - B. Is under the influence of any controlled substance;
  - C. Is under the influence of any other drug; or
  - D. Is under the combined influence of alcohol and any controlled substance or any other drug.
- (5) A person who is less than sixteen years of age may not purchase, nor offer for sale, consumer fireworks.

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

**545.11 DISCHARGING FIREARMS.**

(a) No person shall discharge any air gun, rifle, shotgun, revolver, pistol or other firearm within the corporate limits of the Municipality.

(b) This section does not apply when firearms are used in self-defense, in the discharge of official duty, which shall include wildlife management control at the Morgantown Municipal Airport as mandated by the Federal Aviation Administration, or when otherwise lawfully authorized.

**545.12 THROWING OR SHOOTING MISSILES.**

No person shall throw, shoot or propel an arrow, missile, pellet, stone, metal or other similar substance capable of causing physical harm to persons or property, in or on any public place, in or on the property of another, or from any private property into or onto any public place or the property of another. This section does not apply to supervised archery ranges or instruction nor when otherwise lawfully authorized.

**~~545.13 AIR GUNS AND SPRING GUNS.~~**

~~—(a) Definitions; Declared Illegal. "Air rifle", "air pistol" or "air gun" as mentioned in this section shall include any instrument or device for impelling with force any pellet, shell, ball or cartridge which will eject the same from such rifle, pistol or gun with sufficient force to carry the same for a distance of at least ten feet. The terms "similar instrument", "weapon" or "device", as used herein means any spring, rubber or mechanical device which creates sufficient force to carry any pellet, shell, ball or cartridge for a distance of at least ten feet. Any of the above instruments, weapons, rifles, pistols, guns or devices shall be illegal whether such force is produced by spring, air, rubber mechanism, mechanical devices or other means or methods producing sufficient pressure or force to eject any pellet, shell, ball or cartridge for a distance of ten feet from any such air rifle, air pistol, air gun or any other instrument, weapon or device.~~

~~—(b) Possession, Sale or Discharge. No person shall sell, offer for sale, display for sale or give to any other person any air rifle, air pistol, air gun, spring gun or similar instrument, weapon or device, or any other implement, instrument or device in which the propelling force is spring or air, or likewise any BB shots or other ammunition used, or intended to be used, therein or therefor. No person shall have any such instrument, weapon or device or BB shots in his possession or to use, discharge, shoot or fire the same within the City.~~

~~—(c) Seizure. Any police officer of the City is hereby authorized to seize, remove and destroy any air rifle, air pistol, air gun or any other instrument, weapon or device, not a firearm, which impels with force a pellet of any kind, and which may be used, discharged, shot or fired within the City, or which may be sold, offered or exposed for sale therein, or which may be found to be in the possession of any person within the City. Likewise, any police officer is hereby authorized to remove any BB shots or ammunition for such instrument, weapon or device sold, offered or exposed for sale, or found or kept, within the City.~~

#### **~~545.14 SALE OF DANGEROUS WEAPONS.~~**

~~—(a) License Required. No person shall sell, offer for sale, display, rent or exchange any dangerous or deadly weapons, including but not by way of limitation, any revolver, pistol, dirk, bowie knife, sling shot, billies, metallic or false knuckles or other weapons of like kind within the City without first obtaining a license to engage in any such business. (1967 Code Sec. 31-8.)~~

~~—(b) Application. Any person desiring to obtain a license as required by subsection (a) hereof, shall apply to the Finance Director for such license upon an application form provided by the Finance Director, which form shall provide the following information:~~

- ~~—(1) Name of business;~~
- ~~—(2) Location of business;~~
- ~~—(3) Ownership of business;~~
- ~~—(4) Types of weapons to be sold;~~
- ~~—(5) Convictions of any felony or misdemeanor;~~
- ~~—(6) Such other information as the Finance Director may reasonably require.~~

~~—(c) Fee; License Year. The annual license fee for the license required by subsection (a) hereof shall be one dollar (\$1.00) and the license year shall begin on July 1 of each year.~~

~~—(d) Transferability. No license as required by subsection (a) hereof shall be transferable from one person to another or from one business location to another.~~

~~—(e) Display. The license required by subsection (a) hereof shall be prominently displayed at all times within the business location for which it was issued.~~

~~—(f) Records and Reports. Every person licensed under this section and engaged in the sale, rental or exchange of any weapon described in this section shall keep a record of each such weapon purchased, sold, rented or exchanged at retail. The record so required shall be made at the time of the transaction in a book kept for that purpose and shall include the name of the person to whom such weapon is sold or from whom such weapon is purchased; his age, physical~~

~~description, occupation and address; the make, caliber and finish of the firearm, together with the serial number thereof; or other appropriate description of the weapon; the date of the purchase, sale, rental or exchange of such weapon; and name of the employee or person making such sale, rental or exchange.~~

~~In addition to the foregoing record every such licensed person or dealer shall deliver daily reports to the Chief of Police of the City of every such purchase, sale, loan or exchange. Such report shall be on forms provided by the Police Department and shall set forth the name, age, address, physical description and occupation of the person to whom or from whom such gun, pistol, firearm or other deadly weapon has been purchased, sold, loaned or given and together therewith the make of such weapon, caliber, manufacturer's serial number or other appropriate description of such weapon.~~

#### **~~545.15 SALE TO INTOXICATED PERSONS; MINORS.~~**

~~No person or dealer licensed under this article shall sell, loan or furnish any of the dangerous or deadly weapons mentioned and described in this article to any person under the influence of alcohol, or any narcotic drug, stimulant or depressant, or to any person in a condition of agitation and excitability, or to a minor under the age of eighteen years or to an unnaturalized person.~~

#### **~~545.16 SWITCH-BLADE KNIVES.~~**

~~No person shall have in his possession, wear under his clothing or conceal about his person, or display in a threatening manner any knife commonly called "switchblade" having the appearance of a pocket knife, the blade of which can be opened by a flick of a button, pressure on the handle or other mechanical device. Such knife is hereby declared to be a dangerous and deadly weapon and shall be subject to forfeiture to the City as provided by Section 545.17.~~

#### **~~545.17 FORFEITURE OF WEAPONS INVOLVED IN VIOLATION OF ARTICLE.~~**

~~Whoever is convicted of violating this article shall forfeit to the City any dangerous or deadly weapon involved in or constituting such violation. Every police officer, upon making any arrest and taking a weapon used in a violation of this article, shall deliver the same to the Police Judge of the City to be held by him until the final determination of the prosecution for such offense, and upon a finding of guilt it shall then be the duty of the Police Judge to deliver such weapon forthwith to the Chief of Police of the City, who shall make proper disposition of the same by destruction or otherwise.~~

#### **545.18 LIMITATIONS ON POSSESSING OR CARRYING FIREARM, DEADLY WEAPON, OR PEPPER SPRAY ON MUNICIPAL PROPERTY.**

(a) Definitions. For the purposes of this section:

- (1) "Municipally owned or operated building" means any building that is used for the business of the municipality, such as a city hall, convention center, administrative building or other similar municipal building used for a municipal purpose permitted by State law: Provided, that "municipally owned or operated building" does not include a building owned by a municipality that is leased to a private entity where the municipality primarily serves as a property owner receiving rental payments, nor any

“Municipally owned recreation facility” as defined by West Virginia Code section 8-12-5a;

- (2) “Municipally owned recreation facility” means any municipal swimming pool, recreation center, sports facility, facility housing an after-school program or other similar facility where children are regularly present.
- (3) “Qualified retired law enforcement officer” means an individual who:
  - (A) Separated from service in good standing from service with a public agency as a law enforcement officer; and
  - (B) Before such separation, was authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of, or the incarceration of any person for, any violation of law, and had statutory powers of arrest or apprehension under section 807(b) of title 10, United States Code; and
  - (C) Either:
    - (i) before such separation, served as a law enforcement officer for an aggregate of 10 years or more; or
    - (ii) separated from service with such agency, after completing any applicable probationary period of such service, due to a service-connected disability, as determined by such agency; and
  - (D) During the most recent 12-month period, has met, at the expense of the individual, the standards for qualification in firearms training for active law enforcement officers, as determined by the former agency of the individual, the State in which the individual resides, or, if the state has not established such standards, either a law enforcement agency within the State in which the individual resides or the standards used by a certified firearms instructor that is qualified to conduct a firearms qualification test for active duty officers within that State; and
  - (E) Has neither been officially found by a qualified medical professional employed by the applicable agency to be unqualified for reasons relating to mental health nor entered into an agreement with the agency from which the individual is separating from service in which that individual acknowledges he or she is not qualified for reasons relating to mental health; and
  - (F) Is not under the influence of alcohol or another intoxicating or hallucinatory drug or substance; and
  - (G) Is not prohibited by federal law from receiving a firearm; and
  - (H) Is in possession of the photographic identification required by United States Code Title 18, section 926C.

Provided, that this Paragraph (3) is intended to permit Qualified Retired Law Enforcement Officers as defined by United States Code Title 18, section 926C to carry a concealed firearm in the areas defined in this section, and in the case of a conflict between the definition used in said United States Code section and the definition in this section, the United States Code definition shall control.

(b) No person may carry or possess a firearm, deadly weapon, or pepper spray in a municipally owned or operated building; provided, that this prohibition shall not apply to the following persons:

- (1) Any law-enforcement officer or law-enforcement official or chief executive as defined in West Virginia Code 30-29-1;
- (2) Any qualified retired law enforcement officer;
- (3) Any person lawfully engaged in authorized wildlife management activities at the Morgantown Municipal Airport, including the storage or supervision of weapons incidental thereto.

(c) Carrying or possessing a firearm, deadly weapon, or pepper spray either openly, or not lawfully concealed, is prohibited in municipally owned recreation facilities, with the following exceptions:

- (1) This provision shall not prohibit a person with a valid concealed handgun permit from carrying an otherwise lawfully possessed firearm into a municipally owned recreation facility and securely storing the firearm out of view and access to others during the person's time at the municipally owned recreation facility;
- (2) This restriction shall not apply to any law enforcement officer or law enforcement official or chief executive as defined in West Virginia Code 30-29-1;
- (3) This restriction shall not apply to any qualified retired law enforcement officer.

(d) No person may carry or possess a firearm on municipally owned or operated property other than municipal public parking facilities regulated by paragraph (e) of this section; provided, that this prohibition shall not apply to the following persons:

- (1) Any law enforcement officer or law enforcement official or chief executive as defined in West Virginia Code 30-29-1;
- (2) Any qualified retired law enforcement officer;
- (3) Any person holding a valid concealed handgun license pursuant to West Virginia state law;
- (4) Any person lawfully engaged in authorized wildlife management activities at the Morgantown Municipal Airport, including the storage or supervision of weapons incidental thereto.

~~(e) Any person lawfully authorized may carry a concealed firearm in a municipal public parking facility; provided that a person may only leave an otherwise lawfully possessed firearm in a motor vehicle in municipal public parking facilities if the vehicle is locked and the firearm is out of view. A person may not keep a deadly weapon, firearm, or pepper spray in municipal public parking facilities unless (1) the deadly weapon, firearm, or pepper spray is lawfully possessed; (2) the vehicle is locked; and (3) the deadly weapon, firearm, or pepper spray is out of view.~~

~~(f) This section does not restrict the carrying or possessing of firearms, which are otherwise lawfully possessed, on public streets and sidewalks of the City; provided, that whenever pedestrian or vehicular traffic is prohibited in an area of the City for the purpose of a temporary event of any time up to but not in excess of fourteen days, which is authorized by the City, no person may possess a firearm in the area where the event is held except those persons exempt by the provisions of subsection (b) or (d) above.~~

~~(g)~~ (f) This section does not restrict the carrying or possessing of firearms at the Morgantown Municipal Airport by any person who is not otherwise prohibited by Title 18, Chapter 44, of the

United States Code, as amended, from transporting, shipping or receiving a firearm and who is transporting a firearm for any lawful purpose from any place where he or she may lawfully possess and carry such firearm to any other place where he or she may lawfully possess and carry such firearm if, during such transportation the firearm is unloaded, and neither the firearm nor any ammunition being transported is readily accessible or is directly accessible from the passenger compartment of such transporting vehicle; provided, that in the case of a vehicle without a compartment separate from the driver's compartment the firearm or ammunition shall be contained in a locked container other than the glove compartment or console. The exception provided by this subsection (g) applied to transportation of an unloaded firearm outside a transporting vehicle.

~~(h)~~ (g) It shall be an absolute defense to an action for an alleged violation of an ordinance authorized by this section prohibiting or regulating the possession of a firearm deadly weapon, or pepper spray that the person: (1) Upon being requested to do so, left the premises with the firearm, deadly weapon, or pepper spray or temporarily relinquished the firearm, deadly weapon, or pepper spray in response to being informed that his or her possession of the firearm, deadly weapon, or pepper spray was contrary to municipal ordinance; and (2) but for the municipal ordinance the person was lawfully in possession of the firearm, deadly weapon, or pepper spray.

~~(i)~~ (h) The City Manager shall cause to be prominently posted a clear statement at each entrance to all applicable municipally owned or operated buildings and municipal recreation facilities regulated by this section setting forth the terms of the regulation or prohibition.

#### **545.99 PENALTY.**

(EDITOR'S NOTE: See Section 501.99(a) for general Code penalty if no specific penalty is provided.)

- (a) Whoever violates Section 545.02 shall be fined not more than two hundred dollars (\$200.00) or imprisoned not more than thirty days, or both.
- (b) Whoever violates Section 545.05 to 545.09 shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than thirty days, or both.
- (c) Whoever violates Section 545.04 shall be fined not more than one thousand dollars (\$1,000) or imprisoned not more than thirty days, or both.
- (d) Notwithstanding the provisions of subsection (c) of this section, any person:
  - (1) Who has been convicted in this State or any other jurisdiction of a felony crime of violence against the person of another or of a felony sexual offense; or
  - (2) Who has been convicted in this State or any other jurisdiction of a felony controlled substance offense involving a Schedule I controlled substance other than marijuana, a Schedule II or a Schedule III controlled substance as such are defined in West Virginia Code 60A-2- 204, 60A-2-205 and 60A-2-206, and who possesses a firearm as such is defined in Section 545.01 shall be guilty of a felony and shall be prosecuted under appropriate State law. The provisions of Section 545.04(b) shall not apply to persons convicted of offenses referred to in this subsection or to persons convicted of a violation of this subsection.

This ordinance is effective June 2, 2020.

FIRST READING: \_\_\_\_\_

SECOND READING: \_\_\_\_\_

ADOPTED: \_\_\_\_\_

FILED: \_\_\_\_\_

\_\_\_\_\_  
Mayor

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

**AN ORDINANCE AMENDING ARTICLE 747 ESTABLISHING FIRE PROTECTION SERVICE CHARGES**

WHEREAS, the City of Morgantown has increased fire protection capabilities by adding twelve firefighters with funding assistance from the Federal Emergency Management Agency under a Staffing for Adequate Fire & Emergency Response Grant; and

WHEREAS, the grant funding period expires in the forthcoming fiscal year and maintenance of these additional firefighter positions requires increased funding to pay for the firefighters' services; and

WHEREAS, the Chief of the Fire Department has proposed establishment of fire fees with respect to hazard classifications to ensure the fire protection service charges imposed upon users adequately fund the particular response obligations of the Fire Department with respect to activities that create greater community danger and demand additional capabilities and resources; and

WHEREAS, the City Council intends to establish the required funding to pay for continued firefighters' services and to establish a timeline for the provision of a proposal necessary to evaluate the establishment of a hazard classification program;

NOW, THEREFORE, The City of Morgantown hereby ordains that Article 747 is amended as follows:

**747.01 DEFINITIONS.**

(a) "Users of fire protection services" means any person, partnership, corporation, firm, association, trust or other legal entity owning buildings, structures or other improvements and any user not otherwise chargeable herein, located within the City and hereinafter declared to be subject to the levying and imposition of a fire service protection fee.

(b) "Structures" means any residence, commercial building, church, warehouse, office or classroom building, storage building, barn, garage, service station, mobile home, parking garage, lumber shed, pole building or other building or roofed and walled area, whether completely or partially roofed, or completely or partially enclosed with walls, intended for human habitation or for the storage or protection of assets, except that porches, breezeways, carports, patios, loading docks and other similar appurtenances shall not be considered to be structures for the purposes herein.

(c) "Gross square footage" means the size of a structure measured as the sum of the square footage measurements of the various stories of the structure, as measured from the exterior walls.

(d) "Stories" means the various horizontal levels of a structure including, for the purposes of this article, all identifiable horizontal levels including finished basements and finished attic areas, but excluding crawlspaces, unfinished basements in residential structures, and unfinished attic areas.

**747.02 LEVY AND IMPOSITION OF FEE.**

(a) Gross floor area fee. There is hereby levied and imposed upon all users of the fire protection service provided by the City, a fee for the continuation, maintenance and improvement of such service. The fee shall be ~~7.66~~ 9.42 cents per square foot of space within each structure, per annum. Structures exceeding three floors shall be charged an additional ~~4.84~~ 5.95 cents per square foot of space for each additional space above the third floor.

(b) Hazard classification. On or before October 31, 2020, the Chief of the Fire Department shall prepare and deliver to the City Manager, the Finance Director, and the City Council a method for assessing fire protection service charges based upon hazard classification in addition to or in conjunction with the fee levied by Subsection (a) of this Section 747.02, so that the inclusion of a hazard classification program can be considered in the City Fiscal Year 2022 budget. The proposal should include the following information, but the contents and extent of the proposal will be in the discretion of the Chief of the Fire Department:

- (i) the manner in which a hazard classification is established and the various hazard classifications that may apply to properties within the City;
- (ii) a list of the uses of property that will qualify for a hazard classification, and which proposed hazard classification will apply to each property use
- (iii) a count or estimate of the number of properties within the City to which a hazard classification would apply
- (iv) a summary of the additional costs imposed upon the Fire Department by the maintenance of such property uses within the City
- (v) a proposed fee for fire protection service charges to be assessed based on hazard classifications, including the fee imposed on each use identified to which a hazard classification will apply and the total revenue proposed to be raised by such fee
- (vi) a timeline for identifying each user of fire protection services who may be subject to a hazard classification and imposition of the proposed fee on such users

(c) Duty to Measure and to assign Hazard Classifications. The gross square footage of each structure shall be determined by the Fire Chief ~~duly authorized and designated agents of the City~~ in accordance with the definition of terms in Section 747.01 and the gross square footage measurements for each structure shall then be multiplied by the rates shown above to determine the amount of the fee to be charged against the use of the fire protection service. When determining the gross square footage of each structure, the Fire Chief may rely upon plans and permit applications submitted to the City or otherwise on record with the City. On or before May 1 of each year, the Fire Chief shall deliver to the Finance Director a list of each structure within the City and the gross square footage thereof determined in accordance with this Article.

~~(b)~~ (d) There is hereby levied and imposed on the user of fire protection services of the City, who otherwise is not chargeable herein, an hourly fee for each and every use of such fire protection services, payable on demand by the City, as determined by the City Manager or designee based on an hourly rate as calculated from the City's current Fire Department budget

divided by 8760 hours. Additional charges for expendable materials not otherwise contracted for by the City shall also be levied.

~~(e)~~ (e) For the purpose of this section, the first story of a structure shall be that story, any side of which has a floor level that is not more than one-half of the story height below grade, and when at any point along the length of the side, it is counted as the first story, it will result in a structure height which is in excess of three stories.

A story that is more than one-half of its height below grade and those which are specifically excluded in Section 747.01(d), shall not be counted when determining building height.

### **747.03 COLLECTION OF FEE.**

The fees levied and imposed in Section 747.02 shall be collected from each user of the fire protection service in equal, semi-annual installments unless the user shall choose to pay the entire annual fee at one time. ~~For the period October 1, 1983 through June 30, 1984, the first installment shall be due on November 1, 1983, and the second installment shall be due April 1, 1984. Thereafter, the installments~~ Installment payments shall be due on August 15 and February 15 of each succeeding City fiscal year. Users who pay the entire annual fee prior to the due date of the first installment shall receive a five percent (5%) discount. There shall be a late payment penalty in the amount of five percent (5%) of all amounts remaining unpaid as of February 15 of each City fiscal year.

### **747.04 FEE LIST; PUBLICATION OF NOTICE OF AVAILABILITY.**

The Finance Director is hereby directed to prepare, no later than July 1 of each year, ~~except for the period October 1, 1983, through June 30, 1984, no later than October 1, 1983,~~ an alphabetical listing of the names of the users of the fire protection service, a description, to include the square footage, of each of the user's structures, and the amount of the fire service protection fee to be charged against each structure. The fee list prepared pursuant to this Section 747.04 shall be a public record available upon request.

~~The Finance Director is further directed, upon completion of the preparation of the list, to publish a notice, not less often than once each week for two consecutive weeks, in a newspaper of general circulation in the City, informing the public that the list has been prepared and that interested persons may view the list during regular office hours at the Finance Director's office.~~

### **747.05 REQUESTS FOR ADJUSTMENTS OR CORRECTIONS; APPEALS.**

Any user of the service may request an adjustment or correction to any information included on the list required in Section 747.04, or on the user's invoice, if the user believes the information to be erroneous or incomplete. Any such request shall be filed prior to the end of the City Fiscal Year for which the fees are owed in writing with the Finance Director and shall be filed on forms provided by the Finance Director.

The Finance Director, upon receipt of a properly filed request for adjustment or correction of information included on the list shall, within thirty calendar days, review the request and inform the user whether the requested adjustments or corrections will be made. If the user who has filed

the request is dissatisfied with the Finance Director's response to the request, the user of the services may apply to Council by petition, in writing, within thirty days after notice is mailed to him or her by the Finance Director for a hearing and adjustments or correction of the list or fee as set by the Finance Director. Said petition shall set forth the reasons why such hearing should be granted and why the requested changes should be made. Council shall promptly consider such petition, and may grant such hearing or deny the same. If denied, the petitioner shall immediately be notified of the same; if granted, Council shall notify the petitioner of the time and place fixed for such hearing. After such hearing, Council may make such order in the matter as may appear to it just and lawful, and shall furnish a copy of such order to petitioner. Any user of the service may appeal the administrative decision of the Council to Circuit Court of Monongalia County within sixty days after being served with the notice of Council's order.

#### **747.06 CREATION OF APPEAL BOARD.**

(EDITOR'S NOTE: Former Section 747.06 was repealed by Ordinance 96-32, passed November 19, 1996.)

#### **747.07 RULES AND REGULATIONS.**

~~Council~~ The Finance Director shall have the right to make and promulgate from time to time as it deems necessary suitable regulations governing the implementation of this Article, services herein and hereby provided, the making of statements of accounts, the collections thereof, and other appropriate rules and regulations for the enforcement of this article. Upon adoption or modification of any rules or regulations under this Article, the Finance Director shall file a complete, current copy of all adopted rules and regulations under this Article with the City Clerk. The City Clerk shall maintain a record of all current and past regulations. Upon delivery of an update to the regulations by the Finance Director, the City Clerk shall promptly delivery a copy to the City Manager and each member of City Council.

#### **747.08 USE OF FUNDS.**

The funds, moneys and revenues received from the collection of the fees levied and imposed in Section 747.02 shall be used only for the continuance, maintenance, or improvement of the essential or special fire protection service provided by the City, and no part of such funds, moneys or revenues shall be used for any other purpose.

#### **747.09 FEE IS SUPPLEMENTARY; DEBT TO CITY.**

The fee levied and imposed in Section 747.02 shall be in addition to any other licenses, taxes or fees levied under the statutes of the State, by the provisions of this Code or by other ordinances of the City, and the payment thereof shall be a condition precedent to the use and enjoyment of the essential and special fire protection services provided by the City. The fee levied and imposed in Section 747.02 shall be a debt due the City from each user of such service and the Finance Director is hereby authorized and directed to pursue the collection of such debt through the use of all legal means available to the City.

#### **747.10 NO USER OF SERVICE EXEMPT FROM FEE.**

No person or organization defined in Section 747.01 as a user of the fire protection service provided by the City shall be exempt from the payment of a properly calculated fire protection service fee whether the person or organization is the United States Government, the State of

West Virginia, or any political subdivision thereof, or any other person or organization who, because of the educational, literary, scientific, religious, charitable or other use of their property is normally exempted from paying federal, state or local taxes.

**747.11 LIENS ON REAL PROPERTY FOR UNPAID AND DELINQUENT FIRE SERVICE FEES.**

Liens may be filed on real property located within the municipal corporate limits for unpaid and delinquent fire service fees. Prior to the lien being filed, the City will give notice to the property owner, by certified mail, return receipt requested, that the City will file the lien unless the delinquency is paid within ninety days from the date the notice is mailed. Any requests for adjustments or corrections to the assessment ~~must be appealed~~ may be submitted pursuant to Municipal Code Section 747.05, except that the request for review may be submitted at any time within ninety days from the date the notice was mailed.

**747.99 PENALTY.**

(EDITOR'S NOTE: See Section 701.99 for general Code penalty.)

This ordinance is effective July 1, 2020.

FIRST READING: \_\_\_\_\_

SECOND READING: \_\_\_\_\_

ADOPTED: \_\_\_\_\_

FILED: \_\_\_\_\_

\_\_\_\_\_  
Mayor

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

**City Council Policy**  
**On**  
**Conduct of Public Meetings by Electronic Means**

1. Scope and Application. This policy applies to all public meetings conducted by the City Council and the boards and commissions established by City Council, except where specifically provided by law. Application of this policy to the Morgantown Land Reuse and Preservation Agency is limited by state law requirements that members must be present in-person to vote.
2. Purpose. This policy describes the circumstances under which public meetings may be conducted with electronic participation by members of a public body, by members of the public, or both, as well as the methods by which the electronic participation may occur.
3. Authority. This policy is adopted in accordance with the West Virginia Open Governmental Proceedings Act, codified at *W. Va. §§ 6-9A-1 et seq.*, as it may be amended, and guidance published by the West Virginia Ethics Commission regarding holding public meetings telephonically or by audio or visual streaming methods, which is available as of the date of adoption of this policy at the following weblink: <https://ethics.wv.gov/Pages/default.aspx> (last visited March 19, 2020). The policy also relies on Ethics Commission Advisory Opinions 1999-08 and 2010-02.
4. Open to Public. Except as otherwise provided by law, all meetings of a public body shall be open to the public and conducted in a manner that provides the public the opportunity to hear and participate in the proceedings. Participation in meetings is subject to the meeting rules of the public body. This policy does not require a public body to hold a public portion of the meeting or otherwise allow public comment at a public meeting.
5. Electronic Participation by Members. The members of a public body may participate by electronic means at any regular, special, or emergency meeting in accordance with this policy.
6. Availability of electronic participation methods. A member may only participate in a public meeting by electronic means when there are resources available to permit the electronic participation and ensure that the public can observe the electronic participation and that all members participating electronically and in person can hear and participate in the proceedings. The available resources will commonly consist of a telephone conference number or videoconferencing service. The agency considering public participation must request assistance from City administration in advance to procure available services, and this policy shall not obligate funding of additional equipment or services to allow electronic participation.
7. Public Access. When a public body is conducting a meeting telephonically or via videoconference, the body may allow the public to attend by providing them a call-in number,

a web link, or access to a public meeting room where attendees may hear the telephonic or video meeting. All public meetings must provide the public with a method to hear the conduct of the public meeting and identify the persons speaking. If video of the meeting or participants is available to the public body, it must also be made available to the public.

8. Public In-Person Attendance Not Required. The public body is not required to allow the public to attend a meeting in-person if in-person attendance poses a public health risk as determined by the federal, state or local government. The determination that in-person attendance will not be permitted must be made by a majority of the public body and indicated on the posted notice of the public meeting, along with the means by which the public may access the public meeting. The determination that in-person attendance will not be permitted is a logistical matter that a public body can decide outside of a public meeting.

9. Public Comment. Members of the public may comment on items on the meeting agenda or on matters within the purview of the public body, if the public meeting includes a public comment portion or public hearing. The time allotted for the public comment period as well as time allotted for individual comments may be limited by the public body and noted on the meeting agenda. Members of the public that would like to provide comments during the meeting may do so telephonically or by submitting written comments electronically. The public body shall provide the public the necessary electronic or call-in information needed to make comments.

10. Voting. When a meeting is conducted without permitting in-person public access, voting shall be conducted by roll call so that each member of the public body can be identified and the vote of the member can be observed and recorded, except that a matter upon which the public body may take action by consensus need not be the subject of a roll call vote.

11. Deliberation. When conducting a meeting without in-person attendance, members of the public body should identify themselves prior to speaking so that members of the public are aware of the member who is speaking. Recognition of a member by the chair of the meeting serves the purpose of identifying the member who will speak.

Adopted: \_\_\_\_\_

Effective: \_\_\_\_\_

\_\_\_\_\_  
Mayor

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

**City Council Policy  
For  
City Council Meetings**

1. Scope and Application. This policy applies to all public meetings conducted by the City Council.
2. Purpose. This policy describes the process by which City Council will set meeting agendas, provide notice of meetings, and conduct its meetings. The policy is designed to help City Council conduct its business efficiently and promote open deliberation with meaningful public participation.
3. Authority. This policy is adopted in accordance with the West Virginia Open Governmental Proceedings Act (“OGPA”), codified at *W. Va. §§ 6-9A-1 et seq.*, as it may be amended, and guidance published by the West Virginia Ethics Commission regarding holding public meetings. This policy implements the provisions of City Charter Section 2.11 and City Code Article 121. The precedence of these authorities shall be as follows: the OGPA, the City Charter, City Code, this policy.
4. Meetings.
  - a. Regular meetings. City Council holds regular meetings on the first and third Tuesdays of each month in accordance with a schedule published annually in January. Regular meetings begin at 7 p.m. and are held in the City Hall Council Chambers located at 389 Spruce Street, Morgantown, West Virginia. The annual schedule – or a later determination by Council – may change the dates, times, and location of regular meetings.
  - b. Committee of the Whole meetings. City Council meets as a Committee of the Whole on the last Tuesday of each month. These Committee of the Whole meetings are public meetings where deliberation of public business occurs. City Council intends these meetings as planning sessions where Council will receive presentations and plan its meeting agendas for the upcoming month. City Council generally does not take official action on business items at these meetings. Committee of the Whole meetings begin at 7 p.m. and are held in the City Hall Council Chambers located at 389 Spruce Street, Morgantown, West Virginia. Dates, times, and location of these meetings are subject to change by Council.
  - c. Special meetings. City Council may hold special meetings at any time upon the call of the Mayor or of at least four members of Council. Meetings will be held upon at least two business days’ notice, which shall be contained in a publicly posted agenda identifying the matters to be considered at the meeting.
  - d. Emergency meetings. City Council may hold emergency meetings upon the call of at least four members of Council for the purpose of addressing an unexpected event which requires immediate attention because it poses: (A) An imminent threat to

public health or safety; (B) An imminent threat of damage to public or private property; or (C) An imminent material financial loss or other imminent substantial harm to a public agency, its employees or the members of the public which it serves. Public notice of the emergency meeting shall be posted as soon as practicable prior to the meeting and shall state the date, time, place and purpose of the meeting and the facts and circumstances of the emergency

5. Agenda. The agenda shall state the date, time, and place of the meeting and identify the matters to be considered by City Council at the meeting. An item may be placed on the agenda by determination of the Mayor, the City Manager, or at least four members of City Council. The determination to place an item on the agenda, and communication of that determination to the City Clerk, shall be made sufficiently in advance of the meeting to permit posting of the required notice. Determinations whether to place an item on the meeting agenda are logistical matters that need not be made in public meetings.
6. Minutes. The City Clerk shall prepare minutes of each meeting of City Council and present the minutes for approval by Council. The City Clerk shall keep a record of all adopted meeting minutes.
7. Public participation.
  - a. Attendance; Capacity of meeting room. In-person attendance at meetings will be limited to the capacity of the meeting room as determined by the City fire marshal. Attendees will be admitted in the order they appear for entry. When the meeting room reaches capacity, the presiding officer or a city law enforcement official present at the meeting will preclude any additional entrants unless an attendee leaves and permits space for an additional entrant. The presiding officer or law enforcement official may allow temporary entry when capacity has been reached so that members of the public wishing to speak during the public portion or a public hearing may enter to speak.
  - b. Observation of meeting; decorum. Public attendees of the meeting are entitled to hear the proceedings of the City Council. In order to ensure the attendees may hear the meeting and to ensure that public business can be conducted effectively, members of the public may not speak during the meeting except during designated public portions and in accordance with the rules for those portions. Members of the public may not disrupt the meeting by other means, including by displaying signs that may inhibit others' view of the meeting or by making noises or gestures that interfere with the meeting. Members of the public are entitled to record the meetings of City Council by audio, visual, or audiovisual methods so long as the recording does not interfere with the conduct of the meeting or the rights of public attendees to observe the meeting. The meetings of City Council are a limited public forum where speech is only regulated by content-neutral, generally-applicable rules, and this policy will not be used to limit speech based on the content or viewpoint of the speaker. The presiding officer will determine whether the conduct

of an attendee violates this policy, and the presiding officer shall have the right to order any attendee to cease violation of the policy or to leave the meeting.

- c. Public portion. Any member of the public may speak during the public portion of the meeting regarding matters of public concern relevant to the business of City Council. Each person speaking must state the person's name and residence address before making public comments, and each person's comments must be limited to four minutes so that the meeting may be conducted efficiently. Comments that are not related to the business of the city, that include vulgar or discriminatory language, or that constitute personal grievances rather than addressing matters of public concern are not permitted, and the presiding officer will order any person engaging in such comments to cease and may order the person removed from the meeting. By determination of the majority of Council before the beginning of the public portion of the meeting, the amount of time allotted to each speaker may be changed and the total amount of time for public comment may be limited. By determination of the majority of Council posted along with the public notice of the meeting, public comment may be limited to persons who sign up to provide comment on a list provided for that purpose, but the opportunity to sign up to comment must be available until fifteen minutes prior to the beginning of the City Council meeting.
- d. Public hearings. Any member of the public may speak during a public hearing during the meeting regarding matters of public concern relevant to the particular business item for which the public hearing is designated. General comments about public business should be made during the public portion of the meeting. Each person speaking must state the person's name and residence address before making comments during the public hearing, and each person's comments must be limited to four minutes so that the meeting may be conducted efficiently. Comments that are not related to the subject of the hearing, or that would not be permitted during the public portion, are not permitted during the public hearing, and the presiding officer will order any person engaging in such comments to cease and may order the person removed from the meeting. By determination of the majority of Council before the beginning of the public hearing, the amount of time allotted to each speaker may be changed and the total amount of time for public comment may be limited. By determination of the majority of Council posted along with the public notice of the meeting, comment at the public hearing may be limited to persons who sign up to provide comment on a list provided for that purpose, but the opportunity to sign up to comment must be available until fifteen minutes prior to the beginning of the City Council meeting.
- e. Council member questions or responses. In order to allow speakers equal opportunity to address City Council and to promote efficient conduct of public business at the meetings, City Council members will not respond to questions or participate in discussion during the public portion or public hearings. These portions of the meeting allow the members of the public the opportunity to address City Council and the community in a public forum. City Council members may

Speak to topics raised during the public portions of the meeting during the Council's discussion of the business item on the meeting agenda, or, if the item was not included on the meeting agenda, during the Council member's report.

8. Conduct of the meeting.

- a. Presiding officer. The Mayor shall be the presiding officer, except that the Deputy Mayor shall be the presiding officer at meetings of the Committee of the Whole.
- b. Rules. The meeting will be conducted in accordance with Robert's Rules of Order, current edition, except where those rules are modified by state law, the City Charter, the City Code, these rules, or by agreement of the City Council at the meeting.
- c. Time. It is the intention of City Council to complete its regular meetings no later than 11 p.m.
- d. Access. Regular meetings are generally available for live viewing on public access television Channel 15 and on the City website, and past recordings of the meetings are generally available on the City website. Persons with disabilities may request reasonable accommodations by calling the City Clerk's office at (304) 284-7434, emailing the City Clerk at [cwade@morgantownwv.gov](mailto:cwade@morgantownwv.gov), or visiting the City Clerk's office at City Hall, 3<sup>rd</sup> Floor, 389 Spruce Street, Morgantown, WV 26505.

9. Effect of policy; Posting. This policy is adopted by the Council pursuant to Section 2.11(b) of the City Charter and supersede any prior City Council meeting rules. The rules and procedures set forth within this document do not create substantive rights for third parties or participants in proceedings before City Council, and City Council reserves the right to suspend or amend the rules in the manner provided in the City Code, applicable rules adopted by the City, or other law. The failure of City Council to strictly comply with the provisions of this document shall not invalidate any action of City Council. The adopted policy shall be posted on the City's website and be available from the office of the City Clerk.

Adopted: \_\_\_\_\_

Effective: \_\_\_\_\_

\_\_\_\_\_  
Mayor

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

## **LGBTQ+ City of Morgantown Liaison Position**

### **Position Description:**

Under general supervision, the LGBTQ+ City liaison will serve as an accessible and friendly ear to the City's LGBTQ+ community and elevate LGBTQ+-related concerns to the City Manager and other City officials. The liaison will also develop, plan, organize, direct, and implement public information, employee support, and community education and organization efforts with the Lesbian, Gay, Bisexual, Transgender, and Queer communities. This includes planning, preparing, and distributing information to stimulate interest on the part of the community in the services and programs provided by The City of Morgantown and identifying existing and prospective needs for new or improved services or programs. The potential liaison shall interact with community groups, volunteer organizations, government agencies, various councils and boards, private business, etc., to improve communication and identify community interests and concerns. This position will include interaction with city employees and administrative and managerial staff in city departments to promote diversity and resolve problems and complaints. Extensive contact with the Mayor of Morgantown, Morgantown City Council, Human Rights Commission of Morgantown, The Minority Liaison Coordinating Council, and community members requires sensitivity, sound judgment, and a cognizance of the unique obstacles faced by people in the LGBTQ+ community.

### **Examples of Liaison Responsibilities:**

- Acts as the LGBTQ+ liaison to the City of Morgantown, Human Rights Commission of Morgantown, The Minority Liaison Coordinating Council, community interest groups, volunteer organizations, etc., to facilitate community outreach, provide information about city services and programs, and promote and enhance diversity in the city workforce;
- Participates in meetings on a continuing basis and interprets city policies to area councils and community interest groups to identify and prioritize service needs, issues, topics, and concerns;
- Develops questionnaires and surveys to identify community interests, needs, perceptions, attitudes, and problem areas, and compiles and analyzes information to develop effective strategies and programs to ensure their needs are being met;
- Proposes and assists in the development or revision of city services, policies, procedures, outreach programs, and educational and informational materials based on community needs and concerns;
- Serves as a liaison with and nurtures relationships between the city and various organizations, interest groups, committees, etc., representing the LGBTQ+ community, to maintain a learning network designed to promote and identify the needs of the LGBTQ+ community;
- Consults with relevant parties with any investigation either with the Human Rights Commission of Morgantown or with city officials conducting the investigation;
- Meets with and counsels city employees and departmental representatives in order to resolve problems and complaints;

- Refers members of the public alleging charges of discrimination or harassment based on sexual orientation or gender to the Human Rights Commission of Morgantown, The Minority Liaison Coordinating Council, and Police LGBTQ+ Liaison, assisting claimants in negotiating the process;
- Prepares reports with supporting data, tables, graphs, demographics, etc., using computer applications for use by the administration in planning services and programs;
- Establishes priorities for involvement in community programs and activities within the framework of available budgetary and staff resources;
- Schedules, prepares, and conducts speaking engagements at organizations, community groups, schools, etc.;
- Researches and identifies areas where local, state, and federal issues or legislation may impact areas of concern as relates to the LGBTQ+ community and assists in formulating initiatives to address those issues;
- Collaborates with City Officials in the development of Equal Employment Opportunity and Affirmative Action policies, goals, and objectives to attract, retain, and promote a diverse workforce;
- Evaluates public information materials to determine their effectiveness in promoting and describing city programs and services;
- Provides information and referral services in response to inquiries from city employees, community interest groups, and individuals;
- Uses computer applications and other automated systems such as spreadsheets, word processing, calendar, e-mail, and database software in performing work assignments.
- \*Attend educational events and trainings held by the City Police Liaison, Human Rights Commission of Morgantown, The Minority Liaison Coordinating Council, City Manager, and/or City Council

## **Morgantown Police Officer Liaison Position**

### **Position Description:**

Under general supervision, the LGBTQ+ Police Officer Liaison will serve as a dedicated officer that focuses on the public safety needs of the LGBTQ+ community and their allied community. The officer will conduct educational initiatives alongside the LGBTQ+ City Liaison and Human Rights Commission on issues related to hate crimes and public safety. Their primary focus will be to gain trust of the LGBTQ+ and ally community and seek out information that leads to the closure of hate and violent crimes within the LGBTQ+ community. They will also conduct patrol functions and respond to all LGBTQ+ based complaints. They will advocate creating mutual trust so the community members can gain increasing confidence in the police through the provision of fair and professional policing services.

The potential liaison must interact with community groups, volunteer organizations, government agencies, various councils and boards, private business, etc., to improve communication and identify community interests and concerns. This position will include interaction with city employees and administrative and managerial staff in city departments to promote diversity and resolve problems and complaints. Extensive contact with the Mayor of Morgantown, Morgantown City Council, Morgantown Human Rights Commission, and community members requires sensitivity, sound judgment and a cognizance of the unique obstacles faced by people in the LGBTQ+ community.

### **Examples of Liaison Responsibilities:**

- Attending the monthly Human Rights Commission of Morgantown meetings, Minority Liaison Coordinating Council meetings, and City Council meetings
- Present and lead in educational trainings alongside the City of Morgantown LGBTQ+ Liaison, Human Rights Commission of Morgantown, City Manager, and/or City Council
- Coordinating MPD participation in LGBTQ-related events in the city limits
- Creating a website or webpage "Safe Place" in which folks can contact the Police Liaison
- Responding to all "Safe Place MPD" website/webpage requests and inquiries
- Monitoring all LGBTQ+-related crime statistics and responses
- Working closely with the LGBTQ+ community on a variety of community-related events and issues

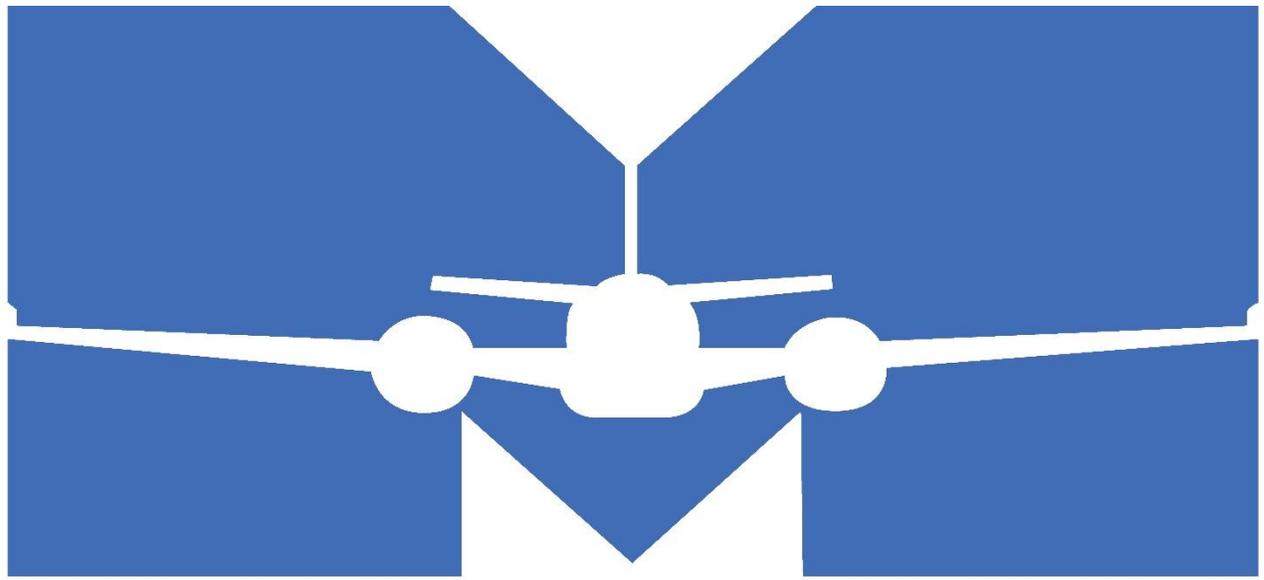
**A RESOLUTION ADOPTING MINIMUM STANDARDS FOR  
COMMERCIAL AERONAUTICAL SERVICE PROVIDERS AND RULES AND  
REGULATIONS FOR THE MORGANTOWN MUNICIPAL AIRPORT**

The City of Morgantown hereby resolves that the enclosed “Minimum Standards for Commercial Aeronautical Service Providers” and “Rules and Regulations” applicable to operations at the Morgantown Municipal Airport are adopted; and further resolves that the Airport Director is authorized and directed to implement the provisions contained therein.

Adopted this \_\_\_\_\_ day of May, 2020

\_\_\_\_\_  
Mayor

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



# **MORGANTOWN** MUNICIPAL AIRPORT

**MORGANTOWN MUNICIPAL AIRPORT**

**MORGANTOWN, WEST VIRGINIA**

**MINIMUM STANDARDS FOR  
COMMERCIAL AERONAUTICAL SERVICE  
PROVIDERS**

**ADOPTED MAY , 2020**

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**1. Introduction****1.1. Purpose and Scope**

- 1.1.1. The purpose of these Rules and Regulations, and any amendments thereto, is to protect the public health, safety, interest, and general welfare on the Morgantown Municipal Airport (Airport) and to restrict or prevent any activity or action which would interfere with the safe, orderly, and efficient use of the Airport by its Operators, Lessees, consumers, and users.

**1.2. Definitions**

- 1.2.1. Definitions identified and defined herein shall be construed as defined unless from the context a different meaning is intended, or unless a different meaning is specifically defined and more particularly ascribed to the use of such words or phrases.

1.2.1.1. *All defined words shall be capitalized throughout the Rules and Regulations.*

- 1.2.2. All definitions contained in 49 U.S.C. § 40101 *et seq.* (previously known as the Federal Aviation Act of 1958, hereinafter cited as “FAA Act”) and all amendments thereto shall be considered as included herein; and all definitions shall be interpreted on the basis and intention of the FAA Act and amendments thereto unless from the context a different meaning is intended, or unless a different meaning is specifically defined and more particularly ascribed to the use of such words or phrases.

**1.3. Governing Body**

- 1.3.1. The Airport is owned and operated by the City of Morgantown (City) and governed by and through the Morgantown City Council (Council). The authority to grant the occupancy and commercial use of Airport land or Improvements, the right to engage in an Aeronautical Activity at the Airport, and to approve, adopt, amend, or supplement any Agreement, policy, or practice relating thereto, including these Rules and Regulations, is expressly reserved to the Council or its designated representative.

**1.4. Statement of Policy**

- 1.4.1. It is the intent of the City to plan, manage, operate, finance, and develop the Airport to ensure its long-term financial health and protect and promote the health, safety, and general welfare of the public consistent with all applicable Regulatory Measures.
- 1.4.2. As set forth by the Federal Aviation Administration (FAA), by way of its Airport Assurances, any airport developed with federal grant assistance is required to operate for the use and benefit of the public and shall be made available to all types, kinds, and classes of Aeronautical Activity on fair and reasonable terms and without unjust discrimination.

**1.5. Airport Management**

- 1.5.1. The Airport Director is responsible for the operation, management, maintenance, and security of the Airport and all City owned and operated land, Improvements, facilities, Vehicles, and equipment associated with the Airport.
- 1.5.2. The City has authorized and directed the Airport Director to:
  - 1.5.2.1. *interpret, administer, and enforce these Rules and Regulations;*
  - 1.5.2.2. *obtain and receive copies of all documents required to be provided to or filed with the City under these Rules and Regulations; and*
  - 1.5.2.3. *take such action as may be necessary to safeguard all entities, Vehicles, and equipment at the Airport.*
- 1.5.3. All official inquiries to the City regarding these Rules and Regulations and/or compliance therewith should be directed to the Airport Director.

**1.6. Effective Date**

- 1.6.1. Unless repealed, these Rules and Regulations shall be in effect and shall remain in effect from the date of adoption by the Council.

**1.7. Compliance with Regulatory Measures**

- 1.7.1. All entities occupying or using, engaging in an Aeronautical Activity on, or developing Airport land or Improvements shall comply, at the entity's expense, with all applicable Regulatory Measures.

**1.8. Conflicting Regulatory Measures and Agreements**

- 1.8.1. If a provision of these Rules and Regulations is found to be in conflict with any other provision of these Rules and Regulations or in conflict with a provision of any Regulatory Measure, the provision that establishes the higher standard shall prevail.
- 1.8.2. It is not the intent of these Rules and Regulations to repeal, abrogate, annul, or in any way impair or interfere with any existing provision of any Regulatory Measure except those specifically repealed by these Rules and Regulations.
- 1.8.3. No existing or future Agreement, nor any payment or performance required thereunder, shall excuse any entity from full and complete compliance with these Rules and Regulations.

**1.9. Repeal of Regulatory Measures**

- 1.9.1. All rules and regulations previously enacted and any other City ordinance or resolution in conflict with these Rules and Regulations are hereby repealed to the extent of the conflict.

**1.10. Right to Self-Service**

- 1.10.1. These Rules and Regulations will not exercise or grant any right or privilege which operates to prevent any entity operating Aircraft on the Airport from performing any services on its own Aircraft with its own Employees (including, but not limited to, maintenance, repair, and refueling) that it may choose to perform.

*1.10.1.1. However, individual Operators may restrict the use of their exclusive Leased Premises and all Aircraft Operators must adhere to all applicable Regulatory Measures in the performance of any services on its own Aircraft.*

**1.11. Fines**

- 1.11.1. Entities shall have the responsibility to pay any fine or penalty levied against entity, the Airport, the City, the Council, individually or collectively, and their representatives, officers, officials, employees, agents, and volunteers as a result of entity's failure to comply with any applicable Regulatory Measure.
- 1.11.1.1. If the fine or penalty is contestable (and contested by the entity), entity shall pay the fine or penalty when upheld by the Agency having jurisdiction.*

**1.12. Severability**

- 1.12.1. If one or more clauses, sections, or provisions of these Rules and Regulations shall be held to be unconstitutional, unlawful, invalid, or unenforceable by final judgment of any Agency or court of competent jurisdiction, the invalidity, voiding, or unenforceability of such clauses, sections, or provisions shall not in any way affect the validity of any other clauses, sections, or provisions of these Rules and Regulations.

**1.13. Subordination**

- 1.13.1. These Rules and Regulations are subject and subordinate to the provisions of any existing or future Agreements between the City and the state of West Virginia or the United States pertaining to the operation, management, planning, and development of the Airport.

**1.14. Notices, Requests for Approval, Applications, and Other Filings**

- 1.14.1. Any notice, request for approval, application, or other filing required or permitted to be given or filed with the City and any notice or communication required or permitted to be given or filed with any Lessee, prospective Lessee, Sublessee, prospective Sublessee, Operator, or prospective Operator pursuant to these Rules and Regulations shall be in writing, signed by the party giving such notice, and shall be sent by overnight courier, United States certified mail, or in person (with dated and signed receipt), and shall be deemed to have been given when delivered to the City, Lessee, Sublessee, or Operator at their principal place of business or such other address as may have been provided to the City.

**1.15. Amendments**

- 1.15.1. These Rules and Regulations may be supplemented, amended, or modified by the City from time to time and in such a manner and to such extent as is deemed appropriate by the City.
- 1.15.2. The City may issue special rules, regulations, notices, memorandums, directives, covenants, restrictions, or conditions from time to time as is deemed appropriate by the City.

**1.16. Variance or Exemption**

- 1.16.1. A special variance or exemption may be obtained from the City provided that the variance or exemption is petitioned for in writing and that permission for the variance or exemption is obtained in writing from the City.
  - 1.16.1.1. *Each variance or exemption shall be petitioned separately.*
- 1.16.2. Requests for special variance or exemption must state definitively the provision for which the variance or exemption is being sought, describe the proposed variance or exemption, state the reason or rationale for the proposed variance or exemption, and identify the duration of the proposed variance or exemption.
- 1.16.3. The City has the right to approve variances to these Rules and Regulations when a specific clause, section, or provision does not seem justified in a particular case because of special conditions and unique circumstances.
- 1.16.4. Any variance or exemption approved by the City shall apply only to the special conditions or unique circumstances of the particular case under which the variance or exemption is granted and shall not serve to amend, modify, or alter the Rules and Regulations.

**1.17. Rights Reserved**

- 1.17.1. In addition to the following rights and privileges, the City reserves the rights and privileges outlined under Airport Assurances as such rights and privileges may be amended from time to time.
  - 1.17.1.1. *The City reserves and retains the right for the use of the Airport by others who may desire to use the same pursuant to applicable Regulatory Measures pertaining to such use.*
  - 1.17.1.2. *The City further reserves the right to designate specific Airport areas for Activities in accordance with the currently adopted Airport Layout Plan (ALP) as may be amended from time to time. Such designation shall give consideration to the nature and extent of current and/or future Activities and the land and/or Improvements that may be available and/or used for specific Activities and shall be consistent with the safe, orderly, and efficient use of the Airport.*

- 1.17.1.3. *The ALP reflects an agreement with the FAA regarding the proposed allocation of Airport land and/or Improvements to specific uses and/or development. It is the policy of the City that any use, occupancy, construction, or modification of land and/or Improvements that is inconsistent with the ALP is undesirable. Any development that is substantially different than that depicted on the ALP could adversely affect the safe, orderly, or efficient use of the Airport. While the City may consider making application to the FAA for approval of the revision of the ALP on behalf of a prospective Operator, nothing contained in this these Rules and Regulations shall require the City to make such application.*
- 1.17.1.4. *The City reserves the right to develop and make any improvements and/or repairs at (or to) the Airport that it deems necessary. The City will provide advance notice of the date and time that such development, improvements, and/or repairs will be made. The City shall not be obligated to reimburse or compensate any Operator, Sublessee, or other entity for any expense incurred or loss of revenue (or inconvenience) that may result from such development, improvement, and/or repair.*
- 1.17.1.5. *The City reserves the right to prohibit any entity from using the Airport or engaging in Activities at the Airport (and/or revoke or suspend any privileges granted to any entity) upon determination by the City that such Operator has not complied with these Rules and Regulations, any other applicable Regulatory Measure, any other directives issued by the City, or has otherwise jeopardized the safety of entities utilizing the Airport or the land and/or Improvements located at the Airport.*
- 1.17.1.6. *The City reserves the right to lease the Airport or portions thereof during war or national emergency to the United States government for military use. If such lease is executed, the provisions of such lease including, without limitation, the City's obligations and the Operator's obligations, to the extent they are inconsistent with said lease, shall be suspended.*
- 1.17.1.7. *The City will not enter into an Agreement that will require the City to relinquish the right to take any action the City considers necessary to protect the aerial approaches of the Airport against obstruction or to prevent an entity from erecting or permitting to be erected any building or other structure which might limit the usefulness of the Airport or constitute a hazard to Aircraft.*
- 1.17.1.8. *The City will not enter into an Agreement that requires the City to waive any sovereign, governmental, or other immunity to which the City may be entitled nor shall any provision of any Agreement be so construed or that would require the City to submit to the laws of any state other than those of the state of West Virginia.*
- 1.17.1.9. *The City is under no obligation to provide financing and/or make any improvements to Airport land and/or Improvements to facilitate any development proposed by a prospective Operator.*
- 1.17.1.10. *While the City may choose to pursue federal, state, or other available funds to contribute to the development, the City is under no obligation to do so. In addition, the City is under no obligation to provide matching funds if required to secure such funding.*
- 1.17.1.11. *The City reserves the right to take such actions as it may deem necessary, appropriate, and/or in the best interest of the City to preserve and protect the safety and integrity of the City's mission, vision, and facilities as well as those who use the Airport.*
- 1.17.1.12. *The City reserves the right to take such actions as it may deem necessary, appropriate, and/or in the best interest of the City to preserve the assets of the City, protect the safety of the people who work at and use the Airport, and maintain the integrity of the City's and Airport's missions (purpose) and visions.*

**1.18. Applicability and Conditional Use of Airport**

1.18.1. Any permission granted directly or indirectly, expressly or by implication, to any entity to enter upon or use the Airport (including Aircraft Operators; Vehicle Operators; Aircraft crewmembers and passengers; spectators and sightseers; occupants of private and commercial Vehicles; officers, employees, and customers of Operators and Lessees; entities doing business with the City, Airport, and/or the Airport Director, its contractors, subcontractors, and licensees; and all other entities whatsoever) is conditioned upon:

*1.18.1.1. Assumption of responsibility by every entity exercising or taking advantage of such permission;*

*1.18.1.2. Full and complete compliance with these Rules and Regulations and applicable Regulatory Measures;*

1.18.2. Operators and Lessees shall be responsible for the dissemination of, accessibility to, and compliance with these Rules and Regulations by their employees.

**1.19. Responsible Party**

1.19.1. Any person accessing or using the Airport shall be responsible for their actions and all actions of any person to whom they provide or facilitate access, whether directly or indirectly.

**1.20. Civil Rights**

1.20.1. No entity shall, in the use of the Airport, discriminate or permit discrimination against any other person or group of persons on the basis of race, creed, color, national origin, sex, age, or handicap.

**1.21. Enforcement**

1.21.1. These Rules and Regulations shall be enforced at the Airport by the Airport Director, Operations Division, and Law Enforcement Officers appointed pursuant to law.

*1.21.1.1. The Airport Rescue Firefighting Division (ARFF) is authorized to enforce all fire and Hazardous Materials related Regulatory Measures. The Morgantown Fire Department has full authority over enforcement of all fire and Hazardous Materials related regulatory measures.*

1.21.2. Any entity who violates these Rules and Regulations, applicable Regulatory Measures, or any other rule, regulation, notice, memorandum, order, or directive issued by the Airport Director or City will be subject to progressive penalties for repeat violations, may be cited with a Notice of Violation, removed from the Airport, denied the use of and/or access to the Airport, revocation of Airport Access Media, fined or penalized under 49 CFR Part 1500 (in addition to any fines or penalties that may be imposed by the City under these Rules and Regulations), and/or prevented from engaging in Activities at the Airport and shall be subject to all legal, equitable, statutory, and common law rights and remedies available to the City including, but not limited to, actions for declaratory relief, injunctive relief, specific performance, and damages.

*1.21.2.1. Each day's failure to comply with these Rules and Regulations shall constitute a separate violation.*

1.21.3. Any person denied use of the Airport due to a violation of these Rules and Regulations may only use the Airport for the purpose of enplaning or deplaning (as a passenger) Aircraft using the Airport.

1.21.4. Parties aggrieved by a decision of the Airport may appeal (in writing) such decision to the Airport Director within 10 days after such decision is issued.

*1.21.4.1. The decision of the Airport Director on such appeal shall be final.*

1.21.5. In any contingencies not specifically covered by these Rules and Regulations, the

Airport Director is authorized to make such rules and render such decisions as may seem proper.

1.21.6. The Airport is located within the boundaries of the City of Morgantown.

1.21.6.1. *"Morgantown Police Department" is used to refer to Law Enforcement Officers who have jurisdiction over the Airport. As such, the terms "Morgantown Police Department" and "Law Enforcement Officer" are used interchangeably throughout these Rules and Regulations.*

### **1.22. Definitions**

Abandoned, As applied to Property (excluding Vehicles) left at the Airport, means that it has been left on the Airport for 48 hours without the owner moving or claiming it.

Accident, A collision or other contact between any part of an Aircraft, Vehicle, person, stationary object and/or other thing which results in Property damage, personal injury, or death; or an entry into or emerging from a moving Aircraft or Vehicle by a person which results in personal injury or death to such person or some other person or which results in Property damage.

Aeronautical Activity (or "Aeronautical Activities" or "Activity" or "Activities"), Any Activity or service that involves, makes possible, facilitates, is related to, assists in, or is required for the operation of Aircraft or another Aeronautical Activity, or which contributes to or is required for the safety of such operations. The following Activities, without limitation, which are commonly conducted on airports, are considered Aeronautical Activities within this definition: Aircraft charter, pilot training, Aircraft rental, sightseeing, aerial photography, aerial spraying and agricultural aviation services, aerial advertising, aerial surveying, air carrier operations (passenger and cargo), Aircraft sales and service, sale of aviation Fuel and oil, Aircraft Maintenance, sale of Aircraft parts, and any other Activities which, in the sole judgement of the Airport, because of their direct relationship to the operation of Aircraft or the Airport, can appropriately be regarded as an Aeronautical Activity. All products and services described herein are deemed to be "Aeronautical Activities".

Agency, Any federal, state, or local governmental entity, unit, agency organization, or authority.

Agreement, A written contract, executed by both parties, and enforceable by law between the City and an entity granting a concession, transferring rights or interest in land and/or Improvements, and/or otherwise authorizing and/or prohibiting the conduct of certain Activities. Such Agreement will recite the terms and conditions under which the Activity will be conducted at the Airport including, but not limited to, term of the Agreement; rents, fees, and charges to be paid by the entity; and the rights and obligations of the respective parties.

Air Operations Area ("or AOA"), Any area of the Airport identified by the Airport and used or intended to be used for landing, taking-off, or surface maneuvering of Aircraft, more commonly identified as those areas inside the Airport security fence.

Air Traffic Control (or "ATC"), A service operated by appropriate authority to promote the safe, orderly, and expeditious flow of air traffic.

Aircraft, Any contrivance now known or hereafter invented, which is used or designed for navigation of or flight in air, except a parachute or other contrivance designed for such navigation but used primarily as safety equipment. This includes, but is not limited to, airplanes, airships, balloons, dirigibles, rockets, helicopters, gliders, gyrocopters, ground-effect machines, sailplanes, amphibians, and seaplanes.

Aircraft Maintenance, The repair, adjustment, maintenance, alteration, preservation, and/or inspection of Aircraft (including the replacement of parts). Major repairs include major alterations to the airframe, powerplant, and propeller as defined in 14 CFR Part 43. Minor repairs include normal, routine annual inspection with attendant maintenance, repair, calibration, or adjustment of Aircraft and their accessories. Preventive maintenance means simple or minor preservation operations and the replacement of small standard parts not involving complex assembly operations (as defined by 14 CFR Part 43).

Aircraft Operator, The owner of any Aircraft or any person who has rented or leased such an Aircraft for the purpose of operation by himself or his own agents, or any person who is in actual physical control of an Aircraft.

Airport, The City of Morgantown, Morgantown Municipal Airport and all land, Improvements, and appurtenances within the legal boundaries of the Airport as it now exists on the Airport Layout Plan (or Exhibit A of the most recent FAA grant) and as it may hereinafter be extended, enlarged, or modified.

Airport Assurances, Those contractual obligations that are described by law in 49 U.S.C. 47107 and are undertaken by a public airport sponsor as a condition of receipt of federal airport development grants or federal surplus property.

Airport Director, The individual charged with the overall responsibility to manage, operate, supervise, control, and protect the Airport or such other employee of the Airport as the Airport Director may from time to time designate in writing to carry out the duties of the Airport Director or City.

ALP (or "Airport Layout Plan"), The currently approved drawing depicting the physical layout of the Airport and identifying the location and configuration of current and proposed runways, Taxiways, buildings, roadways, utilities, nav aids, etc.

Apron, those paved areas of the Airport within the AOA designated by the Airport for the loading or unloading of passengers, servicing, or parking of Aircraft.

ARFF, Fire fighting personnel who are responsible for fire fighting at the Airport.

City of Morgantown, West Virginia (or "City"), City of Morgantown, West Virginia, governed by and through the City Council. City includes City and Airport management and staff having Airport responsibilities delegated by and through the Council.

Council, Council of City of Morgantown, West Virginia

Commercial Activity, Any activity (including Aeronautical Activities) conducted at or out of the Airport by any entity in which:

- 1) the exchange, trading, buying, hiring, or selling of commodities, goods, services, or property of any kind on the Airport; or
- 2) engaging in any activity (including Aeronautical Activities) on the Airport for the purpose of securing revenue, earnings, income, and/or compensation, whether or not such revenue, earnings, income, and/or compensation are ultimately exchanged, obtained, or transferred; or
- 3) the offering or exchange of any product, service, or facility on the Airport as a part of other revenue, earnings, income, and/or compensation producing activity on or off the airport.

Commercial Operator, An entity engaging in an Activity which involves, makes possible, or is required for the operation of Aircraft, or which contributes to, or is required for the safe conduct and utility of such Aircraft operations, the purpose of such Activity being to generate and/or secure earnings, income, compensation, and/or profit, whether or not such objectives are accomplished.

Emergency Vehicle, Vehicle of the Morgantown Police Department, Morgantown Fire Department, ARFF, ambulance, airport operations, or any Vehicle conveying an Airport official or Airport employee in response to an official emergency call. In addition, all Vehicles defined as emergency vehicles in West Virginia Revised Code §17C-1-1.

FAA (or "Federal Aviation Administration"), The division established in 1967 within the Department of Transportation of the United States government that has the responsibility of promoting safety in the air, by both regulation and education.

FAR ("Federal Aviation Regulation"), Regulations established by the FAA which govern the operation of aircraft, airways, and airmen. Compliance with FARs is mandatory. In 1996, all references to the FARs were changed to "14 CFR" (Title 14 of the Code of Federal Regulations).

Flight Training, Any use of an Aircraft to increase or maintain pilot or crewmember proficiency rather than the use of an Aircraft as transportation between two different Airports or other destinations. Flight Training shall also include any portion of a flight between two Airports or other destinations dedicated to increase or maintain pilot or crewmember proficiency.

Fuel, Any substance (solid, liquid, or gaseous) used to operate any engine in Aircraft or Vehicles.

Fuel Handling, The transporting, delivering, fueling, or draining of Fuel or Fuel waste products.

Hazardous Materials, Any oil, petroleum products, flammable substances, explosives, radioactive materials, hazardous wastes, toxic wastes or substances or any other wastes, material or pollutants which pose a hazard to the health and safety of the owners, occupants or any person on (or entering) the Premises or properties adjacent to it and/or cause the Property to be in violation of any Regulatory Measure.

Improvements, All buildings, structures, and facilities including pavement, concrete, fencing, signs, and landscaping constructed, installed, or placed on, under, or above any land on the Airport.

Leased Premises, The land and/or Improvements used exclusively by Operator for the conduct of Operator's Activities regardless of whether the interest in land is an estate for years or a usufruct.

Lessee, An entity that has entered into an Agreement with the Airport to occupy, use, and/or develop land and/or Improvements and engage in Aeronautical Activities regardless of whether the interest in land is an estate for years or a usufruct.

Loitering, Unable to give satisfactory explanation of his/her presence.

Morgantown Police Department, Agency and law enforcement officers having jurisdiction (responsibility) over those portions of the Airport located within the City.

Movement Area, The runways, taxiways, and other areas of the Airport that are used for the taxiing, takeoff, and landing of aircraft, exclusive of Aprons and Taxilanes. Control of such traffic within these areas is under the jurisdiction of the ATC.

National Fire Protection Association (or "NFPA"), All codes, standards, rules, and regulations contained in the Standards of the National Fire Protection Association, as may be amended from

time to time, and are incorporated herein by reference.

Operations Agent, Any person employed by the Airport and designated to act on behalf of the Airport Director for the purposes of enforcing the rules and regulations of the Airport.

Operations Department, Department of the Airport responsible for airport safety and security.

Park, The standing of an Aircraft or Vehicle, whether occupied or not, otherwise than very briefly (no more than 10 minutes) for the purpose of and while actually engaged in loading or unloading of Property of passengers.

Permission, A right or approval granted in writing by the Airport Director or designated individual or Airport .

Property, anything that is owned by an entity. Property is divided into two types: "real property," which is any interest in land, real estate, growing plants or the Improvements on it, and "personal property", which is everything else.

Private Vehicle, Any Vehicle operated for transportation of persons or baggage who are not customers of the Vehicle Operator, and no revenue is being derived from the transportation either directly or indirectly.

Public Area, those areas of the Airport open for public thoroughfare, gathering, waiting, and/or viewing, and in which access is not restricted by federal and Airport regulations.

Refueling Vehicle, Any Vehicle used for the transporting, handling or dispensing of Fuels, oils, and lubricants.

Regulatory Measures, Federal, state, county, local, and Airport, laws, codes, ordinances, policies, rules, and regulations, including, without limitation, those of the United States Department of Transportation, the FAA, NFPA, ARFF Standard Operating Guidelines, and the Airport Certification Manual, these Rules and Regulations; all as may be in existence, hereafter enacted, and amended from time to time.

Restricted Area, Areas of the Airport, other than Public Areas, wherein entry or use thereof is restricted to authorized personnel only pursuant to federal and Airport Regulatory Measures.

Rules and Regulations, Rules and Regulations of the Airport, properly adopted by Resolution of the Council, as may be amended from time to time.

Runup, Aircraft engine operation above normal idle power for purposes other than initiating taxi or takeoff.

Security Identification Display Area ("SIDA"), An area of the Airport identified in the Airport Security Program, , as requiring each person to continuously display on their outermost garment, an airport approved identification medium unless under airport-approved escort.

Sublessee, An entity that has entered into a sublease with an Operator who is authorized to engage in Commercial Aeronautical Activities at the Airport.

SWMP, Storm Water Management Plan

Taxilane, The portion of the Aircraft parking area used for access between taxiways and Aprons and is not under ATC control.

Taxiway, A defined path, usually paved, over which aircraft can taxi from one part of an airport to another (excluding the runway) and is under ATC control.

Terminal, The air carrier passenger terminal building at the Airport.

Tiedown, An area paved or unpaved suitable for parking and mooring of Aircraft wherein suitable Tiedown points are located.

Transient Parking, The parking of Aircraft not normally based at the Airport in an area specifically set aside by the Airport for this purpose.

TSA (or "Transportation Security Administration"), The U.S. Federal agency established in 2001 to safeguard United States transportation systems and ensure secure air travel.

Ultralight Vehicle, Any contrivance used for flight that is propelled by an engine, weights less than 254 pounds, has a top speed of less than 55 knots calibrated airspeed, and has a power-off stall speed of less than 24 knots calibrated airspeed.

Vehicle, Any device that is capable of moving itself, or being moved, from place to place upon wheels; but does not include any device designed to be moved by human muscular power or designed to move primarily through the air.

Vehicle Operator, Any person who is in actual physical control of a Vehicle.

Vehicle Service Road, That portion of the AOA specifically designated and appropriately marked for the movement of authorized vehicles.

**2. General Rules and Regulations****2.1. Airport Access Media**

- 2.1.1. Operators, Lessees, Sublessees, and contractors (including all employees) at or performing work inside the SIDA or AOA at the Airport require an Airport Access Media.
- 2.1.1.1. *Airport Access Media shall not be issued to any person until a need for unescorted access inside the SIDA or AOA has been determined by the Airport Director and then only after the employer of such person certifies to the Airport Director that a background check of the person has been conducted in accordance with 49 CFR Part 1542.*
- 2.1.1.2. *Background checks, to the extent allowable by law, shall include at a minimum references and prior employment histories to the extent necessary to verify representation made by the employee relating to employment in the preceding 5 years (for non-SIDA areas) and 10 years (for SIDA areas). Background checks associated with SIDA access shall include fingerprinting and FBI background checks.*
- 2.1.2. It is the responsibility of Operators, Lessees, Sublessees, and contractors to notify the Airport to remove persons who do not need access and/or are no longer employees or affiliated with the Operator, Lessee, Sublessees, or contractor.
- 2.1.2.1. *If the person does not return the Airport Access Media to the Airport, the Operator, Lessee, Sublessee, or contractor has 10 days to recover the missing badge from the person. If the badge is not returned within 10 days, the Operator, Lessee, Sublessee, or contractor is subject to a fine.*
- 2.1.2.2. *No person may loan their Airport Access Media to any other person or knowingly permit the use thereof by another. Airport Access Medias are not transferable.*
- 2.1.2.3. *Airport Access Medias are valid for a maximum of two years or as determined by the Airport Security Program.*
- 2.1.3. Suspension
- 2.1.3.1. *Any violation of a severe nature, as determined by the Superintendent (i.e., a violation resulting in property damages and/or bodily injury or any runway or Taxiway incursion) may warrant immediate suspension of Airport Access Media privileges.*
- 2.1.3.2. *Two NOVs issued within a 12 month span will warrant suspension of Airport Access Media privileges. Suspension will be for up to a 90 day period.*
- 2.1.3.3. *Upon request, the option of a hearing or a meeting with the Airport Superintendent will be scheduled before any punitive action is taken.*
- 2.1.4. Damaged, Lost, Stolen, or Missing
- 2.1.4.1. *Each Airport Access Media holder and/or entity employing the Airport Access Media holder shall notify their supervisor and, in writing, the Airport Superintendent immediately upon becoming aware of a damaged, lost, stolen, or missing badge.*

**2.2. Security**

- 2.2.1. Restricted Areas (SIDA and AOA)
- 2.2.1.1. *No person shall enter a Restricted Area except those persons who enter in accordance with security clearance pursuant to the Airport Security Program established or authorized by the Airport, including those:*
- 2.2.1.1.1. Having an Airport Access Media issued by the Airport.
- 2.2.1.1.2. Directly engaging in work or an activity that must be accomplished therein;
- 2.2.1.1.3. Air Carrier crewmembers in uniform, working a flight, and displaying current Air Carrier photo identification.
- 2.2.1.1.4. Having prior authorization of the Airport Director;
- 2.2.1.1.5. Under appropriate supervision or escort;
- 2.2.1.1.6. Employed by or representing the FAA or TSA.

## GENERAL RULES AND REGULATIONS

- 2.2.1.2. *All persons shall display their Airport Access Media on the outermost garment, waist high or higher, at all times while inside a Restricted Area.*
- 2.2.1.3. *Any person who is not authorized to be in a Restricted Area or whose status is questionable shall leave the area by the nearest established exit point when asked to do so by any other person who is authorized to be in the area.*
- 2.2.1.4. *Any person inside a Restricted Area shall produce an Airport Access Media when asked to do so by any other person properly displaying an Airport Access Media, law enforcement credentials, or appropriate FAA or TSA credentials.*
- 2.2.1.5. *Any person that has been issued an Airport Access Media but does not have it in possession may not be escorted into a Restricted Area. That person must get possession of their Airport Access Media or apply for a replacement Airport Access Media.*
- 2.2.1.6. *All persons with an Airport Access Media are obligated to challenge anyone not displaying the Airport Access Media or authorized identification.*
- 2.2.1.7. *All persons escorted in a Restricted Area shall be under the control of a person in possession of an Airport Access Media at all times. Whenever the escort official departs the area, the person under escort must be placed under the control and responsibility of another escort official or depart the Restricted Area.*
- 2.2.2. **Security Gates and Doors**
  - 2.2.2.1. *Security gates and doors that provide access to a Restricted Area shall be kept closed and locked at all times, except when actually in use.*
  - 2.2.2.2. *All persons with an Airport Access Media must personally enter their assigned PIN and scan their Airport Access Media into the scramble pad/proximity reader prior to entering a Restricted Area. No piggy backing is permitted! Each person with an Airport Access Media must let the gate or door close before the next person accesses the door leading to the Restricted Area.*
    - 2.2.2.2.1. *Persons who have been provided either a code or device for the purpose of obtaining access to a Restricted Area shall only use Airport issued codes/devices and shall not divulge, duplicate, or otherwise distribute the same to any other person without prior Permission.*
  - 2.2.2.3. *It shall be the responsibility of all Operators, Lessees, and Sublessees (including Air Carriers) to see that all gate chains and doors and other public safeguards are continually and conscientiously used in a manner so as to protect all persons.*
    - 2.2.2.3.1. *If, as a result of FAA or TSA findings, a breach of security is determined at the location of one of these gates controlled by an Operator, Lessee, or Sublessee and a fine is imposed, the Operator, Lessee, Sublessee responsible for the gate shall be assessed for the same amount.*
  - 2.2.2.4. *Vehicle Operators utilizing a security gate to access a Restricted Area shall stop the Vehicle and allow the gate to fully close before proceeding. The Vehicle Operator shall also ensure that no other Vehicles or persons gain access to the Airport while the gate is in the process of closing or not fully closed. If the Vehicle Operator cannot prevent such access, the Vehicle Operator shall immediately notify Airport Operations or a Law Enforcement Officer.*
  - 2.2.2.5. *Tampering or interfering with a closing mechanism, disabling the lock, or breaching any other securing device at the Airport is prohibited.*

### 2.3. Commercial Activities

- 2.3.1. *Entities desirous of engaging in Commercial Aeronautical Activities at the Airport must receive prior Permission.*
- 2.3.2. *Entities engaged in Commercial Aeronautical Activities at the Airport shall pay all applicable rents and fees.*
- 2.3.3. *Entities basing or otherwise maintaining an Aircraft at the Airport shall not permit said Aircraft to be used for a Commercial Aeronautical Activity unless such Activity is expressly authorized by Agreement with the City.*

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## GENERAL RULES AND REGULATIONS

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2.3.3.1. *Notwithstanding the foregoing, such Aircraft may be used by the Aircraft Owner for the purpose of Flight Training or otherwise maintaining or increasing the flying proficiency of the Aircraft Owner or members of that person's immediate family.*

### **2.4. Tenant Responsibilities**

2.4.1. Operators, Lessees, and Sublessees shall maintain an up-to-date file containing the name, address, telephone number, and occupation of all employees, pilots, and based aircraft owners. This information shall be available to the Airport Director upon request.

### **2.5. Restricted Activities**

2.5.1. Skydiving and operation of Ultralight Vehicles, balloons and gliders are restricted and may only be permitted with Permission of the Airport Director.

### **2.6. Accidents or Incidents**

2.6.1. Any person involved in or witnessing an Aircraft or Vehicle Accident on the Airport resulting in any injury (or death) to person or damage to Property shall remain at the scene and notify the Airport Director and Morgantown Police Department immediately and provide all pertinent information as requested.

2.6.1.1. *No person shall tamper with an incident/Accident scene or fail to comply with any directive issued by the Airport Director, the Morgantown Police Department, Airport Operations, the ARFF, or any other Agency having jurisdiction over the incident/Accident scene.*

2.6.1.2. *Unauthorized entry into Restricted or Movement Areas to access an incident/Accident scene is prohibited.*

### **2.7. Solicitation, Distribution of Literature, or Picketing**

2.7.1. Any entity desiring to engage in activities at the Airport which involve the exercise of constitutional freedoms, including but not limited to, distribution of non-commercial, non-obscene, non-subversive literature, shall be protected in such activities, provided that the same do not constitute commercial activities, and do not result in the interference with airport security or the transportation function of the Airport.

2.7.2. Any entity desiring to engage in solicitation, distribution of literature, or picketing at the Airport must submit a written request to the Airport Director including the following information:

2.7.2.1. *full name, address, and telephone number of the entity sponsoring, promoting, or conducting the proposed activities;*

2.7.2.2. *full name, title, address, and telephone number of the individual overseeing/supervising the proposed activities;*

2.7.2.3. *a sample of the literature to be distributed;*

2.7.2.4. *dates and times during which the activities are proposed to be carried out and the expected duration of the proposed activities; and*

2.7.2.5. *the number of individuals to be engaged in proposed activities.*

2.7.3. All proposed activities shall be conducted only in public areas. No activities shall be conducted:

2.7.3.1. *Beyond the security checkpoints through which passengers are required to pass when moving toward aircraft gate positions.*

2.7.3.2. *In any area reserved for particular uses, such as parking areas, restroom facilities, restaurants, ticket counters or baggage claim areas.*

2.7.3.3. *Within 20 feet of any area leased exclusively to a Lessee.*

2.7.3.4. *Within 30 feet of the security checkpoint.*

2.7.3.5. *Within 10 feet of any elevator, escalator, or stairwell.*

2.7.3.6. *At any location where individuals are in line.*

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- 2.7.3.7. *No individual shall in any way obstruct, delay, or interfere with the free movements of any other individual, seek to coerce or physically disturb any other individual, or hamper or impede the conduct of any authorized business at the Airport, or touch any individual for any reason until express permission to do so has been obtained from such individual.*
- 2.7.3.8. *Receive or accept any donation or payment of money except at their designated location. Receipts must be available in the event that any individual that has made a donation requests one for income tax purposes.*
- 2.7.3.9. *No literature showing graphic photographs can be distributed.*
- 2.7.3.10. *No individual shall engage in solicitation, distribution of literature, or picketing between the hours of 8:00 PM or 8:00 AM.*
- 2.7.3.11. *No signs, banners, or promotional materials are to be hung anywhere near the designated area.*
- 2.7.3.12. *No complimentary parking will be issued*
- 2.7.3.13. *Authorization will be granted to conducted activities in two week increments only.*
- 2.7.4. The Airport Director, Morgantown Police Department, Morgantown Fire Department, or the FAA can cancel the agree upon activity under the following circumstances:
  - 2.7.4.1. *Any type of emergency determined by the Morgantown Police Department or Morgantown Fire Department, taking place on or out of the Airport.*
  - 2.7.4.2. *Any violation of these Rules and Regulations or applicable Regulatory Measure.*
  - 2.7.4.3. *Any material being distributed other than what was originally submitted for approval.*

### **2.8. General Conduct**

- 2.8.1. No person shall make, possess, use, offer for sale, pass, and/or deliver any forged or falsely altered pass, permit, identification, card, sign, and/or other authorization purporting to be issued by or on behalf of the Airport.
- 2.8.2. No person shall use or otherwise conduct himself upon any portion of the Airport in any manner contrary to the posted or otherwise visually indicated directions applicable to that area.
- 2.8.3. Destroying, damaging, injuring, defacing, disturbing, or tampering with Property on the Airport is prohibited.
  - 2.8.3.1. *Any person who causes damage to Property on the Airport shall be liable for such damage.*
- 2.8.4. Injuring, disturbing, or harassing any person on the Airport is prohibited.
  - 2.8.4.1. *Any person who causes injury to any person on the Airport shall be liable for such injuries.*
- 2.8.5. Smoking, vaping, or carrying lighted cigars, cigarettes, e-cigarettes, electronic delivery devices, or pipes in any public use area of the Airport, except in areas specifically designated by the Airport Director and posted as public smoking areas, is prohibited.
  - 2.8.5.1. *Smoking and vaping is not permitted within the Terminal, within 25 feet of any entrance to the Terminal, or on the AOA.*
- 2.8.6. No person shall be intoxicated; commit any disorderly, obscene, lewd, indecent, or unlawful act; or commit any act of nuisance (including the use of abusive or threatening language) on the Airport.
- 2.8.7. Loitering or loafing on the Airport or in any building on the Airport is prohibited.
- 2.8.8. No person shall engage in, conduct, aid in, or abet any form of gambling on the Airport without prior Permission.

## GENERAL RULES AND REGULATIONS

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- 2.8.9. Moving, tampering, starting, using, or interfering with the safe operation of any Aircraft or Vehicle or any part, instrument, or tool thereof without permission of the Aircraft or Vehicle Operator or by specific direction of the Airport Director is prohibited.
- 2.8.9.1. *Satisfactory evidence of the right to do so shall be presented if requested by the Airport Director, an Operations Agent, or Law Enforcement Officer.*
- 2.8.10. The Airport shall not be used for storing merchandise, supplies or equipment (except as stipulated within an Agreement), or for washing clothes, overnight camping or lodging, or for any improper, objectionable or immoral purposes.
- 2.8.11. Operator and Lessee facilities are expressly for the conduct of the Operator's or Lessee's business and operations. No person other than employees and customers of the Operator or Lessee shall make use of such facilities or loiter or loaf on such premises without permission of the Operator or Lessee.
- 2.8.12. Riding, walking, sitting, or standing on the baggage conveyor system (or any part thereof) is prohibited.
- 2.8.13. Using an escalator, elevator, or wheelchair for any purpose other than the purpose for which it is intended and then only in the manner specified by the manufacturer is prohibited.

### **2.9. Abandoned, Derelict, or Lost Property**

- 2.9.1. Property shall not be Abandoned on the Airport.
- 2.9.2. Abandoned, derelict, or lost Property found in Public Areas at the Airport including, without limitation, equipment, machinery, baggage, or parts thereof should be reported (and/or turned in) to the Airport Management Office/FBO.
- 2.9.2.1. *Nothing in Section 2.8.2 shall be construed to deny the right of Operators and Lessees to maintain "Lost and Found" service for Property of their customers, invitees, and/or employees.*
- 2.9.3. Abandoned property will be disposed of after 30 days in a method determined by the Airport Director.

### **2.10. Animals**

- 2.10.1. Domestic pets and animals, except for special assistance or law enforcement dogs, are not permitted on the Airport unless controlled and restrained by a leash or container. Domestic pets and animals brought into the Airport Terminal must be controlled and restrained by a container.
- 2.10.1.1. *All persons shall use utmost care to prevent any animal under their care to control or prevent from urinating or defecating upon the sidewalks of the Airport or in the Terminal or other public buildings. Person(s) responsible for the animal will immediately and thoroughly clean any soiled area.*
- 2.10.2. Horses, except those utilized for law enforcement or intended to be transported, are not permitted on the Airport.
- 2.10.3. No person, except those authorized by the Airport Director, shall intentionally hunt, pursue, trap, catch, injure, or kill any bird or animal on the Airport.
- 2.10.4. No person, except those authorized by the Airport Director, shall feed non-domestic birds or animals on the Airport.

### **2.11. Alcoholic Beverages**

- 2.11.1. Consumption or possession of intoxicating liquors is prohibited except in places approved for on-premises liquor consumption or at such times and locations as specifically approved by the Airport Director.

### **2.12. Use of Public Areas**

- 2.12.1. No person shall use a restroom other than in a clean and sanitary manner or excrete on the floors, walls, or other surfaces of the Airport.

- 2.12.2. Spitting, marking, or defacing the floors, walls, or other surfaces of the Airport is prohibited.
- 2.12.3. Use of the Public Area of any facility or area of the Airport for sleeping or other purposes in lieu of a hotel, motel, or other public accommodation is prohibited.

**2.13. Storage of Materials and Equipment**

- 2.13.1. Storage, stacking, boxing, or bagging of materials (or equipment) shall be done in such a manner as to preclude creating any hazard, obstructing any operation, or littering.
- 2.13.2. Railroad (box or tanker) cars, intermodal containers, or tanker, truck, or flatbed trailers, etc. shall not be stored or used to store any type of materials, Vehicles, or equipment without prior Permission.

**2.14. Trash and Other Waste Containers**

- 2.14.1. Garbage, empty boxes, crates, rubbish, trash, papers, refuse, and/or litter of any kind shall not be placed, discharged, or deposited on the Airport except in the receptacles provided specifically for that purpose.
  - 2.14.1.1. *The burning of garbage, empty boxes, crates, rubbish, trash, papers, refuse, and/or litter of any kind on the Airport is prohibited. With the prior Permission, ARFF personnel may engage in training exercises that require controlled burning.*
  - 2.14.1.2. *Trash and other waste containers at the Airport shall not be utilized for the disposal of personal trash unless waste container is privately owned.*
- 2.14.2. The Airport Director shall designate areas to be used for garbage receptacles and no other areas shall be utilized.
  - 2.14.2.1. *Such areas shall be kept clean and sanitary at all times.*
  - 2.14.2.2. *Garbage receptacles shall be emptied with sufficient frequency to prevent overflowing and shall be cleaned with sufficient frequency to prevent the development of offensive odors.*
  - 2.14.2.3. *Garbage receptacles shall be equipped with securely fastened lids.*
  - 2.14.2.4. *Dumping or disposing of any fill, building material, or other waste material on the Airport, except in such areas that are specifically designated by the Airport Director for such purpose, and with prior written approval of the Airport, is prohibited.*
  - 2.14.2.5. *All tenants must place garbage and trash in dumpsters designated by the Airport Director.*

**2.15. Fire**

- 2.15.1. Entities engaged in any activity at the Airport, whether occupying Airport owned facilities or otherwise, shall comply with all applicable Regulatory Measures and all fire code and practices recommended by the NFPA, unless otherwise directed or authorized in writing by the Airport Director to deviate from same.
- 2.15.2. Entities shall comply with all directives issued by the Airport Director regarding the removal of fire hazards, arrangement or modification of Vehicles or equipment, or altering operating procedures considered unsafe from a fire prevention standpoint.
- 2.15.3. Entities using the Airport or the facilities located at the Airport shall exercise the utmost care to guard against fire and injury to persons or Property.
- 2.15.4. The use of space heaters in public buildings is prohibited without the prior permission of the ARFF.
- 2.15.5. Smoking, e-cigarettes, electronic delivery devices, vaping, matches, lighters, or any open flames are prohibited on the Apron, in hangars, or in any other area on the Airport in violation of posted "No Smoking" signs and in no case within 50 feet of any Aircraft, refueling Vehicle, Fuel storage facility, storage area for flammable materials, or any Aircraft being fueled or defueled.

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2.15.5.1. *Open flames of any kind are prohibited without prior Permission. This excludes open flames utilized by Lessees and Operators in the performance of Aircraft Maintenance approved by Agreement.*

- 2.15.6. Any hostile fires (regardless of the size of the fire or whether or not the fire has been extinguished) shall be reported immediately to the ARFF.
- 2.15.7. No entity shall remove or cause to be removed from its holder, container, reel, or bracket any equipment or device used in fire prevention except in case of emergency or fire.
- 2.15.8. All fire doors, hangar doors, sprinkler risers, fire boxes, fire hydrants and pits, hose boxes, and all fire fighting apparatus shall be kept clear of obstructions at all times.

### **2.16. Hazardous Materials**

- 2.16.1. No entity shall store, keep, handle, use, dispense, dispose, discharge, or transport on the Airport any Hazardous Materials in contravention of any these Rules and Regulations, the Storm Water Management Plan, the Uniform Fire Code, and all other applicable Regulatory Measures. Proper permits must be obtained from the appropriate Agency, copies must be presented to the Airport Director, and prior Permission received.

### **2.17. Painting**

- 2.17.1. Doping processes, painting, or paint stripping shall be performed only in those designated and properly designed, fireproofed, and ventilated facilities approved for such activities and in compliance these Rules and Regulations, the Storm Water Management Plan, the Uniform Fire Code, and all other applicable Regulatory Measures.

### **2.18. Flammable Solids and Liquids**

- 2.18.1. The use of flammable, volatile liquids having a flash point of less than 100 degrees Fahrenheit is prohibited unless such operations are conducted in open air or in a room specifically set aside and approved for the purpose for which the liquid is being used. The room must be properly fireproofed and equipped with adequate and readily accessible fire-extinguishing apparatus.
- 2.18.2. The procedures and precautions outlined in the criteria of NFPA Pamphlet No. 30 (Flammable and Combustible Liquids Code), NFPA Pamphlet No. 410D (Safeguarding Aircraft Cleaning, Painting and Paint Removal), and NFPA Pamphlet No. 410F (Aircraft Cabin Cleaning and Refurbishing Operations) shall be adhered to in all cleaning, painting, refurbishing, and other operations using flammable liquids including the storage of such liquids.
- 2.18.3. A total of 60 gallons of lubricating oils having a flash point at or above 150 degrees may be stored in hangars provided that the product is stored in the original container and has the original manufacturer's labeling (or that the product is stored in other suitable containers approved by the Airport Director and the ARFF).
  - 2.18.3.1. *Larger quantities may be stored in accordance with applicable Regulatory Measures and notification to the Airport Director and ARFF.*
  - 2.18.3.2. *T-hangars shall not contain oil quantities in excess of two times the oil storage capacity of the engine of the Aircraft stored therein.*

### **2.19. Compressed Gases**

- 2.19.1. Oxygen or any compressed gas in a cylinder or portable tank must be secured to a fixed location or secured to a portable cart designed and approved specifically for the cylinder(s) or tank(s) being secured.
  - 2.19.1.1. *Compressed gas cylinders or tanks must have approved, and fully operational pressure relief devices installed.*
  - 2.19.1.2. *Cylinders or tanks not in use shall have an approved transportation safety cap installed.*

*2.19.1.3. Cylinders or tanks shall be maintained in compliance with all applicable rules and regulations.*

**2.20. Effluents, Pollutant, or Air Contaminant**

- 2.20.1. No person shall discharge any substance in or upon the Airport in contravention of any Regulatory Measure. Proper permits must be obtained from the appropriate Agency, copies must be presented to the Airport Director, and prior Permission must be received for such discharge.
- 2.20.2. Any person who experiences overflowing, spilling, or leaking of oil, grease, Fuel, and/or similar material or substance anywhere on the Airport is responsible for the immediate cleanup of the spill, proper disposal of the substance, and notification of the Airport Director in accordance with the Airport's SWMP and Operator's SPCC plan.
  - 2.20.2.1. *Should the City determine that during the course of an environmental incident the responsible party is not capable of, has not, or refuses to take the appropriate action in a timely manner to mitigate the adverse environmental incident (in the sole discretion of the City), then the City reserves the right to take action and/or employ those services that the City determines appropriate to control and/or clean up the site. The cost of such services shall be borne by the responsible party.*
- 2.20.3. Operators with fueling capability or responsibility for maintenance of Fuel systems shall have on hand at all times sufficient containment booms to form a barrier around the spill. Additionally, Operators shall have sufficient cleanup absorbents, pillows, pads, etc. to pick up the product and to store the same (saturated booms, blankets, etc.) in a sealed container(s) until proper disposal can be effected. The salvage drum(s) shall be approved by the DOT (DOT-E-10102).
- 2.20.4. Hazardous Materials Spills
  - 2.20.4.1. *In the event a Hazardous Materials spill occurs of any magnitude, the responsible party of such spill shall take appropriate action in the containment, clean up, and rehabilitation of such spill. The following procedures shall be implemented in managing a Hazardous Materials spill.*
  - 2.20.4.2. *Minor Spills – Spills of less than 5 gallons and that are not compromising the safety of the public.*
    - 2.20.4.2.1. Determine the threat to the immediate public.
    - 2.20.4.2.2. Contain the spill with an absorbent.
    - 2.20.4.2.3. Block all stormwater drains that could be impacted by such a spill.
    - 2.20.4.2.4. Apply the proper absorbent from strategically placed spill kits. All liquids and absorbents shall be disposed of or reused per applicable Regulatory Measures.
    - 2.20.4.2.5. Make record of the spill at your facility.
    - 2.20.4.2.6. Contact the West Virginia Department of Environmental Protection should the spill impacted the ground waters and or the surface waters no matter how small the quantity.
  - 2.20.4.3. *Major Spills – Spills in excess of 5 gallons but less than 25 gallons or any spill causing an immediate threat to the safety of the public.*
    - 2.20.4.3.1. Determine the threat to the immediate public.
    - 2.20.4.3.2. Block all stormwater drains from potential contamination.
    - 2.20.4.3.3. Contain the spill with an absorbent.
    - 2.20.4.3.4. Contact the Airport **immediately**. Airport personnel will determine when to call Morgantown Fire Department.
    - 2.20.4.3.5. Determine the nature of the spill.
    - 2.20.4.3.6. Apply absorbents to the spill until all residual liquid has been processed. All liquids and absorbent shall be disposed of properly per applicable Regulatory Measures.
    - 2.20.4.3.7. Assess the damage to the land and/or water with Airport personnel.
    - 2.20.4.3.8. Contact the West Virginia Department of

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Environmental Protection should the spill impact the ground waters and or the surface waters no matter how small the quantity.

- 2.20.4.3.9. Record all aspects of the spill in your files.
- 2.20.4.3.10. A written detailed report containing all pertinent information of such spill shall be completed by the responsible party and delivered to the Airport Director within five working days.

### *2.20.4.4. Serious Spills – Spills in excess of 25 gallons and which may pose a serious threat to the safety of the public.*

- 2.20.4.4.1. Evaluate the threat to the public and make any arrangements to secure the safety of the immediate public (i.e., evacuation).
- 2.20.4.4.2. Contain the spill should safety permit.
- 2.20.4.4.3. Block all drains that pose an immediate threat from the spill.
- 2.20.4.4.4. Apply absorbents to such a spill until all residual liquid is processed. All liquids and absorbent shall be disposed of properly per applicable Regulatory Measures.
- 2.20.4.4.5. Contact the ARFF and Morgantown Fire Department **immediately**.
- 2.20.4.4.6. Airport personnel shall assess the damage to the land and/or the waters.
- 2.20.4.4.7. Airport personnel shall inspect the drainage outfall for downstream contamination.
- 2.20.4.4.8. Record all aspects of the spill in your record.
- 2.20.4.4.9. Contact the West Virginia Department of Environmental Protection immediately.
- 2.20.4.4.10. Provide a written summary of the spill and the measures that will be taken to eliminate such a spill in the future to the Airport within five working days.

### **2.21. Emergency Conditions**

- 2.21.1. The Airport Director, either directly or through ATC, may suspend or restrict any or all activities at the Airport or issue emergency procedures wherever such action is deemed necessary in the interest of safety.
- 2.21.2. Emergency conditions at the Airport shall not mitigate or cancel these Rules and Regulations.
- 2.21.3. Permits issued under these Rules and Regulations shall be rendered invalid until the emergency situation has been alleviated and normal operations have resumed.
- 2.21.4. During such conditions, the Operator of any Aircraft or Vehicle shall make certain that the Aircraft or Vehicle is not moved in any direction unless specifically cleared by ATC, Airport Director, an Operations Agent, and/or a Law Enforcement Officer.
- 2.21.5. No person shall enter upon the AOA for the purpose of attending, observing, or assisting at the scene of an Accident except persons requested or permitted to do so by ATC, Airport Director, an Operations Agent, and/or a Law Enforcement Officer.

### **2.22. Special Events**

- 2.22.1. Special events shall not be held unless written approval is first obtained from the Airport Director and any other Agency having jurisdiction over the event.
- 2.22.2. Written authorization shall specify the areas of the Airport authorized for such special use, the dates and duration of such use, and any other terms and conditions deemed necessary.

**3. Aircraft Rules and Regulations**

**3.1. Regulatory Measures**

- 3.1.1. Activities at the Airport (including the controlled airspace of the Airport) shall conform to the current applicable provisions of 14 CFR; applicable Regulatory Measures; these Rules and Regulations; and orders (written or verbal instructions) of the Airport Director and ATC personnel.

**3.2. Airworthiness**

- 3.2.1. Only Aircraft considered airworthy by the FAA or any foreign counterpart shall use any area of the Airport for Aircraft parking or storage. Aircraft Operator shall promptly remove Aircraft that are not airworthy unless granted Permission.
- 3.2.1.1. *Permission may be granted to store Aircraft in City owned hangars (excluding FBO hangars) undergoing major renovation or restoration.*
- 3.2.1.2. *If City owned hangars, t-hangars, or Tiedown occupancy is 100%, non-airworthy Aircraft may be kept at the Airport (with Permission) for no more than 6 months.*
- 3.2.1.3. *Should an Aircraft Operator fail to remove an Aircraft (at Aircraft Operator's expense) that is not airworthy after notification by the Airport Director, the Aircraft may be removed by the Airport Director at the risk and expense of the Aircraft Operator without liability for damage arising from or out of such removal.*
- 3.2.2. Abandoning an Aircraft anywhere on the Airport is prohibited.
- 3.2.2.1. *The Airport Director, at the risk and expense of the Aircraft Operator, may remove such Aircraft without liability for damage arising from or out of such removal.*

**3.3. Accidents or Incidents**

- 3.3.1. Aircraft Operators involved in an Accident on the Airport resulting in any injury (or death) to person or damage to Property shall make a full and prompt report of the Accident to the Airport Director, Airport Superintendent, and Morgantown Police Department, complete any necessary reports and/or forms, and comply with all applicable provisions of National Transportation Safety Board Regulations Part 830.
- 3.3.2. Aircraft Operators shall be responsible for the safe and prompt removal of disabled Aircraft and parts thereof, unless required or directed by the Airport Director, the FAA, or the NTSB to delay such action pending an investigation of an Accident.
- 3.3.3. An Aircraft involved in an Accident on the Airport may not be removed from the scene of the Accident until authorized by the Airport Director who shall receive authorization (to remove the Aircraft) from the FAA and/or National Transportation Safety Board, when applicable.
- 3.3.4. Once authorization to remove the Aircraft has been issued, the Aircraft Operator shall make immediate arrangements to have the Aircraft removed.
- 3.3.4.1. *If immediate arrangements are not made (so that the Airport can return to full operational status without unreasonable delay), the Airport Director may have the Aircraft removed at the Aircraft Operator's risk and expense without liability for damage arising from or out of such removal.*

**3.4. Prohibiting Use of the Airport**

- 3.4.1. The Airport Director shall have the right at any time to deny the use of the Airport to any person or group when the Airport Director considers such actions to be necessary and desirable in the interest of safety or when the Rules and Regulations herein set forth are being violated.
- 3.4.1.1. The Airport Director may prohibit Aircraft operations (except for emergency landings) when it is determined that conditions are unsafe or the Aircraft operation would likely endanger persons or Property.
- 3.4.1.2. *Under no circumstance shall an authorized Airport closure or restriction constitute grounds for reimbursement of any expense, loss of revenue, or damage incurred by*

*any Operator, Lessee, or any other entity.*

**3.5. Passengers and Cargo**

- 3.5.1. Passengers and cargo shall be enplaned/deplaned only in areas designated by the Airport Director.
- 3.5.2. At the request of any Aircraft Operator, the Airport Director may have any person who creates a nuisance or threatens any person or Property or Aircraft removed from said Aircraft or the Airport if deemed necessary.

**3.6. Aircraft Maintenance**

- 3.6.1. Aircraft Maintenance on the Airport is permitted only in areas designated by the Airport Director.
  - 3.6.1.1. *Only designated areas shall be used for preventive maintenance (as defined by 14 CFR Part 43) and in accordance with the posted rules at each maintenance area.*
  - 3.6.1.2. *Aircraft Maintenance within hangars shall be limited to that specifically permitted by the type rating established in the Uniform Building Code and in compliance with the directives of the Fire Marshal.*

**3.7. Aircraft Cleaning**

- 3.7.1. All cleaning must be done in open air or in a building designed for such purpose, in accordance with NFPA standards, SWMP, applicable Regulatory Measures, and approved by the Airport Director.
- 3.7.2. All drainage must flow to an oil/water separator.
- 3.7.3. All Aircraft cleaning shall be done in accordance with posted rules, with biodegradable soap, and without the use of solvents or degreasers.
- 3.7.4. Aircraft, aircraft engines, and/or parts may be dry washed in areas not having an oil/water separator.

**3.8. Aircraft Deicing**

- 3.8.1. Aircraft deicing (the removal of snow and/or ice with chemical substances) and transportation, storage, and disposal of deicing fluids shall only be accomplished in accordance with all applicable Regulatory Measures and the SWMP in designated areas and with prior Permission.
- 3.8.2. Before granting Permission for Aircraft deicing on the Airport, the Airport Director shall inspect the containment system and/or mechanism and approve the containment plan that will be used by the Operator or Lessees for Aircraft deicing.

**3.9. Aircraft Engine Operation**

- 3.9.1. Only qualified persons shall start and/or operate an Aircraft engine at the Airport and/or taxi an Aircraft on the Airport.
  - 3.9.1.1. *Qualified persons include a pilot, an Airframe and Powerplant Mechanic, or a qualified technician licensed by the FAA and qualified to start or Operate the engine(s) and/or taxi that particular class and type of Aircraft.*
- 3.9.2. Starting engines shall be prohibited until ground personnel have given proper clearance (if appropriate) and until all standard safety procedures have been followed.
- 3.9.3. Any person operating an Aircraft engine in an area that is accessible to the public shall take precautions to alert and protect the public from hazards incident to such operations.
- 3.9.4. Starting an Aircraft engine when there is any flammable liquid on the ground in the immediate vicinity of the Aircraft is prohibited.
- 3.9.5. Aircraft controls shall not be unattended while Aircraft engines are operating.

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- 3.9.6. Propeller, engine, and exhaust noises shall be kept to a minimum.
- 3.9.7. Runup of Aircraft engines shall be performed only in the areas designated for such purpose by the Airport Director.
  - 3.9.7.1. *Runup of Aircraft engines is not allowed in non-movement areas except in designated areas or approved by the Airport Director.*
  - 3.9.7.2. *Aircraft may not be tied to any structure during Aircraft engine runup.*
  - 3.9.7.3. *High speed or full power aircraft engine runups (including maintenance run-ups) shall be performed in designated run-up areas or in other areas designated specifically for this purpose by the Airport Director.*
  - 3.9.7.4. *High speed or full power aircraft engine runups are prohibited at the Airport from 10:00 PM to 7:00 AM without prior Permission.*

### **3.10. Aircraft Parking and Storage**

- 3.10.1. Aircraft shall be parked only in those areas designated for such purpose by the Airport Director and shall not be positioned in such a manner so as to block a runway, taxiway, taxilane (except for temporary staging and/or fueling of such Aircraft), or obstruct access to hangars, parked Aircraft, and/or parked Vehicles.
- 3.10.2. Unless otherwise provided in an Agreement with the City or authorized FBO, no person shall use any area of the Airport for the parking and storage of Aircraft, other than Transient Parking, without prior Permission.
  - 3.10.2.1. *Should a person use such areas for Aircraft parking or storage without first obtaining prior Permission, the Airport Director may remove and store the Aircraft at the expense of the Aircraft Operator without liability for damage that may arise from or out of such removal or storage.*
- 3.10.3. Aircraft Operators shall ensure unattended, parked, and stored Aircraft are properly secured as set forth in FAA AC 20-35C.
  - 3.10.3.1. *Parked or stored rotorcraft shall have braking devices and/or rotor mooring blocks applied to the rotor blades.*
  - 3.10.3.2. *Moored lighter-than-air Aircraft shall have at least one person monitoring the safety of the mooring at all times.*
- 3.10.4. Upon request of the Airport Director, the Operator of any Aircraft parked or stored at the Airport shall move the Aircraft to the location and/or position on the Airport identified by the Airport Director.
  - 3.10.4.1. *In the event the Aircraft Operator refuses, is unable, or unavailable, the Airport Director may move the Aircraft to the area at the risk and expense of the Aircraft Operator without liability for damage that may arise from or out of such movement.*
- 3.10.5. Aircraft Tiedowns shall only be used for the following purposes:
  - 3.10.5.1. *Storage and parking of the Aircraft listed on the Agreement for that Tiedown.*
  - 3.10.5.2. *Performing preventive Aircraft Maintenance on the Aircraft listed on the Agreement for that Tiedown in accordance with applicable Regulatory Measures.*
- 3.10.6. Aircraft hangars shall only be used for the following purposes:
  - 3.10.6.1. *Storage and parking of Aircraft and associated Aircraft equipment and supplies as approved by the Airport Director and the ARFF.*
  - 3.10.6.2. *Parking of Vehicles that display a valid Airport Vehicle permit.*
- 3.10.7. Use of Aircraft hangars shall be subject to the following restrictions:
  - 3.10.7.1. *No Aircraft Maintenance, alterations, or repairs shall be performed in a hangar without prior Permission.*
  - 3.10.7.2. *For hangars not having a personnel exit door, hangar doors shall remain open 36 inches anytime a person is in the hangar.*
  - 3.10.7.3. *Space heaters shall never be located inside Aircraft and left unattended. Space heaters may be utilized in hangars so long as the heater has a clear radius of 10 feet from Aircraft (or any other object) and fire prevention/safety measures are observed.*

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## AIRCRAFT RULES AND REGULATIONS

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3.10.7.4. *Oily rags, waste oil, or other materials soiled with petroleum-based products may only be stored in containers with self-closing, tight-fitting lids as approved by the ARFF.*

3.10.7.5. *Aircraft batteries shall not be connected to a charger when installed in an Aircraft that is located inside (or partially inside) a hangar.*

### **3.11. Aircraft Security**

- 3.11.1. If the kind, type, mission, or condition of an Aircraft makes it necessary for an Aircraft Operator to obtain, provide, and/or maintain security for an Aircraft, the Aircraft Operator shall be responsible for such security and may only provide (and/or arrange for) such security after obtaining prior Permission.
- 3.11.2. Aircraft Operators shall not employ security measures as a means to hinder, delay, or prevent removal of Aircraft at the direction of the Airport Director.

### **3.12. Aircraft Operations**

- 3.12.1. Operating an Aircraft in a careless, negligent, or reckless manner; in disregard of the rights and safety of others; without due caution and circumspection; or at a speed or in a manner which endangers, or is likely to endanger persons or Property of any entity is prohibited.
- 3.12.2. Aircraft Operators shall obey all pavement markings, signage, and lighted signals unless instructed otherwise by ATC or the Airport Director.
- 3.12.3. Operating an Aircraft constructed, modified, equipped, or loaded as to endanger, or be likely to endanger persons or the Property of any entity is prohibited.
- 3.12.4. Aircraft Operators shall comply with any order, signal, or directive of ATC, Airport Director, an Operations Agent, or a Law Enforcement Officer.
- 3.12.5. Aircraft Operators shall not land, take off, taxi, or park an Aircraft on any area that has been restricted to a maximum weight bearing capacity of less than the weight of the Aircraft.
  - 3.12.5.1. *It shall be the Aircraft Operator's responsibility to repair any damage to the Airport's runways, Taxiways, or Aprons caused by excessive Aircraft weight loading.*
- 3.12.6. Experimental flights or ground demonstrations shall not be conducted on the Airport without prior Permission.
- 3.12.7. The starting, positioning, or taxiing of any Aircraft shall be done in such a manner so as to avoid generating (or directing) any propeller slipstream or engine blast that may endanger or result in injury to persons or damage to Property.
- 3.12.8. Airborne radar equipment shall not be operated or ground-tested in an area where the directional beam of such radar, if high intensity (50KW or greater output), is within 300 feet or, if low intensity (less than 50 KW output), is within 100 feet of another Aircraft, an Aircraft refueling operation, an Aircraft Refueling Vehicle, or a Fuel storage facility.
- 3.12.9. Operation of Aircraft radio equipment while the Aircraft is in a hangar, other than when radio equipment maintenance is being performed on the Aircraft is prohibited.
- 3.12.10. Aircraft engines shall not be started and Aircraft shall not be taxied into, out of, or within any structure on the Airport.

### **3.13. Taxiing Operations**

- 3.13.1. Aircraft Operators shall not taxi in a Movement Area without the ability to communicate by radio unless prior coordination and permission has been granted by ATC.
- 3.13.2. Aircraft Operators shall obey all pavement markings, signage, and lighted signals unless the Airport Director or designated representative or ATC directs otherwise.
- 3.13.3. Aircraft shall not be taxied until the Aircraft Operator has determined by visual inspection that there shall be no danger of collision with any person or object in the area.

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- 3.13.4. Aircraft being taxied, towed, or otherwise moved at the Airport shall proceed with running lights and anti-collision lights illuminated during the time between official sunset and official sunrise.
- 3.13.5. Taxiing Aircraft shall yield the right-of-way to any Emergency Vehicle.
- 3.13.6. Aircraft Operators shall not taxi an Aircraft at a speed greater than is reasonable and prudent under the conditions with regard for actual and potential hazards and other Aircraft so as not to endanger persons or Property.

### **3.14. Rotorcraft Operations**

- 3.14.1. Rotorcraft shall park or Operate only in the areas approved by the Airport Director.
- 3.14.2. Rotorcraft shall not be operated unless there is a clear area of at least 50 feet from the outer tip of each rotor.
- 3.14.3. Rotorcraft shall not be operated within 200 feet of any area where light Aircraft are parked or operating, unless such area is specifically established for rotorcraft operations.

### **3.15. Limitations**

- 3.15.1. Aircraft Operators shall obtain prior Permission before conducting any of the following activities at the Airport.
  - 3.15.1.1. *Experimental Flights*
  - 3.15.1.2. *Use of Motorless Aircraft: The landing upon or towing from the Airport of gliders, sailplanes, and other certificated motorless Aircraft.*
  - 3.15.1.3. *Use of Ultralight Vehicles: The landing upon or taking off from the Airport of ultralight vehicles.*
  - 3.15.1.4. *Use of Lighter-than-Air Aircraft: The landing upon or taking off from the Airport of airships, dirigibles, blimps, balloons, and other certificated lighter-than-air Aircraft that utilize gasses or hot air to provide lift.*
  - 3.15.1.5. *Banner or Glider Towing: The landing upon or taking off from the Airport of Aircraft that tow banners, gliders, or any other device.*
  - 3.15.1.6. *Hazardous Cargo: Landing or taking off with flammable, explosive, or corrosive materials, except that which is carried aboard for the operation of the Aircraft or use by crewmembers or passengers.*
  - 3.15.1.7. *Radioactive Cargo: The landing upon or taking off from the Airport of Aircraft loaded with radioactive materials.*
    - 3.15.1.7.1. All shipments of radioactive cargo or other hazardous material shall comply with regulations established in 49 CFR Parts 100-199, and all other Regulatory Measures governing such shipments.
    - 3.15.1.7.2. Trained Hazmat and ARFF equipment and personnel will be required for this type of operation as a standby precautionary measure. Costs associated with Trained Hazmat equipment and personnel shall be borne by the Aircraft Operator.

### **3.16. Fees and Charges**

- 3.16.1. Aircraft Operators shall pay the fees and charges as established by the City for the use of the Airport.
  - 3.16.1.1. *Aircraft exempt from Airport fees and charges include Aircraft owned and/or Operated by the United States of America, military forces of the United States of America, and the Aircraft operated by foreign military forces in support of allied military operations that do not utilize the Airport significantly (as defined in the Airport Assurances).*

### **3.17. Self-Servicing**

- 3.17.1. Aircraft Operators are permitted to fuel, wash, repair, or otherwise service their own Based Aircraft (utilizing their own equipment), provided there is no attempt to perform such services for others and further provided that such right is conditioned upon compliance with these Rules and Regulations, SWMP, and all other applicable

### Regulatory Measures.

- 3.17.2. An Aircraft Operator may hire a person (as an Employee) to provide, under the direction and supervision of the Aircraft Operator, services on the Aircraft Operator's Aircraft.
  - 3.17.2.1. *Such services may only be provided by a direct Employee of the Aircraft Operator utilizing the Vehicles/equipment owned by the Operator*
  - 3.17.2.2. *Aircraft Operators are ONLY permitted to have their Aircraft fueled, washed, repaired, or painted by those Operators and Lessees authorized to provide such service pursuant to an Agreement with the Airport.*

**4. Vehicle Rules and Regulations**

**4.1. Regulatory Measures**

- 4.1.1. All Vehicle Operators on the Airport shall comply fully with the West Virginia Revised Code Article 1 (as may be amended from time to time), City's Revised Code of General Ordinances, Rules and Regulations, and instructions issued by the Airport Director.
- 4.1.2. Jurisdiction shall be as in all other traffic offenses.

**4.2. Operator Licensing and Permit**

- 4.2.1. A Vehicle Operator that does not have in their possession a valid State issued driver's license and Airport Access Media with AOA driving privileges will not be allowed to operate a Vehicle on the AOA unless accompanied by an authorized Vehicle Operator with a valid State issued driver's license and Airport Access Media with AOA driving privileges.
- 4.2.2. An Airport Access Media with AOA driving privileges will only be granted as follows:
  - 4.2.2.1. *Proof of a valid State issued driver's license with no prior traffic convictions of a nature that would normally be defined as a four-point (or higher) violation under State of West Virginia law.*
  - 4.2.2.2. *Completion of the Airport's Movement Area Drivers Training Program.*
- 4.2.3. An Airport Access Media with Movement Area driving privileges will only be granted as follows:
  - 4.2.3.1. *Fulfillment of 4.2.2.*
  - 4.2.3.2. *Submission of letter (on company letterhead) to the Airport Director from employee's supervisor providing justification for Movement Area driving privileges.*
    - 4.2.3.2.1. The Airport Director reserves the right to grant full or limited driving privileges on the Movement Area based upon access frequency and job requirements. Limited permits grant access to specific locations within the Movement Area.
  - 4.2.3.3. *Airport familiarization tour conducted by the Operations Department.*
  - 4.2.3.4. *Final practical airfield familiarization evaluation by the Operations Department.*
- 4.2.4. An individual with an Airport Access Media with Movement Area driving privileges must accomplish recurrent training annually no later than the date posted on the Airport Access Media.

**4.3. Suspension of Driving Privileges**

- 4.3.1. An individual with Non-Movement Area driving privileges that violates these Vehicle Rules and Regulations, including runway or Taxiway incursions, will be subject to the following actions:
  - 4.3.1.1. *First written warning in any 12 month period*
    - 4.3.1.1.1. Suspension of driving privileges
  - 4.3.1.2. *First Violation (within a 12 month period)*
    - 4.3.1.2.1. Suspension of driving privileges.
  - 4.3.1.3. *Three written warnings in any 12 month period*
    - 4.3.1.3.1. Revocation of driving privileges indefinitely.
  - 4.3.1.4. *Third Violation (within a 12 month period)*
    - 4.3.1.4.1. Revocation of driving privileges indefinitely.
  - 4.3.1.5. *Runway or Taxiway incursion or Vehicle/pedestrian deviation*
    - 4.3.1.5.1. Suspension of driving privileges for no less than seven calendar days.
- 4.3.2. An individual with Movement Area driving privileges that violates these Vehicle Rules and Regulations, including runway or Taxiway incursions, will be subject to the following actions:
  - 4.3.2.1. *First Violation*

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- 4.3.2.1.1. Suspension of driving privileges for a period of seven days.
- 4.3.2.2. *Second Violation (within 12 month period of the first suspension)*
  - 4.3.2.2.1. Suspension of driving privileges for a period of 30 days.
- 4.3.2.3. *Third Violation (within 12 month period)*
  - 4.3.2.3.1. Revocation of driving privileges indefinitely.
- 4.3.3. Any violation of a severe nature as determined by the Airport Director may warrant immediate suspension or revocation of driving privileges.
- 4.3.4. Individuals with suspended or revoked driving privileges must deliver a letter to the Operations Department from their supervisor indicating that the individual has been counseled on the severity of the violation and has received recurrent training from the employer or Operations Department. Once the letter has been received and the individual has successfully re-accomplished all phases of the Airport's Movement Area Drivers Training, driving privileges may be reinstated.

### **4.4. Vehicle Permit**

- 4.4.1. Vehicles operating or parking on the AOA, except for Emergency Vehicles, must be:
  - 4.4.1.1. *Properly registered in the state of West Virginia or is a qualified off-road Vehicles that is not normally operated on public streets but has received the approval of the Airport.*
  - 4.4.1.2. *Registered with the Airport under the Vehicle Permit Program*
  - 4.4.1.3. *Displays a current Vehicle permit*
  - 4.4.1.4. *Has paid any fees or charges that may be assessed*
  - 4.4.1.5. *Has on file proper insurance coverage with the Airport, unless otherwise authorized by the Airport Director.*
- 4.4.2. Vehicles that are authorized on the AOA including the following:
  - 4.4.2.1. *Non-Movement Areas*
    - 4.4.2.1.1. Airline ground equipment and Vehicles
    - 4.4.2.1.2. Contracted snow removal equipment
    - 4.4.2.1.3. FBO service Vehicles
  - 4.4.2.2. *Non-Movement and Movement Areas*
    - 4.4.2.2.1. FAA and TSA Vehicles
    - 4.4.2.2.2. FBO Refueling Vehicles and other Vehicles
    - 4.4.2.2.3. Airfield maintenance equipment and Vehicles
    - 4.4.2.2.4. Airport Vehicles with ATC radios and roof top beacon
    - 4.4.2.2.5. FBO Spill Response Vehicles
    - 4.4.2.2.6. Vehicles with an authorized escort
- 4.4.3. Authorized Vehicles requiring access to the AOA and/or SIDA shall be conspicuously marked with company insignias or other company markings, which are clearly visible on both sides of the Vehicle.
- 4.4.4. Unmarked law enforcement, FAA and other Agency Vehicles may be granted access by the Airport Director when necessary in the performance of their duties.

### **4.5. Escorted Vehicles**

- 4.5.1. Vehicles that do not have a Vehicle permit may be escorted if:
  - 4.5.1.1. *The escorted Vehicle is under visual observation at all times and movement and actions controlled by escorting Vehicle; or*
  - 4.5.1.2. *The escorted Vehicle is to be escorted to a location within the AOA and not moved until escorted off premises.*

### **4.6. Vehicle Licensing and Equipment**

- 4.6.1. Except for Vehicles that are exclusively used on the AOA, all Vehicles shall meet proper state licensing, registration, and inspection requirements including, but not limited to, those identified in West Virginia Revised Code, Article 1. A copy of Vehicle registration

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will be attached to the Vehicle Permit application.

- 4.6.2. Vehicles shall not be operated on the Airport unless the Vehicle is in sound mechanical order; has adequate and operational headlights, horn, and brakes; and permits clear visibility from the driver's position.
- 4.6.3. Since the presence at the Airport of a tank Vehicle, truck, or semi-trailer used for the transportation of flammable liquids or fueling and defueling of Aircraft could endanger persons or Property, no tank Vehicle, truck, or semi-trailer shall be operated at the Airport unless approved by the Airport Director.
- 4.6.4. All Vehicles and equipment on the Airport must have a reflective device (i.e., reflective tape, taillight) mounted on the rear and all sides of the Vehicle and proper brakes/braking system. This shall include trailers, carts, semi-trailers, baggage carts, portable heater units, and other towed equipment. In addition, all factory original equipment must be kept in working order (i.e., headlights, taillights, horn, etc.)

### **4.7. Vehicle Operations**

- 4.7.1. Operating a Vehicle on the Airport in a careless, negligent, unsafe, or reckless manner; in disregard of the rights and safety of others; and without due caution and circumspection; or at a speed or in a manner which endangers, or is likely to endanger, persons or Property is prohibited.
- 4.7.2. Vehicles constructed, equipped, loaded, or maintained (or have attached thereto any object or equipment which drags, swings, or projects) so as to endanger, or be likely to endanger, persons or Property, is prohibited on the Airport.
- 4.7.3. Vehicles shall not be operated in any hangar at the Airport unless the Vehicle exhaust is protected by screens or baffles to prevent the escape of sparks or the propagation of flame and a vent system exists to prevent exhaust fumes from building up in the hangar.
- 4.7.4. Vehicle Operators shall yield the right of way to pedestrians, Emergency Vehicles (or equipment), snowplows, and Aircraft.
- 4.7.5. Vehicles approaching from opposite directions shall pass to the right of each other.
- 4.7.6. All Vehicles crossing or entering the traffic lanes shall yield to those Vehicles already in the lane before proceeding. All Vehicles must travel in a single lane of traffic only (in each direction) when crossing Taxiways and when in the terminal area.
- 4.7.7. Vehicle Operators shall not, after receiving a visual or audible signal from an Operations Agent or Law Enforcement Officer, fail to stop the Vehicle being operated, operate the Vehicle in disregard of the signal, or interfere with or endanger the operation of an Operations Agent or Law Enforcement Officer, increase the speed or extinguish the lights of the Vehicle, or attempt to flee from or elude an Operations Agent or Law Enforcement Officer
- 4.7.8. Vehicle Operators shall provide proper signals and obey all traffic lights, signs, mechanical or electrical signals, and pavement markings unless directed otherwise by an Operations Agent or Law Enforcement Officer.
- 4.7.9. Vehicles must have both headlights and taillights operating when the Vehicle is used during the time between official sunset and official sunrise and at any other time when visibility is poor.
- 4.7.10. Persons shall not ride on the running board, in the beds of pickup trucks, ride on the outside of a Vehicle, or allow arms or legs to protrude from a Vehicle with exception of Emergency Vehicles that are designed specifically for such operations and/or use by ARFF personnel.
- 4.7.11. Vehicles used for hauling trash, dirt, or any loose material shall be operated in such a fashion as to prevent the contents of the Vehicle from dropping, sifting, leaking, or otherwise escaping including, at a minimum, covering Vehicles load.

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- 4.7.12. The operator of a Vehicle will be responsible for any object falling from the Vehicle including, but not limited to, those objects that may create a hazard to persons, Aircraft, or other Vehicles and is responsible for any resulting damage and required cleanup.
- 4.7.13. Equipment in Tow
- 4.7.13.1. *Vehicles towing a train of baggage or cargo carts, carriers, or pods shall be limited to what is practical, under control, tracking properly, and safe and in no situation in excess of four carts unless specifically authorized in writing by the Airport Director.*
- 4.7.13.2. *Positive locking couplings are required for all towed equipment on the AOA.*
- 4.7.13.3. *Vehicles (Tugs) and baggage carts shall be returned to designated storage areas immediately following unloading.*
- 4.7.13.4. *Equipment in tow must have reflectors or fluorescent tape on the rear of equipment*
- 4.7.14. Use of ATVs, three wheelers, scooters, mini-bikes, go-carts, roller blading, skate boarding, and the recreational use of bicycles is not permitted on the Airport without Permission.

### 4.8. Air Operations Area

- 4.8.1. Vehicles operating on the AOA must be readily identified by paint scheme, logo, orange and white checkered flag or other device approved by the Airport Director and be equipped with an approved and fully operational amber or red (emergency Vehicles only) rotating, flashing, or steady beacon on the roof or uppermost point of the Vehicle providing visibility in a 360 degree radius all in compliance with FAA Advisory Circular 150/5210-5B (as amended) unless specifically exempted from this requirement by the Airport Director.
- 4.8.1.1. *Operator's (airline or Lessee) name or logo shall be at least 12 inches tall (or width)*
- 4.8.1.2. *Vehicle number (on the rear or side of Vehicle)*
- 4.8.1.3. *The beacon shall be activated by the Vehicle Operator prior to entering the AOA and shall remain in operation while the Vehicle is on the AOA.*
- 4.8.1.4. *Vehicle Operators using the AOA on an irregular basis must first obtain Permission before operating any Vehicle on the AOA and shall proceed directly to the Operator's final destination on the Airport with the Vehicle's parking lights flashing at all times while the Vehicle is moving.*
- 4.8.2. All Vehicles entering the AOA must come to a complete stop and observe ground Aircraft traffic in all directions.
- 4.8.3. All Vehicles must drive within the marked roadways to reach their destination.
- 4.8.3.1. *Roadway markings are white.*
- 4.8.3.2. *Aircraft servicing operations conducted at gates are not subject to these movement requirements.*
- 4.8.4. Airside Speed Limits
- 4.8.4.1. *Safe Speed – Vehicles shall not be operated at a speed greater than is reasonable and prudent under the conditions and having regard for actual and potential hazards, traffic, or so as not to endanger persons or Property.*
- 4.8.4.2. *Vehicles, except Emergency Vehicles responding to an emergency, shall not be operated on the AOA at speeds in excess of 15 miles per hour, unless otherwise posted.*
- 4.8.4.3. *Vehicles operated in the baggage sort areas, around hangars, and near Aircraft shall be limited to a speed of not more than 5 miles per hour.*
- 4.8.5. Vehicles shall not be operated in such a manner or within such proximity of an Aircraft as to create a hazard or interfere with the safe operation of the Aircraft.
- 4.8.5.1. *Vehicles shall not overtake or pass in front of a moving Aircraft.*
- 4.8.5.2. *Vehicles shall pass to the rear of taxiing Aircraft and come no closer than 300 feet to a taxiing or towed Aircraft.*

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- 4.8.5.3. *Vehicles shall not pass closer than 25 feet from any wing or tail section of a parked Aircraft.*
- 4.8.5.4. *Vehicles shall drive around an Aircraft away from the passenger boarding gate. In no case will Vehicles be allowed to drive under the movable portion of jet bridges or between the Aircraft and the passenger boarding gate.*
- 4.8.6. Vehicles may not be left running and unattended on the AOA. Exceptions include Vehicles that must be left running for the purpose of servicing an Aircraft. In those cases, the Vehicle must have the parking brake engaged and/or wheel chocks in place.
- 4.8.7. All Vehicle Operators should display courtesy to taxiing Aircraft during nighttime hours by angling their Vehicles so that headlight beams do not directly impact Aircraft cockpit areas.
- 4.8.8. The Airport Director may restrict Vehicles to a certain portion(s) or segment(s) of the AOA. Such restrictions shall prohibit Vehicle operations outside designated area(s).
- 4.8.9. Manually controlled gates that provide access to the AOA shall be kept closed and locked at all times except when actually in use.
- 4.8.10. When automatic gates are used, Vehicle Operators must stop the Vehicle and allow the gate to fully close before proceeding. The Vehicle Operator must also ensure that no other Vehicles or persons gain access to the Airport while the gate is in the process of closing and/or not fully closed.
  - 4.8.10.1. *If the Vehicle Operator cannot prevent such access, the Vehicle Operator must immediately notify the Airport Director or the Operations Department.*

### **4.9. Movement Area**

- 4.9.1. No person shall operate any Vehicle on the Movement Area without the following requirements being met unless escorted by an individual possessing Movement Area driving privileges.
  - 4.9.1.1. *Have an Airport Access Media with Movement Area driving privileges*
    - 4.9.1.1.1. Some Movement Area driving privileges may be limited to crossing runway 18/36 at Taxiway C or D.
  - 4.9.1.2. *Equipped with a functioning two-way radio capable of communicating on the proper aeronautical frequencies (ranging from 108.00 to 136.00).*
    - 4.9.1.2.1. In the event a Vehicle in the Movement Area experiences radio failure, the Vehicle must vacate the area utilizing perimeter roadways or other non-controlled routes. If exit via non-controlled route is not possible, the Vehicle Operator shall indicate radio failure by facing the Vehicle towards the control tower and flashing the Vehicle's headlights. Thereafter, the Vehicle Operator shall operate the Vehicle in accordance with the standard colored light signal directions given by ATC.
  - 4.9.1.3. *Have a radio call sign approved by the Airport Director.*
- 4.9.2. Vehicles on the Movement Area are restricted to those necessary for the inspection, training, and maintenance of the Movement Area and Emergency Vehicles responding to emergencies on the AOA. Vehicles should use service roads or public roads in lieu of crossing the movement area whenever possible. Runway crossings for point-to-point travel for the sole purpose of convenience sake and saving travel time are not permitted.
- 4.9.3. Vehicle Operators shall obtain a clearance from ATC personnel before proceeding into the Movement Area.
  - 4.9.3.1. *Upon receiving clearance, Vehicle Operators shall ensure that no Aircraft is approaching before entering the Movement Area.*
- 4.9.4. After obtaining Permission, a Vehicle that is not operated on the Airport on a regular basis may enter the Movement Area provided that such Vehicle is escorted at all times (while in the Movement Area) by an authorized Airport vehicle having radio

contact with ATC.

4.9.4.1. *When construction-related Vehicles are required to enter or work within the Movement Area, such Vehicles will be marked with an approved orange and white checkered flag (for daytime operations) or an amber beacon (for nighttime operations).*

4.9.4.2. *If the construction Vehicle is not equipped with a two way radio capable of communicating on the proper aeronautical frequencies, the Vehicle shall be escorted at all times (while in the Movement Area) by an Airport authorized vehicle having radio contact with ATC or have a flagman (with a two way radio capable of communicating on the proper aeronautical frequencies) stationed at the area(s) designated by the Airport Director to give instructions to the Vehicle.*

4.9.5. Vehicle Operators operating in the Movement Area must be conversant with proper radio communication, standard colored light signals, regardless of whether or not the Vehicle is radio equipped and must have a thorough knowledge of runway and taxiway configuration. Air traffic control light gun signals have the following meanings:

4.9.5.1. *Steady Green – Cleared to cross, proceed, or go*

4.9.5.2. *Flashing Green – No meaning*

4.9.5.3. *Steady Red – Stop*

4.9.5.4. *Flashing Red – Clear runway, taxiways, or immediate area*

4.9.5.5. *Flashing White – Return to starting point on the Airport*

4.9.5.6. *Alternating Red and Green – General warning, exercise extreme caution*

### **4.10. Accidents or Incidents**

4.10.1. A Vehicle Operator involved in an Accident on the Airport resulting in any injury (or death) to person or damage to Property shall:

4.10.1.1. *Stop the Vehicle at the scene (or as close as possible to the scene without unnecessarily obstructing traffic or creating a safety hazard).*

4.10.1.2. *Render reasonable assistance, if capable, to any person injured in the Accident.*

4.10.1.3. *Immediately report the Accident to the Airport Superintendent or FBO Operations Department.*

4.10.1.3.1. *If on the Movement Area, the FBO Operations Department must also be notified immediately.*

4.10.1.4. *Provide and surrender the following to any Airport personnel.*

4.10.1.4.1. *Name, address, and contact information*

4.10.1.4.2. *State driver's license*

4.10.1.4.2. *Proof of Insurance*

4.10.1.4.3. *Airport Access Media*

4.10.1.4.4. *Information necessary to complete a Vehicle Accident report*

4.10.1.5. *Remain at the scene until an Operations Agent or Law Enforcement Officer takes a full report.*

### **4.11. Vehicle Maintenance**

4.11.1. Private Vehicles shall not be cleaned and/or maintained anywhere on the Airport, except for minor repairs that are necessary to remove such Vehicle(s) from the Airport.

4.11.2. Vehicles operated by Commercial Operators or Lessees shall be cleaned, repaired, maintained or overhauled in areas designated by the Airport Director.

4.11.2.1. *Minor repairs to remove a disabled Vehicle are permitted.*

### **4.12. Parking (or Stopping)**

4.12.1. Vehicles shall be parked only in those areas designated for such purpose by the Airport Director.

4.12.2. Vehicles shall not be parked or stopped:

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- 4.12.2.1. *In such a manner so as to obstruct a parking lot lane, driveway, roadway, walkway, crosswalk, fire lane, runway, taxiway, taxilane, and/or obstruct access to hangars, parked Aircraft, and/or parked Vehicles;*
- 4.12.2.2. *Within a Bus stop, Taxicab, Transportation Network Company, or Commercial Vehicle zone (except for Vehicles authorized by the Airport to use such areas)*
- 4.12.2.3. *On the left side of a road;*
- 4.12.2.4. *On the roadway side of any stopped or parked Vehicle (double parking);*
- 4.12.2.5. *Within 20 feet of a fire hydrant/extinguisher or within a fire lane or restricting the access to or from the fire lane;*
- 4.12.2.6. *Within ten feet of either side of a security fence;*
- 4.12.2.7. *On unpaved or grassed areas (unless specifically designated for parking); or*
- 4.12.2.8. *Other than in accordance with restrictions posted on authorized signs.*
- 4.12.3. Vehicles, other than those loading and unloading Aircraft, shall not stop for loading, unloading, or any other purpose on the Airport other than in the areas specifically established for loading, unloading, and/or parking and only in the manner prescribed by signs, lines, or other means.
- 4.12.4. Parking in designated public parking areas is open to any person using the Airport and shall be subject to the payment of posted fees.
- 4.12.5. All service Vehicles (including utility company, government owned, delivery, etc.) shall park in specially reserved and marked areas or areas designated by the Airport Director.
  - 4.12.5.1. *Service Vehicles shall utilize the loading dock of either the main or freight terminals.*
  - 4.12.5.2. *It is realized that some degree of delivery and service traffic is necessary on the Apron areas for the purpose of servicing Operator concourse spaces. In the interest of safety it is essential that this traffic be held to an absolute minimum. To accomplish this and also to insure that only authorized Vehicles gain access to the AOA the following procedures will be strictly enforced:*
    - 4.12.5.2.1. The service Operator will provide AOA escort.
    - 4.12.5.2.2. All service Vehicles will be marked with a company name or logo.
    - 4.12.5.2.3. All service Vehicles will adhere to all Rules and Regulations and will comply with all lawful requests of Law Enforcement Officers.
- 4.12.6. Displaying Vehicles/equipment for sale at the Airport is prohibited unless otherwise approved in writing by the Airport Director.
- 4.12.7. Employees of Airport Operators, Lessees or Sublessees may park Private Vehicles in the employee parking areas designated by the Airport Director.
- 4.12.8. Limousine, bus, taxi, and Transportation Network Company waiting and standing areas are specifically reserved and designated for this purpose only.
- 4.12.9. Boats, jet skis, snowmobiles, dune buggies, race cars, recreational vehicles, trailers, etc. may not be permanently parked or stored on the AOA.

### **4.13. Disabled, Abandoned, or Illegally Parked Vehicles**

- 4.13.1. The Airport Director may tow or otherwise remove from the Airport, at the Vehicle Operator's risk and expense and without liability for damage that may result from such removal, any Vehicle:
  - 4.13.1.1. *that is disabled or parked in violation of these Rules and Regulations (or if the Vehicle creates a safety hazard or interferes with Airport operations)*
  - 4.13.1.2. *that has remained stationary on the Airport in excess of 72 hours and is in a condition that would render the Vehicle inoperable, including expired license plates, missing (or flat) tire, and/or broken window.*

### **4.14. Courtesy Limousine Service**

- 4.14.1. No courtesy limousine service shall be furnished to passengers or other persons on

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the Airport, nor shall any entity enter upon the Airport for the purpose of providing courtesy limousine service except as authorized by Agreement with the City, without first obtaining a permit and paying the requisite fee for the use of the Airport. Said Vehicles, at all times while on the Airport, shall display said permit, have proof of payment of said fee, and shall obey all Rules and Regulations and applicable Regulatory Measures.

- 4.14.2. The Airport Director shall, upon being satisfied by inspection as to the safety of Vehicles involved and upon being satisfied as to the compliance with the Rules and Regulations and applicable Regulatory Measures, may issue a permit to an entity to provide courtesy limousine service on the Airport, on the payment of the fee based upon necessary expenses of issuance of said permit and for the use of the Airport.

**5. Refueling, Defueling, and Fuel Storage**

**5.1. Regulatory Measures**

5.1.1. Refueling, defueling, and Fuel storage on the Airport shall conform to the current applicable provision of 14 CFR; applicable Regulatory Measures; all appropriate NFPA guidelines; FAA Advisory Circular 150/5230-4 (including updates or amendments); applicable provisions of the Airport's ACM, SWMP, and SPCC applicable provisions of the Regulatory Measures established by the Environmental Protection Agency and the West Virginia Department of Environmental Protection relating to these activities.

**5.2. Permit**

5.2.1. Fuels shall only be stored and dispensed on the Airport by those entities having an Agreement with the City granting such permission.

**5.3. Training**

5.3.1. No person shall fuel or defuel an Aircraft until that person is properly trained.

5.3.2. Training records documenting the training provided to (and qualifications of) each person shall be maintained.

5.3.2.1. *Training shall be performed in accordance with 14 CFR Part 139 and the Airport's ACM.*

5.3.2.2. *Records shall indicate initial training and all recurrent training provided.*

5.3.2.3. *Recurrent training shall be provided on a regularly scheduled basis, but not less than every year.*

5.3.2.4. *All records shall be subject to review of and/or inspection by the Airport Director, ARFF, or the Operations Department.*

**5.4. Refueling, Defueling, and Fuel Storage Operations**

5.4.1. A properly trained operator shall be present (and responsive) at all times while Fuel delivery Vehicles transfer Fuel into or out of any Fuel storage facility.

5.4.1.1. *The operator shall remain within the immediate vicinity, in close proximity to, and in direct view of all operating controls and equipment.*

5.4.1.2. *The operator shall not leave the discharge end of any hose or hoses unattended at any time while the transfer of Fuel is in progress.*

5.4.1.3. *The operator shall not block open, disengage, and/or deactivate the deadman while fueling and/or transferring Fuel.*

5.4.2. Aircraft shall not be refueled or defueled in an area where Aircraft engines are operating, Aircraft (or engines) are being warmed by application of heat, or while the Aircraft is located in a congested space or hangar without prior Permission.

5.4.2.1. *In an emergency resulting from the failure of an onboard auxiliary power unit on Turbojet Aircraft and in the absence of suitable ground support equipment, a jet engine mounted at the rear of the Aircraft or on the wing on the side opposite from the fueling point may be operated during fueling to provide power as long as the operation follows the safety procedures published by the operator.*

5.4.2.2. *A turbine-powered auxiliary power unit installed aboard an aircraft may be operated during fueling provided its design, installation, location, and combustion air source do no constitute a Fuel vapor ignition source.*

5.4.2.2.1. *In both cases (Sections 5.4.2.1. and 5.4.2.2), the fueling shall conform with the procedures contained in the operator's manual for the Aircraft.*

5.4.3. Self-fueling shall be conducted only in those areas designated by the Airport Director (as identified in the Fueling Permit).

5.4.3.1. *Self-fueling at any other location at the Airport is prohibited.*

5.4.4. All Fuel handled on the Airport shall be treated with due caution and circumspection with regard to the rights and safety of others so as not to endanger, or likely to

## REFUELING, DEFUELING, AND FUEL STORAGE

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- endanger, persons or Property.
- 5.4.5. Individuals engaged in the refueling, defueling, and oil servicing of Aircraft (or Vehicles), the filling of Refueling Vehicles or dispensing equipment, or the dumping or pumping or loading of aviation Fuels (or oils) into or from Fuel (or oil) storage facilities shall exercise care and extreme caution to prevent overflow of Fuel (or oils) and/or spills.
- 5.4.5.1. In the event of a spill, Section 2.19.4 of these Rules and Regulations shall be followed.*
- 5.4.6. Refueling Vehicles shall be positioned so that the Vehicle can be directly driven or towed away from the loading or fueling position in the event of fire or spill.
- 5.4.7. Not more than one Refueling Vehicle shall be positioned to refuel each wing of an Aircraft and not more than two Refueling Vehicles shall be positioned to service the same Aircraft.
- 5.4.8. When high capacity Aircraft are refueled, additional Refueling Vehicles shall not be parked or positioned within 100 feet of the Aircraft.
- 5.4.9. Aircraft Fuel Handling shall be conducted outdoors and at least 50 feet from any hangar, facility, and any combustion and ventilation air-intake to any boiler, heater, or incinerator room or as approved by the ARFF.
- 5.4.10. Pouring or gravity transfer of Fuel from containers larger than five gallons is prohibited.
- 5.4.10.1. Pumps, either hand or power operated, shall be used when Aircraft are fueled from containers larger than five gallons.*
- 5.4.10.2. All containers shall be approved.*
- 5.4.11. Vehicles shall be refueled only at refueling stations and from dispensing devices approved by the Airport Director.
- 5.4.12. Aircraft or Vehicles shall not be refueled or defueled if an electrical storm is in progress within the immediate vicinity of the Airport.
- 5.4.13. When Aircraft are being refueled or defueled, the Refueling Vehicle shall be bonded to the Aircraft to equalize the voltage potential between the Refueling Vehicle and the Aircraft.
- 5.4.13.1. All hoses, nozzles, spouts, funnels, and appurtenances used in refueling and defueling operations shall be FM or UL approved and shall be equipped with a bonding device to prevent ignition of volatile liquids.*
- 5.4.14. Refueling Vehicle Operators shall not operate the Vehicle in reverse anywhere on the Airport unless another person is present and capable of monitoring and directing the movement of the Vehicle.
- 5.4.15. Aircraft shall not be refueled or defueled while passengers are on board unless a passenger-loading ramp is in place at the Aircraft cabin door, the door is in the open position, and an attendant is present at or near the door.
- 5.4.15.1. If an incapacitated patient is on board the Aircraft during refueling operations, ARFF personnel and firefighting/rescue equipment must be available at the scene.*
- 5.4.16. No person shall operate any radio transmitter or receiver (or switch electrical appliances on or off in an Aircraft) during refueling or defueling unless said radio transmitter or receiver is designed for such environment.
- 5.4.17. Smoking, e-cigarettes, vaping, electronic delivery devices, or any other use of any incendiary product is prohibited in or about any Aircraft, on any Apron, or within 100 feet of an Aircraft being fueled or defueled.
- 5.4.17. For single point refueling, deadman controls or mechanism shall be utilized and shall remain in good working order at all times.
- 5.4.17.1. No person shall deactivate or bypass a deadman control or mechanism at anytime.*
- 5.4.18. During refueling operations, no person shall use any material or equipment that is

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likely to cause a spark or ignition within 50 feet of such Aircraft or Vehicle.

5.4.18.1. *Smoking, vaping, e-cigarettes, electronic delivering devices, matches, lighters, or any open flames are prohibited on the AOA and within 50 feet of any Aircraft, refueling Vehicle, Fuel storage facility, or any Aircraft being fueled or defueled*

5.4.19. Refueling Vehicles (including Fuel tankers) shall use only the entrance, exit, and route designated by the Airport Director during the transportation and delivery of Fuel.

5.4.20. The City assumes no liability or responsibility for violations of any applicable refueling requirements and procedures.

5.4.20.1. *The Operator or Lessee shall be solely responsible for any violation incident to or in connection with the Operator's or Lessee's fueling storage facilities, equipment, operations, and training.*

5.4.20.2. *The Operator or Lessee shall reimburse the Airport for any fines, legal or court costs, incurred by the Airport for such violations.*

### 5.5. Storage of Refueling Vehicles

5.5.1. Refueling Vehicles shall be stored outside and not less than 50 feet from a building (or at the distance approved by the Airport Director and the Operations Department) unless building is designed, constructed, and used exclusively for that purpose.

5.5.1.1. *This section does not apply to containers with a capacity of not more than five gallons, provided that no more than one can is located within a single Vehicle and not more than two cans are located in any hangar.*

5.5.1.1.1. All handheld portable containers shall be an approved type pursuant to UFC Sec. 79.104 and legibly marked. Capacity shall conform to UFC Table No. 79.104.

5.5.2. Refueling Vehicles shall be parked in a manner that provides a minimum of 10 feet of separation between Vehicles and any other Vehicle or Aircraft or within 20 feet of a storm water inlet.

### 5.6. Maintenance of Refueling Vehicles

5.6.1. Maintenance and servicing of Refueling Vehicles shall be performed outdoors or in a building that is approved by the Airport Director and ARFF specifically for this purpose.

5.6.2. Operator or Lessees shall document and maintain Vehicle maintenance and Agency inspection records. These records shall be made available to the Airport upon request.

### 5.7. Equipment

5.7.1. Only those Fuel storage facilities and Refueling Vehicles (and equipment) that are approved by the Airport Director shall be used for the storage and delivery of Fuel.

5.7.2. Refueling Vehicles, fueling pumps, meters, hoses, nozzles, funnels, fire extinguishers, and bonding devices used during fueling operations shall be maintained in a safe operating condition and in good working order and repair at all times.

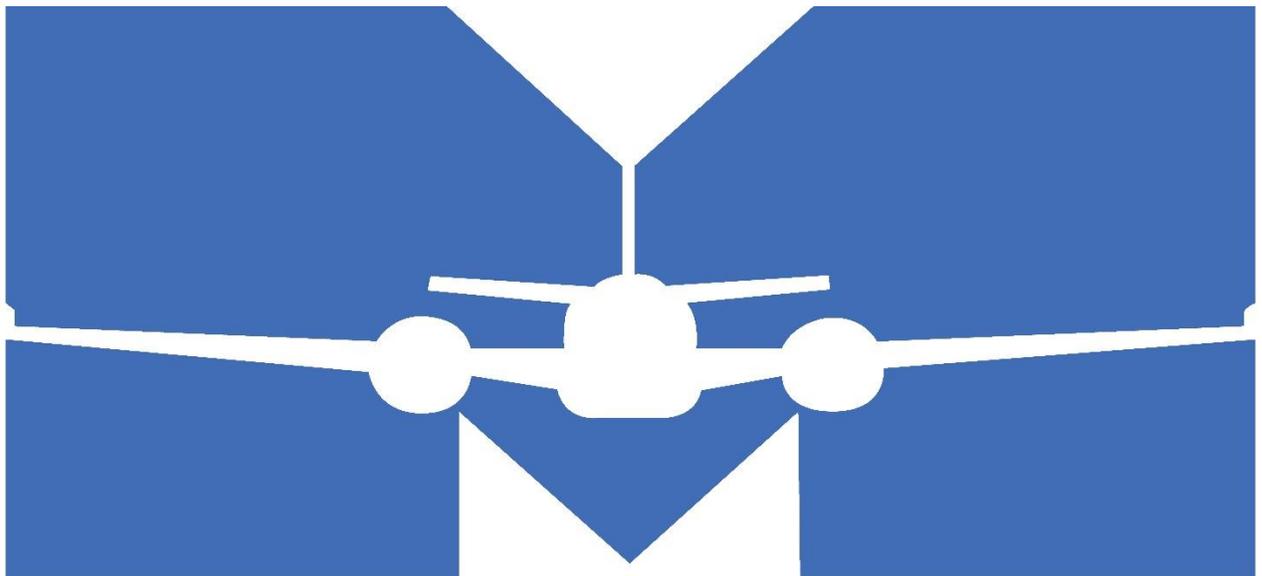
5.7.2.1. *When said Refueling Vehicle(s) or equipment is found in a state of disrepair, malfunction, the use constitutes an undue fire or safety hazard, or is in violation of any Regulatory Measure, the Operator shall discontinue the use of such Vehicles and/or equipment until repairs, replacements, or changes are made to render the same safe for continued use.*

5.7.2.1.1. Hoses and/or piping connections shall be secured and capable of holding under pump's rated PSI discharge.

5.7.2.1.2. Hoses and/or nozzles shall be FM or UL approved with self-closing valve and no "hold-open devices".

## REFUELING, DEFUELING, AND FUEL STORAGE

- 5.7.2.1.3. All pumps shall be UL or FM approved.
  - 5.7.2.1.4. All storage tanks shall be rated in accordance with UFC Article 24, Division II and Article 79, Division XII.
  - 5.7.3. Any malfunction or irregularity detected on or within the Aircraft being refueled or defueled shall be brought to the attention of the Aircraft Operator immediately.
  - 5.7.4. Refueling Vehicles, equipment, and Fuel storage facilities shall be placarded, marked, and/or color coded in accordance with NFPA Publication 407 and applicable FAA Advisory Circulars.
    - 5.7.4.1. *A copy of all applicable permits, registrations, certificates, and insurance documents shall be maintained in each Refueling Vehicle.*
  - 5.7.5. Adequate and proper fire extinguishers shall be immediately available during all fueling and defueling operations.
    - 5.7.5.1. *At least 2 carbon dioxide (or approved dry chemical) fire extinguishers (15 pounds or larger) or the types of fire extinguishers that are capable of extinguishing Category B and Category C fires shall be immediately available.*
    - 5.7.5.2. *All extinguishers shall be inspected and certified as required by law and all personnel involved with fueling or defueling operations shall be properly trained on the use of fire extinguishers.*
  - 5.7.6. Adequate and proper absorbent and Fuel spill containment capable of damming/diking a Fuel spill shall be immediately available at all times.
    - 5.7.6.1. *Each Refueling Vehicle shall have a minimum 15-gallon spill kit.*
    - 5.7.6.2. *Each Fuel storage facility shall have a minimum 55-gallon spill kit.*
  - 5.7.7. All hoses, funnels, and appurtenances used in fueling and defueling operations shall be equipped with a bonding device to prevent ignition of volatile liquids.
  - 5.7.8. Refueling Vehicles and Vehicles utilized to deliver Fuel to the Fuel storage facility shall be subject to inspection by the Airport Director at any time to determine compliance with these Rules and Regulations.
- 5.8. Fuel Storage Facilities**
- 5.8.1. The maintenance and operation of Fuel storage facilities shall meet NFPA 30, NFPA 407, and FAA regulations, and shall be approved by all Agencies who regulate the maintenance and operation of Fuel storage facilities. Further the installation of all tanks and/or facilities shall meet the requirements of the Uniform Fire Code, Article 24.
  - 5.8.2. Any portable containers of more than 50 gallons shall be approved by all Agencies who regulate the storage of Fuel and may be used for a period of no more than 90 days and shall be for a specific location (or site) only.
  - 5.8.3. Plans for Fuel storage and installation shall be submitted to the Airport for approval prior to any installation.
  - 5.8.4. All security gates leading into Fuel storage areas shall be kept closed and locked at all times except when actually in use.



# **MORGANTOWN** MUNICIPAL AIRPORT

**MORGANTOWN MUNICIPAL AIRPORT  
MORGANTOWN, WEST VIRGINIA**

**MINIMUM STANDARDS  
FOR  
COMMERCIAL AERONAUTICAL  
SERVICE PROVIDERS**

**ADOPTED MAY , 2020**

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## SECTION 1 GENERAL STATEMENT OF POLICY

These Minimum Standards for Commercial Aeronautical Service Providers are hereby originally adopted by the Morgantown, West Virginia City Council (City) for the Morgantown Municipal Airport (Airport) this \_th day of May, 2020, superseding any and all previous documents of this kind previously adopted by the Council or its predecessor. Notwithstanding the provisions herein, each Operator shall conduct its business and activities on and from its leased premises in a safe and professional manner consistent with all FAA standards and applicable laws and regulations.

It is the intent and policy of the City to operate and develop the Airport as the primary commercial aviation facility for Morgantown, Monongalia County, North Central West Virginia, and Southwest Pennsylvania serving all facets of aviation, including general aviation, Corporate Aviation, Medical operators, passenger air carriers, and air cargo operations. The Airport is a publicly owned and operated Airport, and is subject to certain Federal obligations to operate in a financially self-sufficient manner and to make available to any persons, firms, or corporations the opportunity to engage in Commercial Aeronautical Activities at the Airport that satisfy a demonstrable need and that meet the Minimum Standards as established, adopted, and revised from time to time by the City. It shall be the policy of the City that any person, firm, or corporation wishing to provide Aeronautical Services to the public or conduct special Commercial Aeronautical Activities as defined herein at the Airport shall be given equal opportunity to compete without unjust discrimination for use of available Airport facilities pursuant to FAA Airport Improvement Program (AIP) Grant Assurance 22 *Economic Nondiscrimination*. The City has established these Minimum Standards for the Airport with the intent of providing fair and reasonable rules to govern the conduct of Commercial Aeronautical Activity on the Airport.

These Minimum Standards were developed in accordance with FAA Advisory Circular 150/5190-7, *Minimum Standards for Commercial Aeronautical Activities*, dated August 28, 2006. The City may make revisions and amendments to these Minimum Standards when business conditions at the Airport necessitate it, or when necessary to comply with FAA, Transportation Security Administration (TSA), or other governmental regulations.

Commercial Aeronautical Activities not addressed in the Minimum Standards are to be addressed by the City on a case-by-case basis in the Operator's written Lease, Permit, or Agreement.

Except as permitted by federal law or FAA policy, nothing herein shall be construed to grant or otherwise authorize the granting of an exclusive right to provide any aeronautical service to the public or to conduct any Aeronautical Activity on the Airport. For purposes of these Minimum Standards, an exclusive right is a power, privilege, or other right excluding or debarring another from enjoying or exercising a like power, privilege, or right.

It is the intent of the City to enforce these Minimum Standards in a consistent, uniform, and fair manner to accomplish the City's goals and promote successful commercial business operations at the Airport. The Airport Director is responsible for and is hereby empowered and authorized to enforce these Minimum Standards. Appeals shall be directed to the City Manager's office.

## SECTION 2 BUSINESS ACTIVITIES

Subject to applicable orders, certificates, or Permits of the FAA or its successor, no person shall use the Airport, or any portion thereof, or any of its improvements or facilities for a revenue-producing Commercial Aeronautical Activity to serve the public, who has not first complied with these Minimum

Standards and the Rules and Regulations of the Airport and entered into a written Agreement or obtained a written Permit from the City.

### SECTION 3 DEFINITIONS

For purposes of these Minimum Standards, the following definitions shall apply:

Aeronautical Services/Activities: means any activity or service conducted at the Airport that involves, makes possible or is required for the operation of aircraft, or that contributes to or is required for the safety of such operations. The following services/activities commonly conducted on airports are Aeronautical Activities within this definition: charter operations, air cargo operations, pilot training, aircraft rental and sightseeing, aerial photography, crop dusting, aerial advertising, air ambulance services, surveying, air-carrier operations, aircraft sales and services, sale of aviation petroleum products, repair and maintenance of aircraft, sale of aircraft parts, and any other activities that, because of their direct relationship to the operation of an aircraft, can appropriately be regarded as an "Aeronautical Activity."

Agreement: means the written agreement between the City and an Operator specifying the terms and conditions under which the Operator may conduct commercial aviation activities. Such Agreement shall recite the terms and conditions under which the activity shall be conducted at the Airport, including but not limited to: rents, fees, and charges to be paid; and the rights and obligations of the respective parties.

Aircraft: means a device which is used or intended to be used for flight in air. Examples of aircraft include, but are not limited to: airplane, sailplane, glider, rotorcraft (helicopter, gyrocopter, or auto gyro), unmanned aerial vehicles, balloon, and blimp.

Aircraft Fuel: means all flammable liquids composed of a mixture of selected hydrocarbons expressly manufactured and blended for the purpose of effectively and efficiently operating an internal combustion, jet, or turbine engine in an aircraft.

Aircraft Fueling Vehicle: means any vehicle used for the transportation, delivery, and dispensing of Aircraft Fuel.

Aircraft Movement Area: means the runways, taxiways, and other areas of the airport utilized for taxiing, hover taxiing, air taxiing, and takeoff or landing of aircraft, exclusive of loading ramps, maintenance ramps and parking areas.

Airplane Design Group: A FAA designated grouping of Aircraft based upon wingspan. The groups are as follows:

- Group I: Up to but not including 49 feet
- Group II: 49 feet up to but not including 79 feet
- Group III: 79 feet up to but not including 118 feet
- Group IV: 118 feet up to but not including 171 feet
- Group V: 171 feet up to but not including 214 feet
- Group VI: 214 feet up to but not including 262 feet

Airport: means Morgantown Municipal Airport and all of the area, buildings, facilities, and improvements within the exterior boundaries of such airport as it now exists, or as it may hereafter be extended or enlarged.

Airport Director: means the individual employed and authorized by the City to be the chief administrative officer of the Airport, or the person authorized by the Airport Director to act for or on behalf of the Airport Director, with respect to any particular matter.

Airport Layout Plan: means the FAA approved and Airport adopted drawing, as may be amended from time to time, which reflects an agreement between the FAA and Airport depicting the physical layout of the Airport and identifying the location and configuration of current and proposed runways, taxiways, buildings, roadways, utilities, nav aids, etc. and proposed allocation of Airport land and/or improvements to specific uses and/or development.

Airport Security Plan: means the Transportation Security Administration (TSA) approved document, including any amendments or revisions thereto, that governs the provision of security at the Airport.

City: means the City of Morgantown, West Virginia, owner and operator of the Airport, acting by or through the Morgantown City Council, its City Manager, and/or any duly authorized employee, agent or instrumentality of the City of Morgantown, West Virginia.

Commercial Aeronautical Activity: means an Aeronautical Activity for commercial purposes. A Commercial Aeronautical Activity also includes any third party or contract employee engaged in the performance of an Aeronautical Activity for compensation or hire at the Airport who is not an employee of a Fixed Base Operator or a Specialized Aviation Service Operator. For purposes of this definition, "commercial purposes" is the conduct of any aspect of a business, concession, operation, or agency providing goods or services to any person for compensation or hire, including exchange of services, whether or not such objectives are accomplished. An activity is considered a commercial activity regardless of whether the business is nonprofit, charitable, or tax-exempt.

Commercial Through-the-Fence Operation: means an Operator or entity that provides Commercial Aeronautical Activities to the public for compensation or hire but does not have an Agreement with the City and does not occupy space on Airport property. It is the policy of the City to not allow Commercial Through-the-Fence Operations at the Airport.

City Council: means the legislative body that governs the City of Morgantown, West Virginia.

City Manager: The executive leader of the City who manages and controls the daily operations and development of the City of Morgantown.

FAA: means Federal Aviation Administration.

Fixed-Base Operator (FBO): means any individual, firm or corporation duly licensed and authorized by written Agreement with the City to operate, under strict compliance with such Agreement and pursuant to these Minimum Standards, to offer Aeronautical Services to the public at the Airport as set forth herein.

Fuel Storage Area: means any portion of the Airport designed temporarily or permanently by the City as an area in which aviation or motor vehicle fuel or any other type of fuel or fuel additive may be stored.

Fueling or Fuel Handling: means the transportation, sale, delivery, dispensing, storage, or draining of fuel or fuel waste products to or from fuel storage tanks, aircraft, vehicles, or equipment.

General Aviation: means all phases of aviation other than military aviation, air cargo operations, and scheduled or non-scheduled commercial air carrier operations.

Gross Receipts: means all monies, income, or revenue paid or payable (collected and uncollected) to the Operator for sales made and services rendered at or from the Airport.

Ground Service Equipment: means any ground-based equipment utilized in the servicing of aircraft.

Lease: means the written, contractual Agreement between the City and an entity which is enforceable by law, wherein said Agreement grants a concession or otherwise authorizes the conduct of certain activities.

Minimum Standards: means these Minimum Standards for Commercial Aeronautical Service Providers adopted by the City, as amended from time to time.

Operator: means either a Fixed Base Operator or a Specialized Aviation Service Operator, as applicable, or the City, when performing a Commercial Aeronautical Activity, unless the context clearly indicates another meaning.

Permit: means an administrative approval issued by the City to a person or company to conduct a Commercial Aeronautical Activity from facilities and locations where such services are authorized.

Personnel: means persons who are employees of an Operator or who are contractually obligated to render services to the public on behalf of an Operator.

Rules and Regulations: means the policies, procedures, and regulations which are established and amended from time to time by the City, to govern the safe, orderly, and efficient use of the Airport.

Shall: the word “shall” is always mandatory and not merely directory.

Specialized Aviation Service Operator (SASO): means a Commercial Aeronautical Activity or any entity that provides any one or more of the services listed in Section 8 of these Minimum Standards.

State: means the State of West Virginia.

TSA: means the Transportation Security Administration or its successor agency.

Two-way Radio: means a two-way communication system operated by a non-governmental entity that provides Airport advisory information.

## **SECTION 4 GENERAL REQUIREMENTS**

- A. Operators shall meet or exceed the requirements of this section as well as the applicable standards applicable to the Operator's activities at the Airport.
- B. Each prospective Operator shall demonstrate, to the satisfaction of the City, that it is capable of consistently providing the proposed Commercial Aeronautical Activity in a safe, secure, efficient, prompt, courteous, and professional manner for a fair and reasonable price. This includes, but is not necessarily limited to, demonstrating that the prospective Operator's aviation/business background and experience is appropriate for the proposed Commercial Aeronautical Activities, and that the prospective Operator has the resources (including, but

not limited to, the financial capacity) to realize its business objectives.

- C. Each prospective Operator shall provide evidence, satisfactory to the City, of its financial responsibility. The prospective Operator shall also demonstrate financial capability to initiate operations, to construct proposed improvements, and to provide working capital to carry on the contemplated business.
- D. No Operator shall engage in any type Commercial Aeronautical Activity or service at the Airport without first obtaining a written Lease, Permit, or Agreement from the City authorizing such Commercial Aeronautical Activity in accordance with specifications established by the City. Leases, Permits, or Agreements shall be for a term to be mutually agreed upon between the parties with due consideration for the financial investment and the need to amortize improvements to the leasehold.
- E. Operators shall comply with the Rules and Regulations, applicable Federal, State, and local laws, and all regulations, orders, certificates or Permits required by FAA, TSA, the Environmental Protection Agency, local fire regulations, and any other Federal, State, or local agencies and successors having jurisdiction over the Airport and the activities at the Airport, as may change from time to time.
- F. Each Operator shall conduct its business in a lawful and sanitary manner including, but not limited to, the timely handling and disposal of all solid waste, regulated waste, and other materials. In accordance with the Airport Rules and Regulations, the piling and storage of crates, boxes, barrels, containers, refuse, and surplus property is not permitted upon Airport property.
- G. Each Operator shall, at its sole expense, provide and maintain all equipment and facilities of the Operator, and shall provide the required services and level of performance in a clean and safe condition at all times.
- H. Each Operator shall furnish good, prompt, courteous, and efficient services adequate to meet all reasonable demands on a fair, reasonable, and nondiscriminatory basis to all users of the Airport who wish to avail themselves of the Operator's services. It shall maintain and operate its business in a first-class manner and shall at all times keep its premises in a safe, clean, and orderly condition, consistent with the business activity contemplated hereunder and reasonable satisfaction of the City.
- I. Each Operator shall provide a standard of service that is at least as high as that which is typical and customary of providers at similarly situated commercial service airports. Such standard of service shall include, without limitation, providing equal and responsive service to all users and customers of the Airport.
- J. Each Operator shall follow all security regulations and requirements established by the Federal, State, and local governments and shall abide by all the applicable provisions of the Airport Security Plan, as amended from time to time. In addition, the City reserves the right to require that principal officers of an Operator, regardless of level of involvement in the actual operation of the business, and any employee, customer, contractor, or sub-lessee of the Operator submit to a Security Threat Assessment (STA) and/or criminal history records check (CHRC), including fingerprinting, at the expense of the Operator, dependent upon which area on the airfield or facility direct, unescorted access is required. The City may suspend the

authority of an Operator to conduct business at the Airport if the results of the STA and/or CHRC indicate that the individual poses a threat to the Airport, local community, State, or nation.

- K. Each Operator shall lease from the City, or provide under terms agreeable to the City, for its exclusive use, sufficient land and/or facilities for the services to be offered as set forth in these Minimum Standards or, otherwise, as required by the City for the type of services to be offered. Upon the written approval of the Airport Director, the minimum leasehold/acreage required for each aeronautical service/activity described herein may be combined where reasonable and practical for Operators desiring to engage in more than one aeronautical service/activity.
- L. Each Operator shall lease or construct a building or buildings that shall provide sufficient, adequate, and properly lighted and heated space for work areas, office spaces, storage, and a public waiting area that includes access to indoor restroom facilities to accommodate the services being provided. Upon written approval of the Airport Director, the minimum square footage required for each aeronautical service/activity described herein may be combined where reasonable and practical for Operators desiring to engage in more than one aeronautical service/activity.
  - 1. No building, structure, tie-downs, ramps, paving, taxi areas, or other improvements or additions to the Airport shall be altered, removed, placed, or constructed on the Airport without the written prior approval of the City.
  - 2. Construction of any new Airport facilities shall comply with all Federal, State, and Local rules and regulations.
  - 3. In the event of any construction, the City may, at its discretion, require an appropriate bond to guarantee the completion of construction and/or demolition.
  - 4. The City shall approve all plans and specifications prior to construction, and a notice of proposed construction required by 14 CFR Part 77 is to be prepared by the Operator and submitted to the Airport Director for FAA coordination and approval.
  - 5. All constructed improvements shall revert to the ownership of the City upon termination or expiration of the lease unless by agreement the improvements are to be demolished or otherwise removed by the Operator.
- M. Each Operator shall provide a sufficient number of properly certificated, rated and/or trained personnel to carry out their assigned duties for each service provided. Multiple responsibilities may be assigned to personnel to meet the requirement set forth herein. Where more than one activity is being provided by an Operator, multiple uses can be made of aircraft; except aerial applicator (agricultural) aircraft and those aircraft designated as exclusive use by FAA regulations.
- N. Each Operator shall make its services available to the public in accordance with the operating schedule described herein for each activity being provided.
- O. Each prospective Operator shall demonstrate to the City's satisfaction evidence of its ability to acquire and maintain insurance coverage as stipulated by the City for each particular type of Commercial Aeronautical Activity and as provided below and shall provide for an endorsement of such coverage on the Operators insurance policy:
  - 1. The insurance company, or companies, writing the required policy, or policies, shall be

- licensed to do business in the State of West Virginia.
2. Where more than one Aeronautical Service is proposed, the minimum limits shall vary, depending upon the nature of individual services, but shall not necessarily be cumulative in all instances. For example, if three (3) activities are chosen, it would not be necessary for the Operator to carry insurance policies providing the combined total of the minimum limits for each type of operation; however, if one of the selected activities required passenger liability coverage or hangar keeper's liability not required in either of the other two categories, the Operator would be required to provide insurance on the applicable exposures. As a further example, the minimum limit of property damage on a combination of activities would be the highest minimum limit stated in the grouping chosen. Because of these variables, the applicable minimum insurance coverage on combinations of services shall be discussed with the prospective Operator following the submission of the application.
  3. All insurance that the Operator is required to carry and keep in force shall include the officers, agents, and employees of the City named as an additional insured as well as a waiver of subrogation in favor of the City.
  4. Each Operator shall furnish evidence of compliance with this requirement to the City with proper certification that such insurance is in force and shall furnish additional certification as evidence of changes in insurance not less than ten days prior to any such changes, if the change results in a reduction of coverage, and not more than five days after such change if the change results in an increase in coverage.
  5. The applicable insurance coverage shall be in force during the period of any construction of the Operator's facilities and/or prior to Operator's entry upon the Airport for the conduct of business.
  6. Each Operator shall furnish evidence of compliance with the applicable law with respect to workmen's compensation and unemployment insurance.
  7. Each Operator shall procure, maintain, and pay premiums, during the term of the Agreement, for the types of insurance as required by the City.

Airport insurance requirements are available from the Airport Director or at [www.MorgantownAirport.com](http://www.MorgantownAirport.com)

- P. Each Operator shall protect, defend, and hold the City and its employees, agents, and contractors harmless from and against all liabilities, losses, suits, claims, judgments, fines, or demands, including all reasonable costs for investigation and defense thereof (including but not limited to attorney fees, court costs, and expert fees), of any nature whatsoever arising out of or incident to Operator's use of Airport facilities, including use or occupancy of its premises or relating to its premises, including the injury or death of any person or damage to any property, any environmental matter, (including but not limited to expert, investigation, and/or remediation costs and expenses of any site remediation), any other acts or omissions of Operator's officers, agents, employees, contractors, subcontractors, licensees, or invitees, regardless of where the injury, death, damage, or other liability may occur, unless such injury, death, damage, or other liability is caused by the sole negligence of the City, its agents, employees, tenants, or contractors.
- Q. As a matter of policy, the City will not allow "through-the-fence" operations.
- R. Each Operator shall pay all fees associated with their operation at the Airport and as defined in the Airport Rates and Charges.

- S. Each Operator shall insure all persons using their facilities are following the Airport's Rules and Regulations as amended.

## **SECTION 5 APPLICATION**

An application shall be made to the City for permission to carry on any Commercial Aeronautical Activity at the Airport. Three complete originally signed applications, as set forth herein, shall be delivered to the office of the Airport Director. The application shall be in writing and in sufficient detail to discern the complete qualifications of the applicant to perform the proposed Commercial Aeronautical Activity and shall include, as a minimum, the following:

- A. A description of the proposed business activity including:
  - 1. The name, addresses, electronic mail address, and telephone number of the applicant.
  - 2. A detailed description of the proposed Commercial Aeronautical Activity including the proposed date of commencement of the services and proposed hours of operation.
  - 3. The amount, size, and location of the land and/or facilities to be leased.
  - 4. Descriptions and cost estimates of any proposed capital improvements for the proposed site.
  - 5. The number and type of aircraft to be based, if applicable.
  - 6. The number of persons to be employed.
  - 7. An organizational chart listing the number of positions and staff to be assigned to the Airport including the professional and technical qualifications of personnel who will manage and/or operate the proposed business.
  - 8. The types and amounts of insurance coverage to be maintained for the proposed operation.
- B. A current financial statement prepared by the Chief Financial Officer of the applicant and certified by an independent certified public accountant. The City shall consider financial statements in evaluating the applicant's financial ability to provide responsible, safe, and adequate service to the public.
- C. A written listing of the assets owned, leased, or being purchased that will be used in the business on the Airport. Copies of any relevant leases or purchase contracts shall be attached.
- D. If applicable, a statement indicating past experience in providing the specified services proposed to be offered at the Airport, including references from up to 3 individuals familiar with the applicant's ability to perform such services.
- E. Copies of all licenses and Permits required by Federal, State and/or local law for the conduct of the proposed business, including licenses and Permits required for any personnel who will manage or operate the business or who will perform any services in connection with the proposed business.
- F. A written acknowledgement that the applicant shall execute such forms, releases, or discharges as may be required by the FAA and all aviation or aeronautic commissions, administrators, or departments of all States in which the applicant has engaged in aviation business, to release information in their files relating to the applicant or its current or proposed operation.

- G. The application shall be signed and submitted by the owner of the business, if a sole proprietorship; every partner if a partnership; every member if a liability company (LLC); and the President or CEO if a corporation.
- H. The applicant shall agree to provide any additional information and material necessary or requested by the City to establish to the satisfaction of the City that the applicant can qualify and shall comply with these Minimum Standards.

## **SECTION 6 ACTION ON APPLICATION**

After an application has been completed and material submitted, the matter shall be considered first by the Airport Director, then by the City Manager, and if necessary, will make a recommendation to the City Council.

The City may deny any application if, in its sole opinion, it finds any one or more of the following:

- A. The applicant does not meet the qualifications, standards, and requirements established by these Minimum Standards.
- B. The applicant's proposed operation or construction will create a safety hazard on the Airport.
- C. The granting of the application will require the City to spend funds, supply labor or materials in connection with the proposed operation, or the operation is expected to result in a financial loss to the City.
- D. Inappropriate, inadequate, or insufficient space exists in buildings at the Airport to accommodate the entire activity of the applicant at the time of application, or, no available Airport land suitable for construction of buildings and facilities exists to accommodate the entire activity of the applicant at the time of application.
- E. The development or construction on the Airport necessary to accommodate the proposed business does not comply with the FAA-approved Airport Layout Plan for the Airport.
- F. The development or use of the area requested by the applicant will result in congestion of aircraft or buildings or will result in unduly interfering with the operations of any then- existing Commercial Aeronautical Activity on the Airport.
- G. The applicant has either intentionally or unintentionally misrepresented or omitted any pertinent information in the application or in supporting documents.
- H. The applicant has a record of violating the Rules and Regulations of the Airport or of any other airport, FAA regulations, or any other federal, State, or local statutes, laws, rules, or regulations.
- I. The applicant has defaulted in the performance of any lease or any other agreement with the City or other airport(s).
- J. The applicant does not, in the opinion of the City, exhibit adequate financial responsibility to undertake the project based upon financial information provided.

- K. The applicant cannot provide acceptable surety in the amount required by the City for that contract.
- L. The proposed Commercial Aeronautical Activity or development is not in the best interest of the Airport or the public.

## **SECTION 7 REQUIREMENTS AND MINIMUM STANDARDS FOR FIXED BASE OPERATORS (FBOs)**

The following shall apply to all applicants wishing to become an FBO at the Airport.

### **7.1 Scope of Services**

An FBO is (i) an Operator that has entered into a written Lease, Permit, or Agreement authorizing and enabling it to engage in the sale of aeronautical products, services, and facilities required in accordance with this Section, or (ii) the City when it provides the services of an FBO. Only FBOs shall be permitted to provide commercial Aircraft Fueling services and operate retail Aircraft Fueling facilities at the Airport. An FBO shall provide all the services required in this section. Each FBO shall conduct its business and activities on and from its leased premises in a safe and professional manner consistent with all FAA standards and applicable laws and regulations and the following Minimum Standards.

### **7.2 Minimum Standards**

Each FBO shall meet or exceed the following minimum requirements:

#### **A. Airplane Design Group Serviceability**

The minimum Airplane Design Group aircraft to be supported by an FBO shall be Group II.

#### **B. Manager, Staffing, and Employee Qualifications**

1. Select and appoint a full-time manager for its operation at the Airport. Such manager shall be highly qualified and experienced and be vested with full power and authority to act in the name of the FBO with respect to the method, manner, and conduct of the services to be performed hereunder. Such manager shall be available at the Airport during regular business hours, and during the manager's absence, a duly authorized and qualified subordinate shall be in charge of the FBO and on the FBO Premises at the Airport.
2. Provide, at its sole expense, a sufficient number of employees to effectively and efficiently provide the services herein authorized. During the required hours of operation, employ and have on duty sufficient staff to meet the Minimum Standards for each Commercial Aeronautical Activity provided. However, multiple responsibilities may be assigned to employees where feasible. Provide to the Airport a current written statement of the names, general technical qualifications, addresses, telephone numbers, and other necessary contact information for all personnel responsible for the operation and management of the FBO. In addition, provide the City a point-of-contact with phone numbers for emergency situations.

3. Ensure all aircraft Fuel Handling personnel are trained in the safe and proper handling, dispensing, and storage of Aircraft Fuel. Acceptable training shall be an FAA approved safety training course in accordance with FAA Advisory Circular 150/5230-4 and the National Air Transportation Association (NATA) "Safety First" Program or equivalent training program acceptable to the City. All training records and qualifications shall be provided to the City upon request in accordance with 14 CFR Part 139.321.
4. Control the conduct, demeanor, and appearance of its employees and representatives. Such employees shall be trained and possess technical qualifications, and hold certificates of qualifications, as may be required for such employee to carry out assigned duties. Maintain close supervision over employees to ensure a high standard of service to customers of the FBO.

### **C. Hours of Operation**

Be open for business and provide Aircraft Fueling and aircraft line services for duration sufficient to serve the demands of customers operating at the airport, including commercial airline operations. Generally, this will require coverage 16 hours a day, 7 days a week, except as when necessitated by business or emergency conditions. A FBO providing fuel service to certificated air carrier airlines serving the Airport shall be available for service to said carriers one hour prior to the first departure of the day and one hour after the last arriving flight. Exceptions to these minimum operating hours may be granted by the Airport Director for certain holidays, or when special circumstances, conditions, or events warrant a reduction in operating hours. Provide within a reasonable period of time (not greater than 45 minutes) staffing on a call-back basis to address after-hour requests for service from customers.

### **D. Premises**

FBO premises shall comprise a minimum of 1.5 acres of Airport land for the co-location of aircraft parking and servicing, a public use terminal building, automobile parking, hangar(s), aviation fuel storage area and tanks, and related structures and improvements thereon as more fully described below:

1. a public use terminal building of at least 3,500 square feet to include properly lighted, heated, and air-conditioned space to support the following services and activities:
  - a. a convenient, comfortably furnished, public lobby waiting area with adjoining public restroom facilities.
  - b. a customer service counter area equipped with two-way radio equipment to facilitate airborne customer requests as well as credit card transaction equipment capable of accepting one or more national bank and major oil company credit cards for fueling, line, and related services.
  - c. a discreet flight planning work area properly equipped with appropriate wall charts, an FAA issued Airport Information Manual, a "Notice to Airmen" board, flight service station, and weather service communication links,
  - d. pilot's lounge,
  - e. offices,
  - f. a public conference room,
  - g. a discrete snack food and beverage concession area offering adequate seating and tables and equipment to dispense a selection of hot and cold beverages and pre-packaged snacks, and

- h. complimentary wireless public internet access (Wi-Fi).
- 2. A minimum 12,000 square foot clear span hangar of adequate dimensions to accommodate storage of Airplane Design Group II aircraft
- 3. An aircraft apron comprised of at least 12,000 square feet of paved area for parking, tie-down, and maneuvering of aircraft constructed to engineering standards for the current Airplane Design group aircraft at the Airport as defined in the existing Airport Layout Plan. Aircraft apron space may be leased from the City or constructed by the Operator.
- 4. A Fuel Storage Area capable of storing a minimum of 20,000 gallons of aviation fuel in a location approved by the Airport Director; and,
- 5. Customer and employee parking as required by local building and zoning code requirements of the City.

### **E. Required Services**

Provide, at a minimum, the following services at the Airport:

#### **1. Aircraft Storage**

Provide a minimum 12,000 square foot clear span hangar of adequate dimensions to accommodate storage of Airplane Design Group II aircraft consistent with Section 5.A.

#### **2. Line Service**

Provide necessary equipment, supplies, and trained personnel for apron assistance as set forth below. Equipment shall be sufficient to facilitate the handling of aircraft up to and including Airplane Design Group III aircraft and cannot be contracted unless otherwise noted. During normal business hours, provide line services as follows:

- a. Aircraft marshaling, ramp parking, and tie-down assistance, including ramp personnel and vehicles as appropriate.
- b. Baggage handling and passenger/crew escorts to and from aircraft.
- c. Ground handling services (see Section 8.2).
- d. Tie-down ropes,
- e. Aircraft towing services capable of moving up to the type of aircraft set forth above, or the contracted arrangements therefor.
- f. Aircraft deicing services capable of servicing the type of aircraft set forth above.
- g. Nitrogen service for aircraft tires.
- h. Catering services, or the contracted arrangements, therefore.
- i. Mobile ground power assistance capable of servicing the type of aircraft set forth above;
- j. Aircraft lavatory and cabin cleaning services.
- k. Aviation grade in-flight oxygen refills.
- l. Passenger and crew customer service assistance and support to include rental car and ground transportation service referrals.
- m. Maintenance services for airline operators on call at all times.

#### **3. Landing Fees**

Collect on behalf of the City aircraft landing fees and charges from aircraft owners and operators as the same may be regularly established from time to time by the City for aircraft landing at the Airport.

4. Percentage Rental

Pay to the Morgantown Airport a percent of gross receipts as published by the Airport Director in the Airport Rates and Charges for Operator's operations conducted at the airport.

5. Fuel and Lubricants

Provide the sale and into-plane delivery of common and recognized brands of Aircraft Fuel, lubricants and other aviation petroleum products. Provide, store, and dispense Jet A and 100LL aviation gasoline in sufficient quantities to meet the needs of the general aviation and air carrier operations at the Airport. Provide, store, and dispense motor fuels necessary to operate Ground Service Equipment required for commercial airline operations. Provide and supply aviation fuel spill kits on the premises for use in the event of a release or discharge of fuel onto paved services of the Airport. Pay a fuel flowage fee as the same may be regularly established from time to time by the City for all aircraft fuels sold at the Airport.

6. Aircraft Fuel Storage Area and Tanks

At its own expense, lease or build, and install, maintain, and manage, a Fuel Storage Area encompassing an area suitable to store a total of 20,000 gallons of fuel (2 tanks) in a location as approved by the Airport Director, with safety features, and filtration systems to ensure Aircraft Fuel quality. Ensure that all Aircraft Fuel is delivered clean, bright, pure, and free of microscopic organisms, water, or other contaminants. Ensuring the quality of the Aircraft Fuel is the sole responsibility of the FBO. The Fuel Storage Area shall have proper signage to identify hazards and no smoking.

The Fuel Storage Area shall include one 100LL Avgas Fuel Storage Area tank with a minimum of 10,000 gallon capacity and one Jet-A Fuel Storage Area tanks with a minimum of 10,000 gallon capacity. A 5,000 gallon or greater capacity 100LL tank may be substituted for the 10,000 gallon tank if a 3,000 gallon or greater self-service 100LL system is installed. Filter-equipped Aircraft Fuel dispensers with separate dispensing pumps and meter systems for each grade of Aircraft Fuel shall be provided. Fuel Storage Area design, construction, and operations shall conform to the Rules and Regulations as well as all applicable Federal, State, and local laws and regulations including but not limited to the National Fire Protection Association, Air Transport Association (ATA) Specification 103 – *Jet Fuel Quality at Airports*, Environmental Protection Agency, and state regulations pertaining to Aircraft Fuel spill prevention and containment measures. The FBO shall develop and maintain an Aircraft Fuel Spill Prevention, Countermeasures, and Control Plan, a copy of which shall be provided to the City no later than 30 days prior to commencing operations and anytime the document is updated or modified. The City shall have the authority and right to inspect the Fuel Storage Area in accordance with 14 CFR Part 139.327. Aircraft Fuel inventories shall be monitored in accordance with all applicable Federal, State, and Local laws and regulations. The location and design of Aircraft Fuel Storage Areas and Tanks shall:

- a. Not penetrate any 14 CFR Part 77 surfaces.
- b. Not penetrate any object free areas, runway protection zones, or runway safety areas.
- c. Not interfere with Airport operations.
- d. Be located behind the Airport building restriction line.
- e. Meet all applicable National Fire Protection Association Codes.
- f. Have a containment area for all delivery trucks for the facility that shall meet current applicable codes and regulations.

The FBO is to submit preliminary engineering drawings, to include the location and layout of the Aircraft Fuel Storage area and tanks, to the Airport Director for approval. Following the written approval of the preliminary engineering drawings and location and layout of the Aircraft Fuel Storage area and tanks by the City, the FBO shall submit stamped engineering drawings along with the following Permits and plans prior to receiving approval for construction:

- a. Any required City of Morgantown Permits;
- b. National Pollutant Discharge Elimination System Permits; and
- c. A Spill Prevention, Countermeasures, and Control Plan.

Upon completion of construction of the Aircraft Fuel Storage area and tanks, the FBO shall have the facility inspected by the City prior to bringing the facility online and submit to the City as-built drawings. The City's inspection shall be solely for the City's benefit and shall not be deemed to be a representation or warranty that the facility is in compliance with and Federal, State, or local laws and regulations.

#### 7. Aircraft Fueling Vehicles

Provide, as a minimum, 2 Aircraft Fueling Vehicles for jet fuel, each with a capacity of at least 2,000 gallons; and 1 Aircraft Fueling Vehicle of at least 750 gallons capacity of 100LL aviation gasoline. All aircraft fueling vehicles dispensing jet fuel shall have over the wing and single point servicing capability, shall be in good working condition, and fully compliant with NFPA Section 407 and ATA Specification 103. The City shall have the authority and right to inspect, decommission, or temporarily suspend Aircraft Fueling Vehicles in accordance with 14 CFR Part 139.327.

#### 8. Assistance to Disabled Aircraft

As authorized by the Airport Director, provide on its own or by contract with a qualified 3<sup>rd</sup> party, as approved by the Airport Director, sufficient equipment and trained personnel to remove disabled aircraft from the Aircraft Movement Area in a safe and timely manner. Have available suitable tractors, tow bars, jacks, dollies, and other equipment as needed to remove Airplane Design Groups I-II and contract services for aircraft designated Group III or greater. The aircraft owner shall be responsible for compensating the FBO for any and all associated costs to address and remove the disabled aircraft.

### **F. Other Aviation Services**

An FBO shall make available either directly, or by contract with a third-party SASO, upon prior written approval from Airport Director, at least two of the following Commercial Aeronautical Activities: (1) Aircraft Airframe and Engine Maintenance and Repair; (2) Aircraft Charter and

Commercial Operator services; (3) Aircraft Rental, and Flight Instruction. The service requirements for these services are set forth below in Section 8. An FBO providing additional services, either directly or through a City approved sub- lessee or contractor arrangement, shall comply with the Minimum Standards for the listed Specialized Aviation Service Operator.

## **SECTION 8 MINIMUM STANDARDS FOR SPECIALIZED OPERATORS (SASOs)**

Specialized Aviation Service Operators (SASOs) shall consist of one or more of the following services and activities and shall comply with the Minimum Standards described in this Section.

### **8.1 Aircraft Airframe and Engine Maintenance and Repair**

#### **A. Scope of Service**

An aircraft and airframe engine maintenance and repair Operator is a person or persons, firm, or corporation providing one or a combination of airframe and power plant overhaul and repair services. This category of Aeronautical Service also includes the sale of aircraft parts and accessories.

#### **B. Minimum Standards**

1. Operator's premises shall include:
  - a. A minimum of 3,600 square feet of space meeting local code requirements to accommodate a hangar, shop, equipment, and parts storage space
  - b. Adequate space for offices, public restrooms, and a customer lounge
  - c. Sufficient automobile parking space in accordance with local building and zoning code requirements of the City
  - d. A paved aircraft parking ramp with taxiway access, sufficient for the temporary parking of two Airplane Design Group II aircraft.
2. Provide sufficient equipment and supplies and have access to the parts necessary to perform the repairs and to recertify each aircraft being repaired.
3. Comply with all FAA regulations as they apply to the type of work being performed, parts utilized, and certifications required as an approved repair station.
4. Have the premises open and services available 8 hours daily, 5 days a week. Provide within a reasonable period of time (not greater than 45 minutes) staffing on a call-back basis to address after-hour requests for service from customers.
5. Pay to the Morgantown Airport a percent of gross receipts as published by the Airport Director in the Airport Rates and Charges for Operator's operations conducted at the airport.
6. Employ and have on duty during the appropriate business hours, not less than 1 person who possesses the appropriate FAA certificate(s) for the work being performed as set forth in this category of services.

### **8.2 Ground Handling Services**

## **A. Scope of Service**

A ground handling services Operator is a person or persons, firm, or corporation providing ground services incidental to the flights of non-scheduled air carriers and commercial charter operators of large aircraft. (For clarification, ground handling services Operators are not authorized to provide this class of services to air taxi or commercial operators certificated under Parts 121 and 135 of the Federal Aviation Regulations, unless under a direct agreement with an entity so authorized.)

## **B. Minimum Standards**

1. Operator's premises shall include:
  - a. Sufficient space on Airport premises that meets local code requirements to accommodate an office, shop, parts, and parking of ground handling equipment
  - b. Access to restrooms for its employees
  - c. Sufficient automobile parking space in accordance with local building and zoning code requirements of the City.
2. Employ in sufficient number a staff of qualified and fully trained personnel to perform their respective functions, including a full-time qualified and responsible on-site representative, responsible for the conduct of operations and the handling of each flight.
3. Provide at all times at the Airport its own complement of ramp equipment. The complement of such equipment shall be approved by the Airport Director in advance. Replacements and changes to the complement of equipment shall be approved by the Airport Director and all equipment shall be kept in first-class condition at all times.
4. Operator shall properly furnish ground handling services which reasonably may be expected to be required from time to time by its customers. Operator may not provide into-plane delivery of fuel.

## **8.3 Aircraft Charter and Commercial Operator**

### **A. Scope of Service**

An Air Charter Operator is a non-transient based Operator who engages in the business of providing air transportation (persons or property) to the general public for hire, on a prearranged basis as defined under 14 CFR Parts 119 and 135.

### **B. Minimum Standards**

1. Operator's premises shall include:
  - a. A minimum of 3,600 square feet of space meeting local code requirements to accommodate a hangar for storage of aircraft
  - b. Adequate space for offices, public restrooms, and a customer lounge and meeting local code requirements
  - c. Sufficient automobile parking space in accordance with all applicable zoning

- ordinances and building codes for the City
- d. A paved aircraft parking ramp, with taxiway access, sufficient for the temporary parking of two Airplane Design Group II aircraft.
2. Have and maintain during the term of the tenancy at the Airport, proper licenses and shall operate in conformance with all appropriate FAA regulations.
  3. Hold a proper Commercial Operator certificate and own or have available to it under written lease no fewer than 1 single-engine (4-place) aircraft equipped for and capable of use under instrument condition that meet the requirements 14 CFR Parts 119 and 135.
  4. Have the premises open and services available to the public 8 hours daily, 6 days per week, but shall provide “on-call” services 24 hours daily, 7 days a week.
  5. Employ and have on duty during the required operating hours, trained personnel in such numbers as are required to meet the Minimum Standards set forth in this category but never less than 1 FAA-certificated commercial pilot and otherwise appropriately rated to permit the flight activity offered by the Operator.
  6. Pay to the Morgantown Airport a percent of gross receipts as published by the Airport Director in the Airport Rates and Charges for Operator’s operations conducted at the airport.
  7. Have available sufficient qualified operating crews or satisfactory number of personnel for checking in passengers, handling of luggage, ticketing, and/or furnishing or arranging for suitable ground transportation.
  8. Provide reasonable assurance of a continued availability of qualified operating crews and approved aircraft within a reasonable or specified maximum notice period.
  9. Procure, maintain, and pay premiums, during the term of the Agreement, for the types of insurance required by the City.

## **8.4 Aircraft Storage**

### **A. Scope of Service**

An Aircraft Storage operation is a business operated by a person, firm or corporation engaged in the construction and rental of conventional and/or T-type hangars and tie- down areas to the general flying public. This service is an FBO requirement.

### **B. Minimum Standards**

1. Construct buildings in accordance with design, zoning, and construction standards required and established by the City for the facility or activity involved.
2. Conventional multi-aircraft hangars shall be a minimum of 12,000 square feet for FBOs and 3,600 square feet for SASOs; T-type hangars shall have a minimum of 8 units per building.

3. Provide a sufficient number and type of fire extinguishers as required by federal, State, and local laws and regulations and towing equipment capable of maneuvering aircraft to and from the hangar.
4. Provide sufficient customer and employee parking as required by local code and zoning requirements of the City.

The lease of City-owned Airport property to an entity, or entities for the purpose of constructing and/or occupying a hangar for the non-commercial storage of aircraft is not considered a commercial aeronautical activity and is not subject to these minimum standards. Said premises are not to be used for any business or purpose other than that authorized by the City.

## **8.5 Flight Training**

### **A. Scope of Service**

A Flight Training Operator is a person or persons, firm, or corporation engaged in instructing pilots in dual and solo operation of aircraft and providing such related ground school instruction as is necessary for taking a written examination and flight check ride for the category or categories of pilots' licenses and ratings involved.

### **B. Minimum Standards**

1. Operator's premises shall include adequate office space, classroom, and a flight planning area with equipment, phones, public restrooms, 2 aircraft tie-down spaces for Airplane Design Group I aircraft, and sufficient customer and employee parking as required by local zoning and building code requirements of the City.
2. Have available for use in flight training, either owned or underwritten lease at least 2 aircraft properly certificated to handle the proposed scope of operation. At least 1 of which shall be a 4-place aircraft, and at least 1 of which shall be equipped and capable of use in instrument flight instruction.
3. Have the premises open and services available to the public 8 hours daily, 5 days each week, weather permitting.
4. Employ on a full-time basis at least 1 flight instructor who has been properly certificated by the FAA to provide the type of offering offered. In addition to the full-time instructor, Operator shall have available for call on a part-time basis at least 1 flight instructor who has been properly certified by the FAA to provide the type of training being provided.
5. Pay to the Morgantown Airport a percent of gross receipts as published by the Airport Director in the Airport Rates and Charges for Operator's operations conducted at the airport.

## **8.6 Independent Flight Instructor**

### **A. Scope of Services**

An independent flight instructor operator is a person or persons, firm, or corporation engaged in

providing aircraft flight instruction at times of his or her choosing without meeting the requirements of sub-paragraph 8.5 of this section. This Permit allows instruction only to those receiving instruction in their owned aircraft or for specialized flight instruction not provided by an FBO or Flight Instruction SASO.

## **B. Minimum Standards**

1. Operator obtains a City of Morgantown Business License in accordance with the City of Morgantown Code.
2. Operator demonstrates to Airport Director that he/she has secured adequate non- public office space to conduct the proposed activity.
3. Operator obtains from the Airport Director an Independent Flight Instructor's Airport Business Permit which requires:
  - a. Proof of proper and current licenses certified by the Federal Aviation Administration, with appropriate ratings to cover the type of training offered.
  - b. Proof of a City of Morgantown Business License if required.
  - c. Proof of Insurance as required by the City.
  - d. Written assurance that all Federal, State, and local laws and regulations shall be complied with at all times.
  - e. Written assurance that not more than forty (40) hours of flight instruction shall be provided in any one (1) month.
  - f. Operator has a leased t-hangar or other leased hangar facility at the Airport.
  - g. Pay to the Morgantown Airport a percent of gross receipts as published by the Airport Director in the Airport Rates and Charges for Operator's operations conducted at the airport.

## **8.7 Aircraft Rental**

### **A. Scope of Services**

An Aircraft Rental Operator is a person or persons, firm, or corporation engaged in the rental of aircraft.

### **B. Minimum Standards**

1. Operator's premises shall include adequate office space, flight planning area with equipment, phones, public restrooms, 2 aircraft tie-down spaces for Airplane Design Group I aircraft, and sufficient customer and employee parking as required by local building and zoning code requirements of the City.
2. Have available for rental, either owned or underwritten lease to Operator, 2 certified and currently airworthy aircraft, 1 of which shall be equipped for, and capable of, flight under instrument flight rules.
3. Have the premises open and services available a minimum of 8 hours daily, 6 days a week.
4. Employ and have on duty during the required operating hours, trained personnel in such

number as are required to meet the Minimum Standards in an efficient manner to dispatch the rented aircraft.

5. Pay to the Morgantown Airport a percent of gross receipts as published by the Airport Director in the Airport Rates and Charges for Operator's operations conducted at the airport.

## **8.8 Aircraft Sales (New and/or Used)**

### **A. Scope of Service**

An Aircraft Sales Operator is a person engaged in the sale of new and/or used aircraft through franchises, or licensed dealerships or distributorships (either on a retail or wholesale basis) of an aircraft manufacturer and provides such repair, services and parts as necessary to meet any guarantee or warranty on new and/or used aircraft sold by said Operator.

### **B. Minimum Standards**

1. Operator's premises shall include adequate office space, lounge, public restrooms, 2 aircraft tie-down spaces for Airplane Design Group I aircraft, and sufficient customer and employee parking as required by local building and zoning code requirements of the City. If Operator utilizes a hangar that can store Operator's entire fleet, no paved tie-downs are required.
2. Provide necessary and satisfactory arrangements for the repair and servicing of aircraft, for the duration of any sales guarantee or warranty period. Servicing facilities may be provided through written agreement with another Operator at the Airport.
3. Provide an adequate inventory of spare parts for the type of new aircraft for which sales privileges are granted.
4. Have available at least one fully assembled and certificated-airworthy demonstrator aircraft for each category or class of aircraft sold.
5. Have the premises open and services available 8 hours daily, 5 days a week.
6. Employ and have on duty during the required operating hours, trained personnel in such numbers as are required to meet these requirements in an efficient manner, but never less than 1 person having a current pilot certificate with appropriate ratings for the operation being conducted.
7. Pay to the Morgantown Airport a percent of gross receipts as published by the Airport Director in the Airport Rates and Charges for Operator's operations conducted at the airport.
8. Procure, maintain, and pay premiums, during the term of the Agreement, for the types of insurance required by the City.

## **8.9 Specialized Aircraft Repair Services (Radios, Propellers, Instruments, and**

## Accessories, etc)

### A. Scope of Service

A Specialized Aircraft Repair Services Operator is a FAA-certified person or persons, firm, or corporation engaged in the business of repairing aircraft radios, propellers, instruments, and/or accessories for general aviation aircraft. This category includes the sale of new and/or used aircraft radios, propellers, instruments, and accessories.

### B. Minimum Standards

1. Operator's premises shall include:
  - a. A minimum of 3,600 square feet of space meeting local code requirements for repair and shop activities, aircraft, equipment, and parts storage
  - b. Adequate space for offices, public restrooms, and a customer lounge
  - c. Sufficient automobile parking space in accordance with local building and zoning code requirements of the City
  - d. A paved aircraft parking ramp with taxiway access, sufficient for the temporary parking of two Airplane Design Group II aircraft.
2. Obtain and maintain, as a minimum, the repair station certificates required by FAA that are applicable to the operation or operations contemplated. The Operator may furnish one or, if desired, any combination of the services listed above.
3. Have the premises open and services available to the public 8 hours daily, 5 days each week.
4. Employ and have on duty during the required operating hours, trained personnel in such numbers as are required to meet the Minimum Standards set forth in this category but never less than 1 person who meets the requirements of the appropriate FAA repairman certification and 1 other person who need not be rated by the FAA.
5. Pay to the Morgantown Airport a percent of gross receipts as published by the Airport Director in the Airport Rates and Charges for Operator's operations conducted at the airport.

## 8.10 Air Ambulance

### A. Scope of Service

An Air Ambulance Operator is a FAA-certified person or persons, firm, or corporation engaged in the business of providing a fixed and/or rotary wing aircraft as well as trained pilots and medical professionals capable of offering medical care and air transportation to sick or injured persons.

### B. Minimum Standards

1. Operator's premises shall include:
  - a. A minimum of 3,600 square feet of space meeting local code requirements for

- storage of aircraft
  - b. Adequate space for offices, living quarters, equipment storage, and a waiting area
  - c. Sufficient automobile parking space in accordance with local building and zoning code requirements of the City
  - d. Sufficient paved parking area to accommodate an ambulance type ground vehicle
  - e. A paved aircraft parking ramp, with taxiway access, sufficient for the parking and maneuvering of the aircraft to be utilized by Operator.
2. Provide a physician, registered nurse or emergency medical technician on an “on- duty” basis, as may be required for individual cases.
  3. Provide one pilot with appropriate FAA certificates on duty full time during normal business hours which shall be eight (8) hours per day, six (6) days a week. Back- up pilots shall be on call during other hours.
  4. Maintain current licenses and Permits required by federal, state or local governments for the provision of the proposed medical services. Copies of all required certificates, Permits, licenses, and FAA inspections shall be submitted to the Airport Director.
  5. Provide at least one Aircraft, specifically designed and equipped to transport medical patients for emergency flights, as well as normal treatment transportation. Such Aircraft shall be owned by or available pursuant to a written agreement, backup Aircraft for use when Commercial Operator’s Aircraft is not in use or out of service for any reason.

## **8.11 Air Cargo Operators**

### **A. Scope of Service**

An air cargo operator, is a person or persons, firm, or corporation not based at the Airport but engaged in the business of providing air cargo transportation for hire, on a prearranged basis as defined under 14 CFR Parts 119 and 135.

### **B. Minimum Standards**

1. Operator shall make suitable arrangements for use of aircraft parking apron space and other such premises, and access to such aircraft parking apron space and other premises, as is necessary for the safe and secure transfer of cargo to and from their aircraft. Such arrangements may be made with a Fixed Base Operator or through an agreement with the Airport.
2. Have and maintain at any time while conducting operations at the Airport, proper licenses and shall operate in conformance with all appropriate FAA regulations.
3. Hold a proper Commercial Operator certificate and own or have available to it under written lease no fewer than 1 single-engine (4-place) aircraft equipped for and capable of use under instrument condition that meet the requirements 14 CFR Parts 119 and 135.
4. Have available sufficient qualified operating crews or satisfactory number of personnel and equipment for the safe and secure transfer of cargo.

5. Pay the required landing fees (signatory or non-signatory) as required.
6. Procure, maintain, and pay premiums, at any time while conducting operations at the Airport, for the types of insurance required by the City.

## **8.12 Commercial Hangar Leasing**

### **A. Scope of Services**

Any FBO or SASO desiring to provide hangars for the sole intent of leasing to other aircraft owners or lessees shall provide as a minimum the following services and facilities:

### **B. Minimum Standards**

1. Leasehold shall contain adequate land area to accommodate all building structures and parking areas
2. Construct or lease a hangar or building of at least 2000 contiguous square feet which meets the City's approval. After a lease has been approved and signed, the applicant must complete and turn in for review, to the Airport Director, all items associated with the new Commercial Hangar checklist. See Appendix A
3. All hangar floors shall be paved with concrete throughout with the ability to minimally support Deign Group II aircraft.
4. All concrete floors shall be sealed with an aviation grade epoxy floor sealer or better that prevents damage from oils, fuels, and corrosive products.
5. All facility heights must be at or below FAA Part 77 requirements and approved by the FAA using form 7460-1 and the Airport Director
6. All areas around building, parking lots or paved areas shall be landscaped with Airport and USDA approved vegetation for use around airports.
7. All signage will be approved by the Airport Director and shall conform to City signage ordinances.
8. All drainage systems shall conform to current City, State, and Federal requirements. Oil and Water separators must be installed preventing petroleum products from entering the sewer system.
9. Lessee shall provide paving between hangar and public taxilanes or taxiways.
10. Lessee shall lease form the City a minimum of two parking spaces or more as appropriate for a proposed hangar unit. All parking shall be outside of the Air Operations Area. Other parking accommodations may be appropriate with the approval of the Airport Director
11. Insurance shall be carried meeting the minimum requirements as set forth in the lease documents prepared by the City.
12. Lessee shall provide at least one restroom per hangar development as approved by the Airport Director.
13. Lessee shall require tenant of constructed facility to have a commercial lease agreement with the City to operate at the airport. Private operators do not need a commercial operating agreement if the hangar or building is used for private use.

## **8.13 Commercial Flying Services**

### **A. Scope of Service**

A Specialized Commercial Flying Services Operator is a person or persons, firm or corporation engaged in air transportation for hire for the purpose of providing the use of aircraft for any of the activities listed below:

1. Non-stop sightseeing flights that begin and end at the same airport within a 25-mile radius of the Airport.
2. Aerial application including crop-dusting, seeding, spraying, bird chasing, fish spotting, etc.
3. Banner towing and aerial advertising
4. Aerial photography or survey
5. Fire Fighting
6. Power Line or pipeline patrol
7. Sky diving training, parachute jumping, or operations
8. Any other operations specifically excluded from 14 CFR Part 135.

**B. Minimum Standards**

1. Operator's premises shall include adequate space and/or land area to meet the requirements of the operation at the Airport subject to the approval of the City.
2. Provide and have based on the leasehold, either owned or underwritten lease to the Operator, at least one aircraft which shall be airworthy, meeting all the requirements of the FAA and applicable regulations of the State with respect to the type of operations to be performed.
3. Comply with all applicable Federal, State, and local laws and regulations. Maintain adequate written records to show compliance with said regulations and make the records available to the City or their representatives for inspection in a reasonable and timely manner.
4. Employ trained personnel in such numbers as may be required to meet these Minimum Standards in an efficient manner. All flight crews shall meet all applicable FAA regulations pertaining to the type of flights conducted.
5. Pay to the Morgantown Airport a percent of gross receipts as published by the Airport Director in the Airport Rates and Charges for Operator's operations conducted at the airport.
6. Crop-dusting or other aerial chemical application services shall be permitted to operate at the Airport, if the Operator obtains from the Airport Director an Aerial Applicator Business Permit which requires:
  - a. Proof of proper and current licenses certified by the Federal Aviation Administration, with appropriate ratings to cover the type of aircraft to be operated.
  - b. Proof of a City of Morgantown Business License if required.
  - c. Written assurance that adequate public liability and property damage insurance is provided in such amounts as required by the State of West Virginia to protect the operation and City from legal liabilities resulting from this activity.
  - d. Written assurance that all federal, state, and local statutes, rules and regulations shall be complied with at all times.

- e. Written assurance that the applicant has read and agrees to abide by the Airport's "Spill Prevention Control or Countermeasures Plan".
- f. Written assurance that aerial agricultural operations shall be limited to less than 5 days per month.

Crop-dusting or other aerial chemical application Operators shall make suitable arrangements and have such space available within their leased premises for the safe loading, unloading, and storage and containment of chemical materials in accordance with all federal, state, and local statutes, rules, and regulations.

## **SECTION 9 OTHER COMMERCIAL AERONAUTICAL ACTIVITIES**

Other commercial aeronautical activities not specifically addressed in this part shall be approved on a case-by-case basis by the Airport Director. Examples may include, but are not limited to, aircraft paint, aircraft restoration, or other repair facilities. Other commercial aeronautical activities may also include an amateur-built aircraft manufacturer or sport pilot/light-sport aircraft service provider.

Applications for activities not specifically addressed under these standards must contain all information requested in Section 5I of these standards. Minimum standards for other aeronautical activities will be created and adopted into these Standards as determined to be necessary by the Airport Director and approved by the Morgantown City Council.

## **SECTION 10 WAIVERS OF MINIMUM STANDARDS**

The Airport Director may, in his sole discretion, waive all or any portion of these Minimum Standards set forth herein for the benefit of any government or governmental agency performing non-profit public services to the aircraft industry or performing fire prevention or fire-fighting operations. The Airport Director also may waive any of these Minimum Standards for non- governmental applicants when it deems such waiver to be in the best interest of the Airport and the public, and shall not result in unjust discrimination against similarly situated aeronautical users and/or service providers at the Airport.

Consistency with FAA Airport Improvement Program (AIP) grant assurances and the FAA Airport Revenue Use Policy is to be considered by the City when reviewing a possible waiver of all or any portion of these Minimum Standards.

## **SECTION 11 WRITTEN AGREEMENT**

Prior to the commencement of construction or operation, the Operator shall enter into a written Lease, Agreement, or Permit with the City, as the case may be, which shall set forth the terms and conditions under which the Operator shall conduct its business at the Airport. The Lease, Agreement, or Permit shall include all provisions required by law and obligations placed upon the City by all federal and State agencies and any other contracting provisions deemed necessary by the City.

## **SECTION 12 FAA REQUIRED LEASE PROVISIONS**

Each lease shall contain the following provisions regarding subordination, emergency leasing to the United States, and non-discrimination. The language for these provisions is as follows:

- A. Lease Subordinate to Agreement between City and the United States: This lease is subject and subordinate to the terms, reservations, restrictions, and conditions of any existing or future agreements between the City and the United States, the execution of which has been or may be required as a condition precedent to the transfer of federal funds for the extension, expansion, or development of the Morgantown Municipal Airport. Should the effect of such agreement with the United States government be to take any of the property under lease or substantially destroy the commercial value of such improvements, City shall terminate this Lease.
- B. Emergency Lease to United States: During the times of war or National Emergency, City shall have the right to lease the landing area of the Airport, or any part of Morgantown Municipal Airport, thereof, to the United States Government for military or national use, and if any lease is executed, the provisions of this instrument insofar as they are inconsistent with the provision of the lease to the Government, shall be suspended. All facilities of the Airport developed with federal financial assistance and all facilities usable for landing and takeoff of aircraft will be available to the United States for use by Government aircraft in common with other aircraft at all times without charge, except, if the use by Government aircraft is substantial, a charge may be made for a reasonable share, proportional to such use, of the cost for operating and maintaining the facilities used.
- C. Non-Discrimination: The Operator shall furnish all services authorized or licensed on a fair, equal, and not unjustly discriminatory basis to all users and shall charge fair, reasonable, and not unjustly discriminatory prices for each unit or service, provided that it may make reasonable and non-discriminatory discounts, rebates, or other similar types of price reductions to volume purchasers, if permitted by law.

The Operator for itself, its personal representatives, successors in interest, and assignees hereby agrees that:

1. No person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.
2. In the construction of any improvements on, over, or under such land and the furnishing of services thereon, no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination.
3. That the premises are to be used in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulation may be amended.
4. That in the event of breach of any of the above non-discrimination covenants, the City shall have the right to terminate the lease and re-enter and repossess said land and the facilities thereon and hold the same as if said lease had never been made or issued.

**COMMERCIAL AERONAUTICAL HANGAR CHECKLIST**  
for  
FBO, SASO, OR OTHER COMMERCIAL OPERATIONS

**TENANT or OWNER**

**Documents that need to be approved by City Council:**

- SASO lease

**Documents to be submitted before building permit can be issued:**

- Aircraft liability \$1,000,000 per occurrence: \$100,000 per passenger seat with premises and Property Liability
- Property insurance for the replacement cost of the tenant improvements. Use the construction plans estimate for value (same as the building permit value).
- General Liability Insurance - See SASO agreement
- Municipal Business License Application

**CONTRACTOR or OWNER BUILDERS**

**Documents that need to be submitted / Items that need to complete and submitted to the Airport before building permit can be issued:**

- Planning and Plan documents completed.
- Submit Business Plan, Financial Statement, Assets, Credit Report, References, see the Minimum Standards for Commercial Aeronautical Activities for any additional details.
- Submit plans, specifications, schedule, and other construction documents – see the Minimum Standards for Commercial Aeronautical Activities for any additional details.
- Builders Risk for 100% of the value of the improvements.
- FAA form 7460-1
- Performance Security (performance bond) for 100% of the value of the improvements.
- Payment bond for 100% of the value of the improvements.
- Contractor License Completed with the City.

**ALL DOCUMENTS HAVE BEEN RECEIVED AND APPROVED BY THE AIRPORT  
ADMINISTRATION.**

\_\_\_\_\_  
**Airport Representative Signature**

\_\_\_\_\_  
**Date**

**RESOLUTION**

*WHEREAS, City Administration has presented to Morgantown City Council a 2020-2021 budget for the Morgantown Capital Escrow Fund and has requested that City Council review and approve the same;*

*WHEREAS, the budget in question, copies of which are hereto attached, appear to not only be in proper form, but also, acceptable as to income and expenditures set forth therein;*

*WHEREAS, City Council is of the opinion that it should approve said budget.*

*NOW, THEREFORE, BE IT RESOLVED by the City of Morgantown this 5th day of May, 2020, that the 2020-2021 Morgantown Capital Escrow Fund Budget hereto attached is approved.*

---

*Mayor*

---

*City Clerk*

# City of Morgantown

## Capital Escrow Fund Budget

Budget Year 2021

Account Description	FY18 Actuals	FY19 Actuals	FY20 Actuals at 12/31/19	FY20 Amended Budget	2021 Department Requested	2020 Remaining Budget and 2021 Dept Request
<b>Revenue</b>						
Other Grants - General		7,500	-	80,000	-	80,000
Contrib Other Funds B&O Tax-Construction	3,040,000	1,300,000	550,000	2,300,000	2,246,000	3,996,000
Contrib Other Funds Municipal Service Fee	2,911,500	2,345,250	500,000	2,385,000	1,800,000	3,685,000
Contrib Other Funds Municipal Sales & Use Tax					827,062	827,062
Other Grants - Hazel Ruby McQuain Charitable Trust	2,000,000	-	-	2,300,000	-	2,300,000
Interest Earned - Investments	44,136	138,187	54,190	125,000	45,000	115,810
Reimbursements - Public Utilities			49,807	49,807	-	-
Building Comm - Proceeds from Sale of Bonds					3,151,000	3,151,000
Miscellaneous Other	-	34,367	15,000	15,000	5,000	5,000
Miscellaneous Prior Year Balance	-	-	-	9,579,533	-	7,578,038
Miscellaneous Event Center	62,875	62,875	-	62,875	62,875	125,750
<b>Total Capital Escrow Revenue</b>	<b>8,058,511</b>	<b>3,888,179</b>	<b>1,168,997</b>	<b>16,897,215</b>	<b>8,136,937</b>	<b>21,863,660</b>
<b>Expenditures</b>						
<b>City Manager</b>						
Contracted Services General			11,539	46,360	-	34,821
Contracted Services Consultant Study	2,833	5,667	-	21,500	-	21,500
Contracted Services City Branding	-	-	-	14,500	-	14,500
Contracted Services Deer Management				7,880	-	7,880
<b>Total City Manager:</b>	<b>2,833</b>	<b>5,667</b>	<b>11,539</b>	<b>90,240</b>	<b>-</b>	<b>78,701</b>
<b>Engineering</b>						
Contracted Services Records Management	-	-	-	50,501	-	50,501
Contracted Services GIS Project	20,000	-	63,128	85,000	-	21,872
Contracted Services Historic Landmarks	224	10,016	(6,017)	3,009	-	9,026
Contracted Services Infrastructure Agreements	-	54,801	-	245,199	-	245,199
Contracted Services Forest Ave Home Demolitions				150,000	-	150,000
Professional Services - Environmental Services	17,877	13,301	-	76,192	-	76,192
Capital Outlay Other Projects	544,343	1,350	-	29,507	-	29,507
Capital Outlay Sidewalks	23,233	1,113	3,754	25,654	-	21,900
Capital Outlay Hazel Ruby McQuain Park		118,050			-	-
Capital Outlay Caperton Trail	-	-	-	10,000	-	10,000
Capital Outlay Recreation Trail Match	42,679	-	9,000	54,862	-	45,862
Capital Outlay Downtown Tree & Bumpout	28,125	24,675	-	4,522	-	4,522
Capital Outlay Sabraton Improvements	3,528	-	-	36,195	-	36,195
Capital Outlay Bike Lanes	-	-	-	27,500	-	27,500
Capital Outlay Fuel Tanks	-	-	-	200,000	-	200,000
Capital Outlay - PSB Roof		65,135	648,587	894,865	-	246,278
Capital Outlay Jacobs Street Slip Repair		160,810			-	-
Capital Outlay Equip-Vehicles					-	-
<b>Total Engineering:</b>	<b>680,009</b>	<b>449,251</b>	<b>718,452</b>	<b>1,893,006</b>	<b>-</b>	<b>1,174,554</b>
<b>Human Resources</b>						
Training & Education - Tuition Reimbursement Program	27,930	22,013	6,349	20,193	-	13,844
<b>Total Human Resources:</b>	<b>27,930</b>	<b>22,013</b>	<b>6,349</b>	<b>20,193</b>	<b>-</b>	<b>13,844</b>
<b>Contributions</b>						
Contrib Govt Entities - Other	9,500	23,123	-	6,877	-	6,877
Contrib Govt Entities - Sunnyside Redevelopment	100,000	100,000	100,000	100,000	100,000	100,000
Contrib Govt Entities - Board of Education	-	50,000			-	-

# City of Morgantown Capital Escrow Fund Budget

Budget Year 2021

Account Description	FY18 Actuals	FY19 Actuals	FY20 Actuals at 12/31/19	FY20 Amended Budget	2021 Department Requested	2020 Remaining Budget and 2021 Dept Request
Contrib Govt Entities - Land Reuse and Preservation Assoc					10,000	10,000
Other Contrib - Other	2,500	-	-	18,095	-	18,095
Other Contrib - Morgantown Health Right			-	10,000	10,000	20,000
Other Contrib - Connecting Link	9,405				-	-
Other Contrib - Bartlett House	15,000	20,000	6,826	20,000	20,000	33,174
Other Contrib - Human Rights Commission		1,913	-	4,900	2,050	6,950
Other Contrib - Community Housing Action					-	-
Other Contrib - Morgantown Housing Authority	10,000	20,000	-	13,000	7,000	20,000
Other Contrib - Safe Communities Initiative	6,580	43,824	5,819	25,000	-	19,181
Other Contrib - Main Street	59,000	89,000	42,534	109,000	69,000	135,466
Other Contrib - Arts Monongalia	3,000	-			-	-
Other Contrib - Mon Health Department	16,000	16,000	16,000	16,000	16,000	16,000
Other Contrib - Mgmtn Area Economic Partners	15,000	15,000	-	15,000	-	15,000
Other Contrib - Mon River Trail Conservancy	20,000	20,000	5,000	40,000	40,000	75,000
Other Contrib - Celebration America	2,000	2,000			-	-
Other Contrib - Botanic Gardens	17,225	28,910	26,210	26,210	26,210	26,210
Other Contrib - Community Trust	10,000				-	-
Other Contrib - MLK Day	1,500	1,618	-	1,850	1,850	3,700
Other Contrib - Your Community Foundation	45,000	100,000	90,000	100,000	100,000	110,000
Other Contrib - Upper Mon River Association		2,500	2,500	2,500	2,500	2,500
Other Contrib - Morgantown. Area Paddlers		-	-	7,000	-	7,000
Other Contrib - WVU School of Public Health		6,972	4,916	12,184	12,184	19,452
Other Contributions - Green Team		500	100	50,000	-	49,900
Other Contrib - Mgmtn Health & Wellness			4,250	10,000	-	5,750
Other Contrib - Mgmtn Pedestrian Safety Board			-	40,000	-	40,000
Other Contrib - Downtown Initiative					15,000	15,000
Other Contrib - Mgmtn Riverfront Revitalization					-	-
Other Contrib - M-SNAP					-	-
Other Contrib - Mon. Co. Humane Society					-	-
<b>Total Contributions:</b>	<b>341,710</b>	<b>541,360</b>	<b>304,155</b>	<b>627,616</b>	<b>431,794</b>	<b>755,255</b>
<b>Code Enforcement</b>						
Contracted Services Demolition Fund	151	-	-	83,214	-	83,214
Capital Outlay Equip - Vehicles		8,510	12,293	41,490	25,000	54,197
<b>Total Code Enforcement:</b>	<b>151</b>	<b>8,510</b>	<b>12,293</b>	<b>124,704</b>	<b>25,000</b>	<b>137,411</b>
<b>Planning &amp; Zoning</b>						
Contracted Services Special Dev Services Program	13,503	41,019	11,751	10,687	-	(1,064)
Contracted Services Downtown Plan	71,996	-	-	68,933	-	68,933
Contracted Services Comprehensive Plan	18,368	-	3,364	107,274	80,000	183,910
Contracted Services Rewrite Subdivision Code		-	-	75,000	-	75,000
Capital Outlay Equip-Vehicles					-	-
<b>Total Planning &amp; Zoning:</b>	<b>103,867</b>	<b>41,019</b>	<b>15,115</b>	<b>261,894</b>	<b>80,000</b>	<b>326,779</b>
<b>Information Technology</b>						
Capital Outlay Equip - Computer Software	190,202	21,935	14,974	20,106	-	5,132
Capital Outlay Equip - Computer Equipment	384	224,715	3,872	105,285	87,000	188,413
<b>Total Information Technology:</b>	<b>190,586</b>	<b>246,650</b>	<b>18,846</b>	<b>125,391</b>	<b>87,000</b>	<b>193,545</b>

# City of Morgantown Capital Escrow Fund Budget

Budget Year 2021

Account Description	FY18 Actuals	FY19 Actuals	FY20 Actuals at 12/31/19	FY20 Amended Budget	2021 Department Requested	2020 Remaining Budget and 2021 Dept Request
<b>City Hall</b>						
Repairs and Maintenance Sinking Fund					100,000	100,000
Capital Outlay Building - City Hall Renovations	123,314	579,242	162,022	370,740	1,091,000	1,299,718
Capital Outlay-Public Safety Building					645,000	645,000
Capital Outlay-430 Spruce Street					146,000	146,000
Capital Outlay - Other		15,000			-	-
<b>Total City Hall:</b>	<b>123,314</b>	<b>594,242</b>	<b>162,022</b>	<b>370,740</b>	<b>1,982,000</b>	<b>2,190,718</b>
<b>Transfers</b>						
Contribution Other Fund Other	9,819	14,888	5,000	5,454	-	454
Contribution Other Fund Airport Fund	8,200	129,456	72,139	180,384	-	108,245
Contrib Govt Entities - Bike Board	655	-	-	10,237	-	10,237
<b>Total Transfers:</b>	<b>18,674</b>	<b>144,344</b>	<b>77,139</b>	<b>196,075</b>	<b>-</b>	<b>118,936</b>
<b>Woodburn</b>						
Capital Outlay Building - Woodburn	-	70,000	70,540	165,000	800,000	894,460
<b>Total Woodburn:</b>	<b>-</b>	<b>70,000</b>	<b>70,540</b>	<b>165,000</b>	<b>800,000</b>	<b>894,460</b>
<b>Transfers</b>						
Contribution - Building Commission Lease Payment					275,000	275,000
<b>Total Transfers:</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>275,000</b>	<b>275,000</b>
<b>Contingencies</b>						
Other Contributions - Other	-	-	-	520,021	1,172,108	1,692,129
<b>Total Contingencies:</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>520,021</b>	<b>1,172,108</b>	<b>1,692,129</b>
<b>Police Department</b>						
Capital Outly Building-Police Gun Range					-	-
Capital Outlay Equip - Equipment				87,500	-	87,500
Capital Outlay Equip - MSF Equipment	178,108	379,936	239,715	490,000	-	250,285
<b>Total Police Department:</b>	<b>178,108</b>	<b>379,936</b>	<b>239,715</b>	<b>577,500</b>	<b>-</b>	<b>337,785</b>
<b>Fire Department</b>						
Capital Outlay Building - FD Building Repairs	24,922	16,778	16,631	91,945	-	75,314
Capital Outlay Building - Norwood Station				45,000	-	45,000
Capital Outlay Building - Training Facility					-	-
Capital Outlay Equip - Equipment	96,826	18,423	1,152	523,164	75,000	597,012
Capital Outlay Equip - Vehicles	-	-	-	736,392	-	736,392
<b>Total Fire Department:</b>	<b>121,748</b>	<b>35,201</b>	<b>17,783</b>	<b>1,396,501</b>	<b>75,000</b>	<b>1,453,718</b>
<b>Street Department</b>						
Capital Outlay Land-Slip Repairs				150,000	150,000	300,000
Capital Outlay Building - FDC Docks	-	-	-	50,000	-	50,000
Capital Outlay Building - City Garage				25,000	-	25,000
Capital Outlay - Paving - MSF	1,573,118	1,572,858	934,618	2,315,195	1,800,000	3,180,577
Capital Outlay Neighborhood Signs	-	1,670	-	8,670	-	8,670
Capital Outlay Traffic Calming	-	-	2,306	33,526	-	31,220
Capital Outlay Mountaineer Plaza	(3,006)				-	-
Capital Outlay-8th Street Trailhead					-	-
Capital Outlay Energy Conservation Effort		12,028	-	472	-	472
Capital Outlay Street Lights - MonPower		-	-	10,000	-	10,000
Capital Outlay-Green and Arch Streetlight Replacement					-	-
Capital Outlay-Willy St & Richwood Improv.					75,000	75,000

# City of Morgantown

## Capital Escrow Fund Budget

Budget Year 2021

Account Description	FY18 Actuals	FY19 Actuals	FY20 Actuals at 12/31/19	FY20 Amended Budget	2021 Department Requested	2020 Remaining Budget and 2021 Dept Request
Capital Outlay-Beechurst & 1st Intersection Improv					-	-
Capital Outlay-Rawley Lane					-	-
Capital Outlay-Eastern-Flagel Trail Connector					-	-
Capital Outlay-Avalon-Parkway Connector					-	-
Capital Outlay Equip - Equipment	65,592	-	-	8,402	-	8,402
Capital Outlay Equip - Vehicles	30,539	60,244			-	-
Capital Outlay Equip - MSF Equipment	418,302	36,699	3,000	506,199	-	503,199
<b>Total Street Department:</b>	<b>2,084,545</b>	<b>1,683,499</b>	<b>939,924</b>	<b>3,107,464</b>	<b>2,025,000</b>	<b>4,192,540</b>
<b>Airport</b>						
Contracted Services-Tree Removal					100,000	100,000
Capital Outlay Land-Inground fuel tank removal					30,000	30,000
Capital Outlay Building - Buildings			-	60,000	-	60,000
Capital Outlay Runway Extension		3,000	-	328,000	-	328,000
Capital Outlay-North End sidewalk replacment					30,000	30,000
Capital Outlay - Airport Access Road	-	-	-	50,000	10,000	60,000
Capital Outlay Runway Extension Protection Zone	-	-	-	1,000,000	-	1,000,000
Capital Outlay T-Hangar Project Loan	-	-			-	-
Capital Outlay T-Hangar Project Contingency	86,499	61,534			-	-
Capital Outlay Runway Ext Land Acquisition			-	500,000	-	500,000
Capital Outlay Equip - Equipment			88,702	96,800	127,585	135,683
Capital Outlay Equip-Scully System for Fuel Farm and Trucks					31,700	31,700
<b>Total Airport:</b>	<b>86,499</b>	<b>64,534</b>	<b>88,702</b>	<b>2,034,800</b>	<b>329,285</b>	<b>2,275,383</b>
<b>Grants</b>						
Capital Outlay Other Projects		7,500			-	-
Capital Outlay TEA Bridge	163,605	(52,822)			-	-
Capital Outlay - TEA21	-	-	-	185,000	-	185,000
Capital Outlay Foundry Street Lighting		-	-	8,580	-	8,580
Capital Outlay - Pedestrian Project			-	20,000	-	20,000
<b>Total Grants:</b>	<b>163,605</b>	<b>(45,322)</b>	<b>-</b>	<b>213,580</b>	<b>-</b>	<b>213,580</b>
<b>BOPARC</b>						
Capital Outlay - BOPARC Upgrades	60,000	277,173	195,541	452,000	294,750	551,209
Capital Outlay Dorsey Knob Slip	88,736				-	-
Contrib Govt Entities - BOPARC Amphitheatre Programming	300	20,000			-	-
<b>Total BOPARC:</b>	<b>149,036</b>	<b>297,173</b>	<b>195,541</b>	<b>452,000</b>	<b>294,750</b>	<b>551,209</b>
<b>MET Theatre</b>						
Capital Outlay - MET Theatre	46,337	162,548	80,715	253,788	-	173,073
Capital Outlay-Roof Grant Match					55,000	
Capital Outlay-Roof Requested Grant Amount					150,000	150,000
Capital Outlay-HVAC System					200,000	200,000
<b>Total MET Theatre:</b>	<b>46,337</b>	<b>162,548</b>	<b>80,715</b>	<b>253,788</b>	<b>405,000</b>	<b>523,073</b>
<b>Urban Landscape</b>						
Capital Outlay Building - Urban Landscape Center	-	-	-	-	-	-
Capital Outlay Equip-Vehicles					5,000	5,000
Contrib Govt Entities - Urban Forestry	18,585	12,069	3,412	14,525	-	11,113
Contrib Govt Entities - Urban Landscape	-	-	-	91,677	-	91,677
<b>Total Urban Landscape:</b>	<b>18,585</b>	<b>12,069</b>	<b>3,412</b>	<b>106,202</b>	<b>5,000</b>	<b>107,790</b>

# City of Morgantown

## Capital Escrow Fund Budget

Budget Year 2021

Account Description	FY18 Actuals	FY19 Actuals	FY20 Actuals at 12/31/19	FY20 Amended Budget	2021 Department Requested	2020 Remaining Budget and 2021 Dept Request
Hazel Ruby McQuain Riverfront Park Repairs & Maintenance - HRM Park Maintenance Fund		150,000	150,000	150,000	150,000	150,000
Capital Outlay Hazel Ruby McQuain Park		89,500	58,250	4,210,500	-	4,152,250
Total Hazel Ruby McQuain Riverfront Park:	-	239,500	208,250	4,360,500	150,000	4,302,250
Total Capital Escrow Expenditures	4,337,537	4,952,194	3,170,492	16,897,215	8,136,937	21,863,660

**RESOLUTION**

*WHEREAS, City Administration has presented to Morgantown City Council a 2021-2026 Capital Improvement Plan and has requested that City Council review and approve the same; and*

*WHEREAS, the referenced capital improvement plan appears to be in proper form and acceptable as to the expenditures set forth therein;*

*WHEREAS, City Council is of the opinion that this capital improvement plan should be approved.*

*NOW, THEREFORE, BE IT RESOLVED by the City of Morgantown this 5th day of May, 2020, that the 2020-2025 Capital Improvement Plan attached hereto is approved.*

---

*Mayor*

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*City Clerk*

CAPITAL IMPROVEMENT PROGRAM SUMMARY								
			Fiscal Year					
Expenditures	Previously Committed Funding	2020-2021	2021-2022	2022-2023	2023-2024	2024-2025	Total	
Police	112,500	-	548,000	341,000	276,000	276,000	1,441,000	
Fire	1,273,000	75,000	3,378,000	3,395,000	6,095,000	520,000	13,463,000	
Streets	1,588,000	2,025,000	4,809,000	2,359,000	2,284,000	2,284,000	13,761,000	
Airport	-	319,285	1,603,150	771,200	720,000	1,825,000	5,238,635	
Airport Improvement	1,828,000	5,520,905	9,250,560	13,013,096	12,497,000	12,750,099	53,031,660	
Urban Landscape & Rail Trail	80,000	5,000	355,000	25,000	40,000	5,000	430,000	
Arts - MET, Hazel Ruby McQuain Amphitheatre	1,741,000	555,000	375,000	450,000	500,000	450,000	2,330,000	
Public Facilities and Administration	444,200	3,683,750	2,170,000	928,900	790,750	802,150	8,375,550	
<b>Total Improvements</b>	<b>7,066,700</b>	<b>12,183,940</b>	<b>22,488,710</b>	<b>21,283,196</b>	<b>23,202,750</b>	<b>18,912,249</b>	<b>98,070,845</b>	
Municipal Service Fee revenue	1,180,000	1,800,000	2,300,000	2,300,000	2,300,000	2,300,000	11,000,000	
Capital escrow funds	4,104,400	1,487,035	9,578,150	5,895,100	8,330,750	3,787,150	29,078,185	
Other funds	1,782,300	3,226,000	785,000	75,000	75,000	75,000	4,236,000	
Grants and other outside funding	-	5,670,905	9,825,560	13,013,096	12,497,000	12,750,099	53,756,660	
<b>Total Funding</b>	<b>7,066,700</b>	<b>12,183,940</b>	<b>22,488,710</b>	<b>21,283,196</b>	<b>23,202,750</b>	<b>18,912,249</b>	<b>98,070,845</b>	



# The City of Morgantown

389 SPRUCE STREET  
MORGANTOWN, WEST VIRGINIA 26505  
OFFICE: (304) 284-7405 FAX: (304) 284-7430  
[www.morgantownwv.gov](http://www.morgantownwv.gov)

## Office of the City Manager

### City Manager's Report for City Council Meeting on May 5, 2020

#### Information:

##### **A. Update – Minority Liaison Coordinating Council**

Included in the meeting packet, you will find a copy of the draft guidelines that the Human Rights Commission has approved and is proposing for the Liaison Council. Also, you will find a copy of the resolution establishing this advisory group – approved June 18, 2019. This is provided for information purposes.

##### **B. Update – Appointment of Interim Police Chief**

At Tuesday's meeting, I will give an update and response to the recent resignation submitted by Chief Ed Preston. The Chief recommended appointing the current Deputy Chief as part of his resignation letter. In my opinion, the permanent appointment of the permanent successor to Chief Preston should be left to the incoming City Manager.

For the incoming top executive, this will be important to evaluate the culture of our police organization and identify the idea qualities of the new chief law enforcement official, and then conduct the necessary process to find that leader. I am taking this opportunity to discuss my thought process and how the recruitment for this important position should be conducted.

I will be providing an update about the next steps of this process for the immediate needs.

##### **C. CARES Act Funds for Morgantown Municipal Airport Runway Extension Project**

As previously reported, the offices of Senator Shelley Moore Capito and Senator Joe Manchin announced that the City of Morgantown will receive \$7.8 million in Airport Improvement Program funding for the runway extension project at the Morgantown Municipal Airport.

The federal funds will be used to cover expenses for the first phase of the project, which is slated to begin in the fall of 2020. It is anticipated that the funds will be used towards:

- All clearing and grubbing for site prep;
- Erosion and sedimentation controls;
- Temporary stormwater management features;
- Embankment toe bench;
- Culverts for the stream enclosure;
- The start of the embankment; and,
- Design and construction management for the first construction package.

In November 2019, the city received concurrence from the Federal Aviation Administration on its Environmental Assessment and Benefit Cost Analysis. This was the final step before construction could begin on the project.

The next step in the Runway Extension project is to post a bid announcement for the construction phase. The bid announcement is expected to be released this summer. The Runway Extension project is closely tied to the future I-68 Commerce Park. When completed, the two projects will be the most significant economic development projects in the history of the city, and it will be an important economic driver for the region. The Runway Extension project has received support from local businesses, the Monongalia County Commission, Star City, the City of Westover, West Virginia University and the Morgantown Area Partnership, all of which have been instrumental in moving the project forward.

The current length of the runway is 5,199 feet, making it the shortest runway for commercial carrier airports in the state. The extension will add 1,001 feet to the runway and will enhance and modernize the airport's facilities to help it maintain current operations, recruit new businesses and improve safety at the airport.

The Runway Extension Project is estimated to take at least five years to complete at an estimated cost of \$50 million. It is anticipated that a majority of the funding for the design and construction of the project will come from the FAA Airport Improvement Program. The remaining cost will be funded by the City of Morgantown and the State of West Virginia. The \$7 million in AIP funding announced last week requires no local match.

#### **D. City's Update on the Coronavirus (COVID-19) in West Virginia**

The city is looking at making both physical changes to the building and changes to processes and policies to help protect employees and residents as we begin the process of the start of the reopening building/functions to the public. Physical improvements will look a lot like what you see in grocery stores and other retailers and would include things such as plexiglass barriers and floor markings to promote social distancing. Employees in these customer contact areas will be provided PPE and all visitors are recommended to wear PPE as well. As we have done during the building closures, we will encourage those who are able to utilize electronic means to make payments and submit permits and applications. Lastly, our cleaning and sanitizing practices will be ramped up.

As mentioned during the Committee of the Whole meeting, the city is anticipating an opening around mid-May. However, this will be contingent upon the Mon County Health Department recommendations and the West Virginia DHHR guidelines. Some employees will still be working remotely even past this timeframe.

It's important to get City Council's feedback on these types of plans. We have taken in the concerns of City Council, from the last meeting, and have made some changes based on the items they noted. We have reached out to the health department for additional guidance on the tentative plan. Where possible, practical, and desired, the City will be able to continue to hold meetings via electronically means.

We've had a really good response in switching to remote working. While face to face interactions is still vital to be able to serve all populations, we now have a better idea of how different services can be provided through digital or telecommuting practices

In closing, we have and will continue to prioritize both the health and safety of residents and employees and providing excellent city services through this pandemic and beyond. We are in an ever-changing situation and need to remain flexible in our plans.

## **New Business:**

### **A. City Infrastructure Improvement Bond**

As proposed in the Fiscal Year 2020/2021 Budget, the concept of the City Infrastructure Improvement Bond was first introduced. This included both energy efficiency upgrades as well as aesthetic improvements. Based on the recent budget reductions, the focus is solely on energy efficiency upgrades, such as HVAC and windows.

The total improvements called for include replacement of current heating and cooling system in City Hall. The building currently operates using several different systems and the current boiler was installed in 1995; it has issues with corrosion in the distribution pipes. In is common occurrence that the Building Maintenance Division, of the Public Works Department repairs leaking pipes that have caused damage to many documents stored in the basement. Cooling in City Hall is done with window units, and three roof top units. With the anticipated replacement of the windows, those window units will no longer be an option. Installing a water source heat pump, with a dedicated outdoor air system (DOAS), will increase the air quality and decrease inefficiencies caused by overheating the building using the boiler. The cost of the improvements is estimated at \$725,000.

The current City Hall windows need restoration and repair. Many do not open or close properly and create building envelope issues in the form of moisture and air intrusion and add to the overall inefficiency of the operation of the heating/cooling system of City Hall. The cost of replacement of the window is estimated at \$280,000.

At Tuesday's meeting, we will be presenting an Energy Performance Contract (EPC) concept for City Council's consideration. The following information is provided by the U.S. Environmental Protection Agency ENERGY STAR Buildings program. Under the EPC arrangement, this is sometimes compared to design/build construction contracting which will provide the City with a comprehensive set of energy efficiencies and distribution generated measures and often is accompanied with guarantees that the savings produced by a project will be sufficient to finance the full cost of the project. A typical EPC project is delivered by an Energy Service Company (ESCO) and consists of the following elements:

- Turnkey Service – The ESCO provides all of the services required to design and implement a comprehensive project at City Hall, from initial energy audit through long-term monitoring and verification of project savings.
- Comprehensive Measures – the ESCO will tailor a comprehensive set of measures to fit the needs of a particular facility, and can include energy efficiency, renewable, distributed generation, water conservation and sustainable materials and operations.
- Project Financing – the ESCO arranges for long-term financing that is provided by a third-party financing company. At Tuesday's meeting, Jim Goff and Rob Steptoe (our financial consultant from Crews and Associates) will explain in detail this financial arrangement and benefits to the City. As you will hear during their presentation, financing is typically in the form of a municipal lease.
- Project Savings Guarantee – the ESCO provides a guarantee that the savings produced by the project will be sufficient to cover the cost of project financing for the life of project.

The alternative of doing a performance guarantee contract would likely take 5-10 years to complete using traditional capital escrow funds. Absent looking at this program, the City will run into more emergency repairs.

At Tuesday's meeting, staff will provide next steps to pursue an ESCO lease and this will require City Council authorization to proceed.

## **B. Implementation of Focused Workweek Pilot Program**

At last week's Committee of the Whole meeting, Assistant City Manager Emily Muzzarelli presented information on the research and survey results that were conducted; she presented Council with a proposal on implementing a focused workweek for several City buildings and offices beginning July 4, 2020.

Council provided both support and concern over elements of the focused workweek. One of the bigger concerns raised was how this impacts those with family. While this is definitely one of the major challenges in focused workweeks, City Administration knows the importance of being accommodating to parents and families. We do and

will continue to support families, and have the ability to provide flexibility to staff. This may come in the form of shifting work hours, partial telecommuting, or even reduced hours for non-exempt employees.

It is also important to note that much of City staff that would fall under this pilot program are in support of it. After presenting, we were approached to provide clarification and resurvey Public Works for consideration of inclusion in the program. Below is the total staff, responses, and level of support for the program.

<b>Department</b>	<b>Total Staff</b>	<b>Survey Responses</b>	<b>In Favor</b>	<b>Unsure</b>	<b>Against</b>	<b>Percent Support</b>
Code Enforcement	15	10	8	0	2	80%
Finance/ Mun. Courts	15	14	11	0	3	79%
IT	3	3	3	0	0	100%
Arts & Culture	2	2	1	0	1	50%
Human Resources	3	3	2	1	0	67%
City Clerk	2	2	2	0	0	100%
Development Services	3	3	3	0	0	100%
Engineering	3	3	1	0	2	33%
City Managers	5	5	4	0	1	80%
Communications	2	2	2	0	0	100%
Urban Landscapes	3	3	0	1	2	0%
Public Works	51	46	31	5	10	67%
Police*	16	5	2	1	2	40%
BOPARC*	9	7	4	0	3	57%
<b>TOTAL</b>	<b>132</b>	<b>108</b>	<b>74</b>	<b>8</b>	<b>26</b>	<b>70%</b>

\*The initial survey was sent to additionally BOPARC and Police staff, who may be considered outside of "administrative offices" that are proposed to be included.

Another question that came about was why implement this now. Three top things make this an ideal time to implement a pilot program now as opposed to waiting. First, beginning this in July allows to make this change during a slower time for most departments. There is a natural ebb in workload for many departments over the summer, allowing some opportunity to get used to this transition before workload picks up again. It is also important to have a year-long pilot to be able to experience all seasons of work. Next, staff and residents are in a state of change due to COVID-19. Schedules and operations are already disrupted. Residents are used to buildings being closed on Fridays (as well as every other day), so this will be easier to get used to. Many staff also view this schedule as an incentive, which can outweigh some of the negative affects they've experienced from the current pandemic. Lastly, the City will be getting a new City Manager. At best, this will occur in 3-4 months, then it will take another few months on top of that to begin to become acclimated. By implementing this now, the new City Manager will be able to assess the program for

a several months, then help City Staff to determine if it should be considered as a permanent program.

Although staff scheduling is an administrative function, City staff brought this proposal to council for support of the overall idea of a focused workweek pilot and subsequent building/office closures on Fridays. If council feels that it is appropriate, Council can chose to consider approval of the Focused Workweek Pilot Program.

Paul J. Brake, ICMA-CM, CEcD  
City Manager, Morgantown, WV

**RESOLUTION FOR ESTABLISHMENT OF A MINORITY LIAISONS  
COORDINATING COUNCIL**

**WHEREAS**, Morgantown's work to build an inclusive city requires the participation of minority representation in addition to communication with neighborhood and commerce organizations, and

**WHEREAS**, diverse minorities in the City are particularly susceptible to misunderstanding, broad-brush categorization, unnecessary barriers, neglect, discrimination and even abuse, and

**WHEREAS**, minority liaisons working individually and collectively can be an effective/efficient means for problem solving as well as generating public innovation, and

**WHEREAS**, minorities are an important part of the DNA of a community, and City work with liaisons can be an important means for a city to invest in its own citizens:

**BE IT THEREFORE RESOLVED**, that the Morgantown City Council establish a Minority Liaisons Coordinating Council (MLCC) for the purpose of:

1. Promoting the citizen participation of minority groups in the governance of the City;
2. Promoting awareness, civility and fairness for all minorities;
3. Processing individual concerns and identification of problems common to minorities;
4. Discussing options and alternatives in problem solving, and as a group, recommending and advocating for solutions serving the common good;
5. Participating in comprehensive planning to accommodate minority interests and concerns when possible;
6. Recommending training and education assistance and resources to address minority issues when needed; and,
7. Working collaboratively with the Human Rights Commission (HRC) and in coordination with the City Manager with other boards and commissions of the City as needed.

**BE IT FURTHER RESOLVED**, that the MLCC membership include individual liaison representatives who are Morgantown citizens invited by the City Manager, assisted by the HRC, if needed, and recommended by such organizations as:

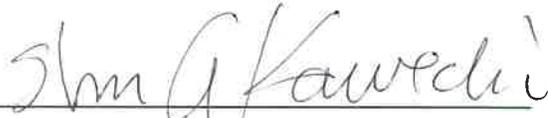
- Mon-Preston NAACP (Racial Diversity)
- Islamic Center (Muslims)
- Fairness WV (LGBTQ)
- Northern West Virginia Center for Independent Living (Persons with Disabilities)

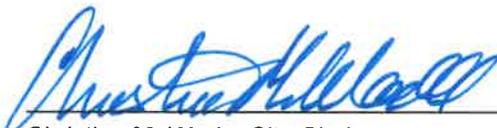
- West Virginia Advocates for Special Education (Parents of Persons with Special Needs)
- Morgantown and Trinity High Schools (Youth from Morgantown)
- Others as Needed

**BE IT FURTHER RESOLVED**, that the MLCC select a convener and recorder and meet no less than quarterly with a City staff administrator.

**ADOPTED INTO A RESOLUTION THIS 18<sup>TH</sup> DAY OF JUNE, 2019 BY THE CITY COUNCIL OF THE CITY OF MORGANTOWN, WEST VIRGINIA.**

**IN WITNESS WHEREOF**, I, William A. Kawecki, Mayor of the City of Morgantown, West Virginia have hereunto set my hand and caused the official seal of the City of Morgantown to be affixed this 18<sup>th</sup> day of June, 2019.

  
\_\_\_\_\_  
William A. Kawecki, Mayor

  
\_\_\_\_\_  
Christine M. Wade, City Clerk

**City of Morgantown**  
***Minority Liaisons Coordinating Council***  
**Proposed Procedural Guidelines – Draft 2/21/2020**

*Article I - Organization*

- 1.1 Authority:** There are many elements in contemporary municipal decision making which require an increasing reliance on comprehensive competence to enable any city to become more responsive to the needs of its diverse citizens. There are many minority groups which have different perspectives and experience and can significantly assist any city by providing expertise and input in planning, carrying out projects, assisting in educational opportunities as well as improving understanding and protection for persons with less protection in employment and housing discrimination and yet an important part of a community.
- 1.2** The Minority Liaisons Coordinating Council has been established by the Morgantown City Council by Resolution on June 18, 2019 and is authorized to serve as a collaborative advisory body to the City Manager and City Council and other boards, commissions and authorities as specified in these guidelines.

*Article II - Purpose*

**2.1 Purpose of the Minority Liaisons Coordinating Council:**

The purpose of the Minority Liaisons Coordinating Council is to:

- a. Promote citizen participation by minority groups in the governance of the City
- b. Promote awareness, civility and fairness for all minorities
- c. Process individual concerns and identification of problems common to minorities
- d. Discuss options and alternatives in problem-solving, and as a group, recommend and advocate for solutions serving the common good
- e. Participate in comprehensive planning to accommodate minority interests and concerns when possible
- f. Recommend training and educational assistance and resources to address minority issues when needed
- g. Work collaboratively with the Human Rights Commission (HRC) and in coordination with the City Manager and with other boards and commissions when needed and cleared with the City Manager.

**2.2 Duties:** The duties of the Minority Liaisons Coordinating Council shall be as follows:

- a. Advise and consult with the City Manager and City Council on all matters pertaining to the authority and purpose for the Minority Liaisons Coordinating Council.

- b. **Participate in all deliberations of the Minority Liaisons Coordinating Council to promote problem-solving beneficial to all minorities and to the community-at-large.**
- c. **Maintain communication with members of local minority organizations regarding the formulation of feasible recommendations.**
- d. **Permit posting of members names or group representations on the City web site.**
- e. **Maintain a readiness to support public education which can encourage citizen understanding, protection, and participation in the well-being of all minorities.**

### *Article III - Membership*

**3.1 Membership: The members of the Minority Liaisons Coordinating Council shall be appointed by the City Manager from individuals designated by minority support groups within Morgantown. The members shall have and maintain a demonstrated interest, experience, and willingness to work toward the purposes of the Minority Liaisons Coordinating Council.**

### *Article IV - Meetings*

**4.1 Regular Meetings: Meetings shall be conducted in compliance with the West Virginia Public Meetings Law and open to the general public. Meetings shall meet monthly or no less than quarterly. Dates of meetings will be decided upon at the previous meeting. All meetings will be publicized using whatever reasonable means available. Email notices shall be distributed no less than seven (7) days before a meeting is to take place. However, failure by a member to receive a meeting notice does not mean that a meeting is invalidated.**

**4.2 Special Meetings: Special meetings of the members may be called upon the written request of a majority of the voting members to consider a specific subject. Meetings shall be conducted in a location owned and operated by the City of Morgantown which is handicapped accessible. Notice for time and place of any special meeting is to be given using whatever reasonable means available. No business other than the subject of the Special Meeting shall be transacted at said meeting.**

**4.3 Quorum: Fifty percent (50%) of the voting members shall constitute a quorum for the transaction of business. Meeting attendance reports shall be reported to the City Clerk by the Secretary**

### *Article V - Officers*

**5.1 The Minority Liaisons Coordinating Council shall have no officers unless decided upon by vote of the entire membership of Coordinating Council. All meetings shall be convened and chaired by the City Manager or their designee. The**

**City Manager or their designee shall prepare agenda, call all meetings, preside at all meetings, and be a consulting member of all committees formed.**

**5.2 Records of Meetings: Taking minutes of meetings shall be assigned by the person chairing a meeting. Minutes will be distributed to the membership as needed or requested.**

*Article VI - Committees*

**6.1 Committees: The Minority Liaisons Coordinating Council may establish committees to carry out the functions related to its responsibilities.**

*Article VII - Finances*

**7.1 Fiscal Responsibilities: The Minority Liaisons Coordinating Council shall not have the authority to maintain any account or to receive any gifts, endowments, bequests and investments. Any such account shall be maintained as directed by the City Manager.**

*Article VIII - Change to These Standards of Operation*

**8.1 Amendments: Changes to these procedures may be recommended by a two-thirds (2/3) vote of the Minority Liaisons Coordinating Council membership and must be approved by the City Manager and City Council.**

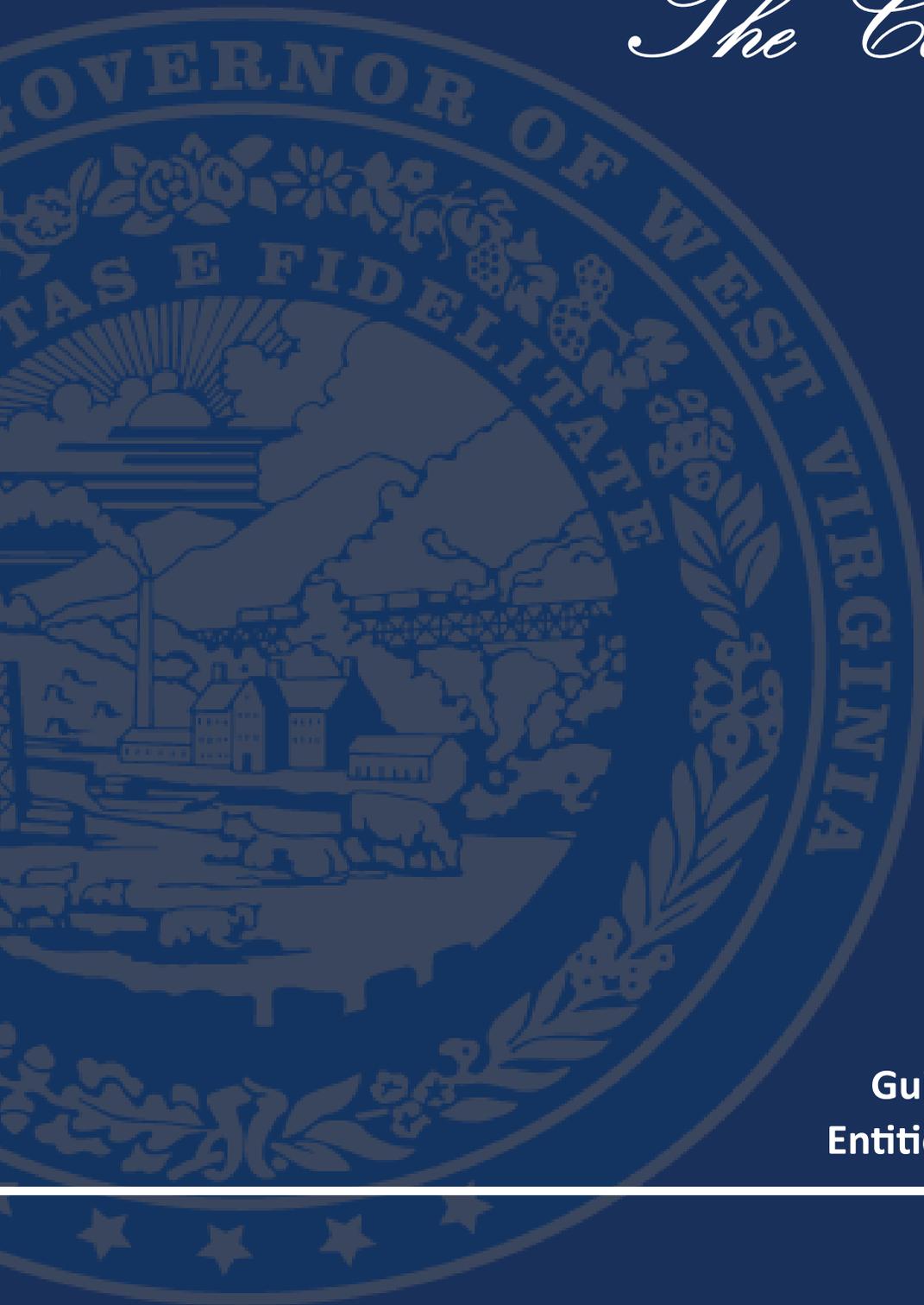
**Approved by action of the Morgantown City Manager,**

*Date: April \_\_\_\_ 2020*

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# WEST VIRGINIA STRONG

## *The Comeback*

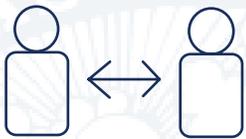


**Guidance for Religious  
Entities and Funeral Homes**

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## Guidance for Religious Entities and Funeral Homes

Per Governor Jim Justice’s Executive Order 9-20, religious entities, including religious facilities, entities, groups, and religious gatherings, including weddings and funerals including funeral homes, are “essential business operations” and have been allowed to remain open and serve their community. These religious entities and institutions have, at all times, and will continue to be, urged to practice proper physical distancing.



Religious entities and institutions have been asked, wherever possible, to reduce the number of individuals attending in-person services by holding services online or in parking lots. To date, religious entities and institutions have served their communities well and worked to keep the citizens of West Virginia safe.

Under Gov. Justice’s reopening plan, **West Virginia Strong — The Comeback**, religious entities and institutions are urged to keep up their good work. In order to do so, they should continue to conduct as many activities as possible remotely, including worship services and religious education, and to follow federal guidelines when providing services and activities in person. To the extent that any religious entity or institution cannot conduct services remotely, they are asked to conduct services and activities in accordance with federal, state, and local guidance for best practices. These best practices include the following:

- Instruct sick employees, volunteers, and guests to stay home;
- Practice physical distancing by maintaining appropriate distance (at least 6 feet) between people;
- Maintain good hygiene by washing your hands frequently, using hand sanitizer, using your elbow to cover coughs, and not touching your face;
- Implement environmental cleanliness and sanitation practices; and
- Clean and disinfect work areas frequently.

See the CDC guidelines for preparing your community-based and faith-based organizations for COVID-19 at [CDC.gov](https://www.cdc.gov). Religious entities and facilities should also maintain contact with their respective denominational or faith community leaders for any additional concerns or guidance.

## GUIDANCE FOR RELIGIOUS ENTITIES AND FUNERAL HOMES

West Virginia’s religious entities and institutions play an important role in helping to slow the spread of COVID-19. Churches and places of worship are specifically vulnerable locations for quick and potentially deadly transmission of COVID-19, and therefore are vital in this effort to continue West Virginia’s positive trendlines.

Religious entities and institutions should further consider implementing the following best practices:

- Adding additional service times to facilitate proper distancing.
- Ensuring all attendees sanitize their hands and put on a mask or face covering before entering the building.
- Equipping ushers and greeters with gloves and masks.
- Encouraging all attendees who are 65 and older to stay home and watch the services online or provide a “senior service” exclusively for attendees 65 and older to attend in person.
- Ask all attendees who have an underlying at-risk health condition to stay home and watch the services online.
- Restricting seating to every other pew.
- Ensuring attendees sit with their immediate family unit, use physical distancing between each unit.
- Clergy should dismiss attendees by family unit in order to maintain physical distancing.
- Staff should sanitize seats and frequently used surfaces between services.
- Consider keeping childcare closed, unless the place of worship can comply with CDC guidelines for childcare facilities.
- Consider refraining from passing collection plates and instead provide a central collection box or encourage online giving.
- Consider how the sacraments can be administered without attendees having to touch the same surfaces and objects.

These guidelines are recommendations to give religious entities and institutions the best tools available to keep clergy and the citizens of the State of West Virginia safe.

# WEST VIRGINIA STRONG

## *The Comeback*



**A Guide to Safely Opening our Restaurants  
Through Takeaway Service & Outdoor Dining**

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## A Guide to Safely Opening our Restaurants Through Takeaway Service & Outdoor Dining

Per Governor Jim Justice’s Executive Order 2-20, restaurants have been allowed to remain open, by drive-through or carry out only, to serve their patrons. These establishments have, at all times, and will continue to be, urged to implement and practice proper physical distancing. To date, restaurants across the state have abided by these orders, have served their communities well and worked to keep the citizens of West Virginia safe.

Under Gov. Justice’s reopening plan, **West Virginia Strong — The Comeback**, restaurants are allowed to open or remain open with the limited services outlined below. To do so, Gov. Justice has issued the following guidance to mitigate the exposure and spread of COVID-19 among food-service workers and patrons. These guidelines, in addition to the guidelines established by the Centers for Disease Control (CDC), will help West Virginians transition back to safe dining outside of their homes. Businesses are allowed and encouraged to implement more stringent protocols as they see fit.



As part of the reopen plan, the West Virginia Alcohol Beverage Control Administration (“ABCA”) is developing a streamlined process with no fees for a restaurant to temporarily expand their floor space to include new or expanded outdoor dining space. Additional guidance on this process will be issued by the ABCA.

As your business reviews and implements these new measures, we encourage you to share and discuss them with your employees and your customers. Communicating enhanced cleaning and sanitization practices will make workers and patrons feel more confident in your restaurants.

Please note: The following guidelines are being published in advance of Governor Justice’s Executive Order — currently anticipated to be effective as of the week of May 4, 2020 — that will allow outdoor dining in addition to carry out, drive-through and delivery services. Failure to adhere to these guidelines may result in suspension of a restaurant’s license to operate or its ABCA license, as applicable, and/or other appropriate enforcement measures.

A GUIDE TO SAFELY OPENING OUR RESTAURANTS THROUGH TAKEAWAY SERVICE & OUTDOOR DINING

Below are guidelines established to help you prepare your business for patrons to continue carryout food service and begin outdoor dining. These guidelines should provide extra safety precautions and give your customers assurance that risks are being mitigated.

**SOCIAL DISTANCING**

- **Distance:** Update plans for outdoor dining areas, redesigning seating arrangements to ensure at least six (6) feet of separation from seating to seating. Clear paths must be designated to allow diners to enter and exit the outdoor dining area without breaking the six feet social-distancing barriers.
- **Party size:** Limit outdoor dining party size at tables to no more than six (6).
- **Party type:** Enforce social distancing of those not residing together while present on such entity's leased or owned property.
- **ABCA Regulations:** To facilitate restaurants offering outdoor dining, in addition to their takeaway and delivery services, the West Virginia Alcohol Beverage Control Administration ("ABCA") is developing a streamlined process with no fees for a restaurant to temporarily expand their floor space to include new or expanded outdoor dining space. Additional guidance on this process will be issued by the ABCA.
- **Waiting areas:** Do not allow patrons to congregate in waiting areas. Design a process to ensure patron separation while waiting to be seated outside or pick up their take-away order that can include ground markings, distancing, or waiting in cars.
- **Dining only:** Limit activity to outdoor dining or pickup of food or beverages to be taken away. No live music, and all restaurant playgrounds shall remain closed.



**REDUCING CONTACT**

- **No entry:** Patrons are not permitted to enter or exit restaurants except to access restrooms, pick up a take-out order, or to access outdoor seating areas. Mark ingress/egress to and from restrooms to establish paths to restrooms and outdoor dining areas to establish paths that mitigate proximity for patrons and staff.
- **Limit contact with outdoor dining guests:** Limit contact between workers and patrons by reducing the number of visits wait staff makes to each outdoor table.
- **Reservations:** Where practical, implement a call-ahead seating model.
- **Take-out model:** Where practicable, take-out and curbside pick-up services should be prioritized over outdoor dining services.
- **Menus:** The use of non-touch or disposable paper menus discarded after each patron use is strongly encouraged.
- If not feasible, reusable menus should be cleaned and sanitized between use by each patron.



## A GUIDE TO SAFELY OPENING OUR RESTAURANTS THROUGH TAKEAWAY SERVICE & OUTDOOR DINING

### CLEANING & SANITIZING PROTOCOLS



- **Face coverings:** Require all employees to wear cloth face coverings at all times. Such coverings shall be cleaned or replaced daily.
- **Preparation:** Thoroughly detail, clean, and sanitize the entire facility and continue to do so regularly, focusing such cleaning and sanitation on high contact areas that would be touched by employees and patrons.
- **Sanitizing between each customer:** Between diners, clean and sanitize table condiments, digital ordering devices, check presenters, self-service areas, tabletops, chairs and commonly touched areas. Discard any single-use items left by the last patron.
- **Back-of-house cleaning:** Implement procedures to increase cleaning and sanitizing frequency of surfaces in the back-of-house. Avoid all food contact surfaces when using disinfectants.
- **Restroom cleaning:** Clean and sanitize restrooms regularly, check restrooms based on the frequency of use, and ensure adequate supply of soap and paper towels at all times.
- **Hand sanitizers:** Provide hand sanitizer for use by patrons, including contactless hand sanitizing stations when available.

### FOOD SAFETY



- **Disposable plates and utensils:** The use of disposable containers and utensils is strongly encouraged. If disposable utensils are not available, silverware must be pre-rolled.
- **Trash bins:** Where restaurants use disposable containers and utensils, restaurants must place designated trash bins outside where patrons can dispose of all trash at the completion of their meal to minimize contact with wait staff. Bins should be placed in areas that do not create lines for patrons practicing proper social distancing.
- **Beverages:** Drinks should be served in cans or bottles. If cans or bottles are not available, disposable cups are strongly encouraged.
- **No buffets:** Do not offer self-serve salad bars or buffets in outdoor dining areas.
- **No self-service:** No self-service food, drink, condiment or utensil stations are permitted for outdoor dining.

### COMMUNICATING WITH CUSTOMERS

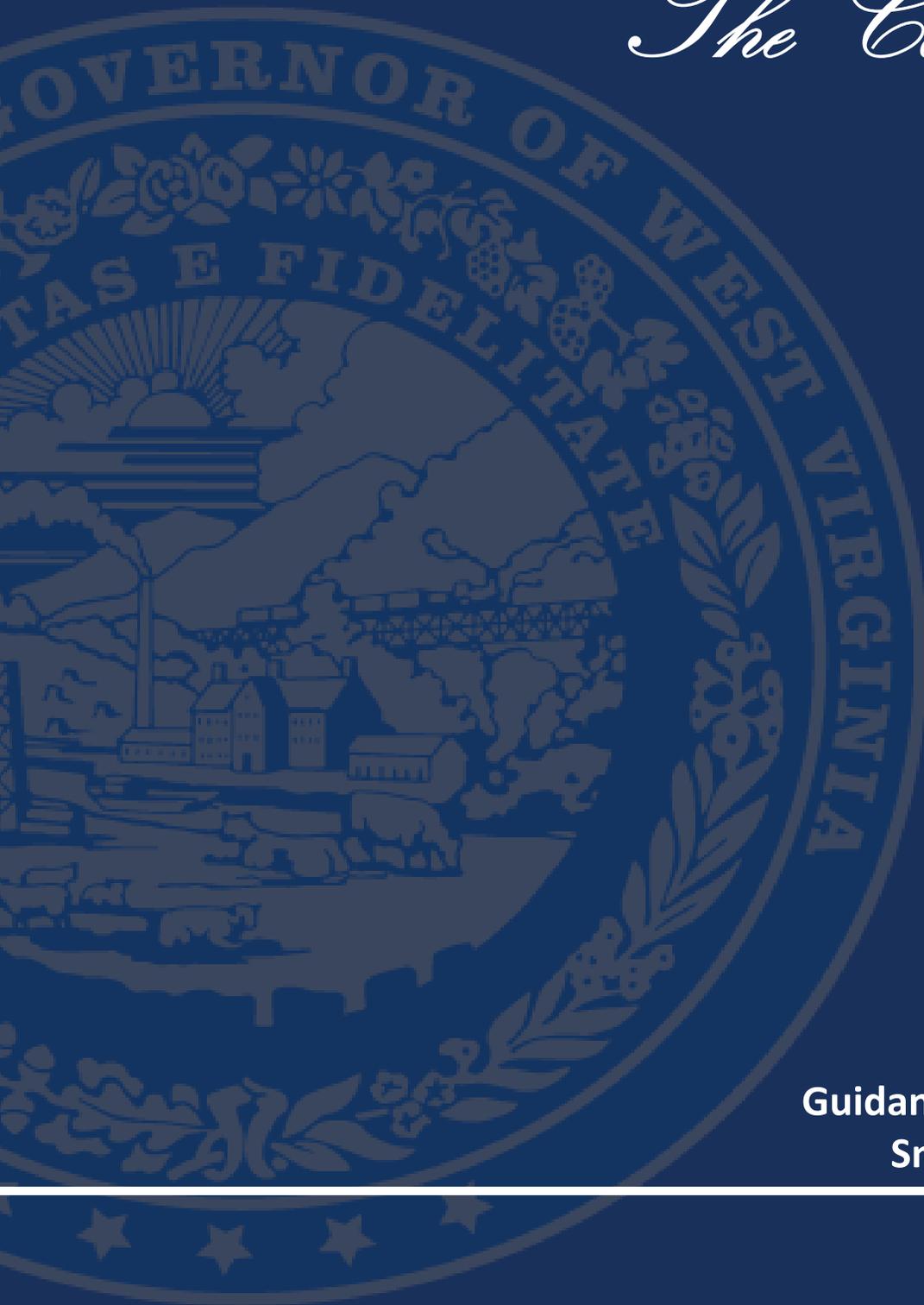


- **Post signage:** Post signage on entrances that no one with a fever or symptoms of COVID-19 is permitted at the facility.
- **Install barriers:** Where practicable, physical barriers such as partitions or Plexiglass at cash registers or ordering windows should be used.
- **Use technology:** Use technological solutions where possible to reduce person-to-person interaction: mobile ordering, mobile access to menus to plan in advance, text on arrival for seating, and contactless payment options.

In addition to the specific guidelines for West Virginia food service personnel above, businesses and their employees should be mindful of the more general guidance issued for small businesses, found at [governor.wv.gov](http://governor.wv.gov).

# WEST VIRGINIA STRONG

## *The Comeback*

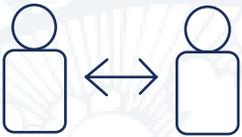


**Guidance for West Virginia  
Small Businesses**

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## GUIDANCE FOR WEST VIRGINIA SMALL BUSINESSES

In preparing a place of business to return employees to work, small businesses of ten or fewer employees should consider adopting rules and regulations to protect their employees and customers. These guidelines are being published in advance of Governor Justice's Executive Order — currently anticipated to be effective as of the week of May 4, 2020 — that will allow small businesses with 10 or fewer employees to begin reopening. Employers should consider the following guidelines to help protect their employees, customers, and the citizens of the State of West Virginia:



- **Screen employees:** Screen all employees reporting to work daily for COVID-19 symptoms with the following questions:
  - Have you been in close contact with a confirmed case of COVID-19?
  - Are you experiencing a cough, shortness of breath, or sore throat?
  - Have you had a fever in the last 48 hours?
  - Have you had new loss of taste or smell?
  - Have you had vomiting or diarrhea in the last 24 hours?
- **Sick employees:** Direct any employee who exhibits COVID-19 symptoms (i.e., answers yes to any of the screening questions or who is running a fever) to leave the premises immediately and seek medical care and/or COVID-19 testing, per CDC guidelines. Employers should maintain the confidentiality of employee health information.
- **Plan ahead:** Develop and implement appropriate policies, in accordance with federal, state, and local regulations and guidance, and informed by industry best practices, regarding:
  - Social distancing and protective equipment;
  - Temperature checks;
  - Testing, isolating, and contact tracing;
  - Sanitation;
  - Limiting use and increased disinfection of common and high-traffic areas; and
  - Limiting non-essential business travel.
- **Training:** Train all employees on the importance and expectation of increased frequency of handwashing, the use of hand sanitizers with at least 60% alcohol, and provide clear instruction to avoid touching hands to face.

## Guidance for West Virginia Small Businesses

- **Cleaning:** Implement workplace cleaning and disinfection practices, according to CDC guidelines, with regular sanitization of common surfaces at least every two hours.
- **Monitor:** Monitor your employees for indicative symptoms and keep an open line of communication. Encourage workers to report any safety and health concerns to the employer.
- **Hygiene:** Provide a place to wash hands or alcohol-based hand rubs containing at least 60% alcohol.
- **PPE:** Require employees to wear PPE when appropriate, with special considerations for those employees that come into contact with the general public.
- **Tracing:** Develop and implement policies and procedures for employee contact tracing following employees with a positive COVID-19 test, and inform the local health department of such positive test and tracing.
- **Phase in:** If possible, return employees to work in phases and spread out shifts to reduce excessive or unnecessary interaction.
- **Telework:** Allow teleworking wherever possible.
- **At-risk individuals:** Consider special accommodations for employees that are members of a vulnerable population, like senior citizens or immunocompromised people, including encouraging teleworking to the maximum extent possible among other measures.
- **Touch points:** Point of sale equipment should be frequently cleaned and sanitized. The entrance/exit doors should be sanitized routinely. Encourage customers to make non-cash payments.
- **Cooperation:** Plan for potential COVID-19 cases and work with local health department officials when needed (i.e., monitor and trace COVID-19 cases, deep-clean facilities).
- **Signage:** Post extensive signage on health policies, including the following documents in the workplace to help educate all on COVID-19 best practices:
  - [CDC: Stop the Spread of Germs](#)
  - [CDC: COVID-19 Symptoms](#)

Where employees of these smaller businesses of ten or fewer employees have employees that come into contact with the general public and/or customers, the employer should consider additional precautionary measures to protect the safety of their employees, customers, and the citizens of the State of West Virginia.

- Establish limitations on existing occupancy limits;
- Enforce reasonable social distancing requirements in all areas of the business, including waiting areas;
- As appropriate, establish an appointment schedule to reduce excessive or unnecessary interaction;
- Institute any possible measure to limit interaction between employees and customers; and
- Require PPE, specifically face masks and gloves, for all employees who will interact with a customer.