



MORGANTOWN
CITY CLERK

304-284-7439
Morgantownwv.gov
389 Spruce St.
Morgantown, WV 26505

AGENDA

CITY COUNCIL REGULAR MEETING

City Hall Council Chambers, 389 Spruce Street, Morgantown, WV 26505

Tuesday, October 01, 2024, at 7:00 PM

This meeting will be broadcast live via YouTube at City of Morgantown - YouTube

<https://www.youtube.com/@CityofMorgantown/streams>

1. PLEDGE:

2. CALL TO ORDER:

3. ROLL CALL:

4. APPROVAL OF MINUTES:

A. September 17, 2024, Special Meeting Minutes

B. September 17, 2024, Regular Meeting Minutes

C. September 24, 2024, Special Meeting Minutes

D. September 24, 2024, Committee of the Whole Meeting Minutes

5. CORRESPONDENCE:

A. Certificates for Deputy City Ambassadors - Presented by Lead City Ambassador Cam Allen

B. Municipal Government Week Proclamation

C. National Domestic Violence Awareness Month Proclamation

D. Dr. Van F. Anderson - Balloons Over Morgantown Proclamation - Airport Director Jon Vrabel

6. PUBLIC HEARINGS:

A. An Ordinance providing for the Zoning Reclassification of certain parcels of Real Estate in the First Ward of the City of Morgantown, Tax District 9, Tax Map 48A, Parcel 12, Commonly known as 1433 Dorsey Avenue from a R-1, Single-Family Residential District to a B-1, Service Business District 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

- B. An Ordinance providing for the Zoning Reclassification of certain portions of parcels of real estate in the Fourth Ward of the City of Morgantown, Tax District 12, Tax Map 14, Parcels 12.1, 13, 16, 17, 18, 20, 21 and 498, and Tax Map 15, Parcels 86, 87, 88, 89, 90, 92.1, 93, 93.1, 93.2, 93.3, 94, 95, 96, 97, 277, 278, 279 from a O-I, Office and Institutional District to a R-3, Multi-Family Residential District 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**
- C. An Ordinance Authorizing the Acquisition and Construction of Additions, Betterments and Improvements to the Sewerage Portion of the Existing Public Combined Waterworks, Sewerage and Stormwater System of the City of Morgantown and the Financing of the cost thereof, not otherwise provided, through the issuance by the city of not more than \$45,000,000 in aggregate principal amount of combined utility system revenue bonds, Series 2024 A (West Virginia SRF program); and not more than \$5,000,000 in aggregate principal amount of combined utility system revenue bonds, Series 2024 B (West Virginia SRF program/forgivable); providing for the rights and remedies of and security for the registered owners of such bonds; authorizing execution and delivery of all documents relating to the issuance of such bonds; approving, ratifying and confirming a bond purchase agreement relating to such bonds; authorizing the sale and providing for the terms and provisions of such bonds and adopting other provisions relating thereto**
- D. An Ordinance amending the FY 2024-2025 Annual Budget of the City of Morgantown as shown in the revised budget attached hereto and made a part of this Ordinance as the same applies to the General Fund**

7. UNFINISHED BUSINESS:

- A. Consideration of APPROVAL of (Second Reading) of An Ordinance providing for the Zoning Reclassification of certain parcels of Real Estate in the First Ward of the City of Morgantown, Tax District 9, Tax Map 48A, Parcel 12, Commonly known as 1433 Dorsey Avenue from a R-1, Single-Family Residential District to a B-1, Service Business District 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 *(First reading 8/20/2024)***
- B. Consideration of APPROVAL of (Second Reading) of An Ordinance providing for the Zoning Reclassification of certain portions of parcels of real estate in the Fourth Ward of the City of Morgantown, Tax District 12, Tax Map 14, Parcels 12.1, 13, 16, 17, 18, 20, 21 and 498, and Tax Map 15, Parcels 86, 87, 88, 89, 90, 92.1, 93, 93.1, 93.2, 93.3, 94, 95, 96, 97, 277, 278, 279 from a O-I, Office and Institutional District to a R-3, Multi-Family Residential District 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 *(First reading 8/20/2024)***
- C. Consideration of APPROVAL of (Third Reading) of An Ordinance Authorizing the Acquisition and Construction of Additions, Betterments and Improvements to the Sewerage Portion of the Existing Public Combined Waterworks, Sewerage and Stormwater System of the City of Morgantown and the Financing of the cost thereof,**

not otherwise provided, through the issuance by the city of not more than \$45,000,000 in aggregate principal amount of combined utility system revenue bonds, Series 2024 A (West Virginia SRF program); and not more than \$5,000,000 in aggregate principal amount of combined utility system revenue bonds, Series 2024 B (West Virginia SRF program/forgivable); providing for the rights and remedies of and security for the registered owners of such bonds; authorizing execution and delivery of all documents relating to the issuance of such bonds; approving, ratifying and confirming a bond purchase agreement relating to such bonds; authorizing the sale and providing for the terms and provisions of such bonds and adopting other provisions relating thereto (*First reading 9/3/2024, Second reading 9/17/2024*)

D. Consideration of **APPROVAL** of (**Second Reading**) of **An Ordinance amending the FY 2024-2025 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 9/17/2024*)

E. Boards & Commissions

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

9. SPECIAL COMMITTEE REPORTS:

10. CONSENT AGENDA:

11. NEW BUSINESS:

A. Consideration of **APPROVAL** of **A Resolution Approving and Authorizing to submit to the U.S. Department of Housing and Urban Development (HUD) the City of Morgantown's Pathways to removing obstacles to Housing (PRO Housing) Competitive Grant Application**

B. Consideration of **APPROVAL** of **Bid Call 2025-02 for North Street Improvement**

C. Consideration of **APPROVAL** of (**First Reading**) of **An Ordinance Authorizing and Regulating Private Outdoor Designated Areas in the City of Morgantown**

D. Consideration of **APPROVAL** of (**First Reading**) of **An Ordinance Annexing Property of Milan Puskar Health Right, Inc. into the Corporate Boundaries of the City of Morgantown**

E. Consideration of **APPROVAL** of (**First Reading**) of **An Ordinance Authorizing and the conveyance of real property to the Morgantown Building Commission, the leasing of such property from the Morgantown Building Commission and the issuance by the Building Commission of its Lease Revenue Bonds in an amount not to exceed \$11,000,000 all relating to the construction of improvements at Marilla Park**

F. Consideration of **APPROVAL** of (**First Reading**) of **An Ordinance Amending Article 925 of the City Code to Revise the Rates, Fees and Charges for the Service Area served by the Cheat Lake Wastewater Treatment Plant**

- G.** Consideration of **APPROVAL** of **A Resolution Amending the FY 2024-2025 Budget Revision of the Capital Escrow Fund**
- H.** Consideration of **APPROVAL** of **(First Reading)** of **An Ordinance of the City of Morgantown Amending the City Charter to authorize three members of city council to call a Special Meeting of Council**
- I.** Consideration of **APPROVAL** of **(First Reading)** of **An Ordinance of the City of Morgantown Amending the City Charter to Amend Candidate Withdrawal Deadlines**
- J.** Consideration of **APPROVAL** of **(First Reading)** of **An Ordinance of the City of Morgantown Amending the City Charter to Provide that the City Clerk Performs Official Duties in a Non-Partisan Manner**
- K.** Consideration of **APPROVAL** of **(First Reading)** of **An Ordinance of the City of Morgantown Amending the City Charter to modify Reporting Requirements of Boards and Commissions**
- L.** Consideration of **APPROVAL** of **(First Reading)** of **An Ordinance of the City of Morgantown Amending the City Charter to modify City Manager Residency Requirements**
- M.** Consideration of **APPROVAL** of **(First Reading)** of **An Ordinance of the City of Morgantown Amending the City Charter to require Elections be held on the May Primary Election Date**
- N.** Consideration of **Report of Ward Boundary Commission**
- O.** Consideration of **APPROVAL** of **the 2025 City Council Meeting Calendar**

12. CITY MANAGER'S REPORT:

13. REPORT FROM CITY CLERK:

14. REPORT FROM CITY ATTORNEY:

15. REPORT FROM COUNCIL MEMBERS:

16. EXECUTIVE SESSION:

- A.** Pursuant to WV State Code Section 6-9A-4(b)(12) to discuss matters protected by attorney-client privilege

17. ADJOURNMENT:

For accommodations please call or text 304-288-7072

SPECIAL MEETING MINUTES September 17, 2024

Special Meeting September 17, 2024: The Special Meeting of the Common Council of the City of Morgantown was held at City Hall Council Chambers on Tuesday, September 17, 2024, at 6:00 p.m.

Present: Mayor Joe Abu-Ghannam, Deputy Mayor Jenny Selin, Council Members, Bill Kawecki, Louise “Weez” Michael, Danielle Trumble, and Dave Harshbarger. Brian Butcher was absent.

EXECUTIVE SESSION: Pursuant to West Virginia Code Section 6-9a-4(b)(2)(A) to discuss personnel matters in considering new appointments for Boards and Commissions. Motion by Councilor Harshbarger, second by Councilor Kawecki, to go into executive session. Motion carried by acclamation. Present: City Council. Time: 6:03 p.m.

Jason Gavril – Civilian Police Review & Advisory Board
Adelheid Schaupp – ICC Building Code Board of Appeals & Land Reuse & Preservation Agency Board

Adjournment:

There being no further business, motion by Deputy Mayor Selin, second by Councilor Harshbarger, to adjourn the meeting. Time: 6:41 p.m.

City Clerk

Mayor

City of Morgantown

SPECIAL MEETING MINUTES September 24, 2024

Special Meeting September 24, 2024: The Special Meeting of the Common Council of the City of Morgantown was held at City Hall Council Chambers on Tuesday, September 24, 2024, at 6:34 p.m.

Present: Mayor Joe Abu-Ghannam, Deputy Mayor Jenny Selin, Council Members, Bill Kawecki, Louise “Weez” Michael, Danielle Trumble, and Dave Harshbarger. Brian Butcher was absent.

EXECUTIVE SESSION: Pursuant to West Virginia Code Section 6-9a-4(b)(2)(A) to discuss personnel matters in considering new appointments for Boards and Commissions. Motion by Councilor Trumble, second by Councilor Harshbarger, to go into executive session. Motion carried by acclamation. Present: City Council. Time: 6:35 p.m.

Charlie McEwuen –Morgantown Building Commission

Adjournment:

There being no further business, motion by Councilor Trumble, second by Councilor Kawecki, to adjourn the meeting. Time: 6:58 p.m.

City Clerk

Mayor

City of Morgantown

Item 4D.

MINUTES COMMITTEE OF THE WHOLE MEETING September 24, 2024

The Committee of the Whole Meeting, September 24, 2024: The Committee of the Whole Meeting of the Common Council of the City of Morgantown was held in City Hall Council Chambers, on Tuesday, September 24, 2024, at 7:05 p.m.

PRESENT: City Manager Kim Haws, City Attorney Ryan Simonton, Mayor Joe Abu-Ghannam, Deputy Mayor Jenny Selin, Council Members, Bill Kawecki, Louise “Weez” Michael, Danielle Trumble Dave Harshbarger, and Brian Butcher. Assistant City Manager Emily Muzzarelli was absent.

The meeting was called to order by Deputy Mayor Selin.

PRESENTATIONS:

A. West Virginia Council of International Programs Day Proclamation

Mayor Abu-Ghannam presented the proclamation to Mandy Filippelli, proclaiming September 8, 2024, as WV Council of International Programs Day.

B. Presentation Ward Boundary 2024 Final Report and Recommendation to City Council – Ward Boundary Chair John Trumble (15 minutes)

Chair John Trumble presented the 2024 Ward Boundary Commission 2024 report. After discussion, the item will be placed on the next regular meeting agenda.

C. Presentation pm Morgantown Mile PODA – Grace Hutchens & Councilor Danielle Trumble (15 minutes)

Danielle Trumble & Grace Hutchens presented to city council an update on the PODA Ordinance.

D. Presentation of Summer Activities for Arts Cultural History – Vincent Kitch, Cultural Arts Director (15 minutes)

Vincent Kitch presented the Summer Activities at Hazel Ruby McQuain Park along with the Metropolitan Theatre along with a PowerPoint presentation.

E. Presentation on Morgantown Street Sign Design – Public Works & Engineering Director Damien Davis (15 minutes)

Damien Davis presented the Morgantown Street Sign Design and there was discussion.

PUBLIC PORTION:

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

Annie Cronan Yorick, Human Rights Commission Chair, spoke about the DEI numbers and stated that she has decided against doing an updated Municipal Equality Index report based on the DEI numbers and on the city’s insurance. She also spoke about the Ward Boundary Commission and how she was concerned that they do not take into account active voters as opposed to registered voters. She asked city council if they can recommend a change to the charter to make it a more inclusive and diverse city, not just Geographical.

Mary Ann Folz, 28 Bloody Run Road, spoke about the Ward Boundary Commission and recommended city council to change the charter and move it to every 10 years instead of every 2 years and by household population. She also spoke about the Health Right Annexation and asking council to not move the Ordinance to the agenda.

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

ITEMS FOR DISCUSSION:

A. An Ordinance amending article 953 of the City Code Entitled “Private Outdoor Designated Areas” in the City of Morgantown

City Attorney Ryan Simonton explained. After discussion, this item was referred to the October 1, 2024, Regular Meeting Agenda.

B. An Ordinance annexing property of Milan Puskar Health Right, Inc. into the Corporate Boundaries of the City of Morgantown

City Attorney Ryan Simonton explained. After discussion, this item was referred to the October 1, 2024, Regular Meeting Agenda.

C. An Ordinance Authorizing and Approving the Conveyance of Property by the City of Morgantown (THE “CITY”) to the Morgantown Building Commission (THE “BUILDING COMMISSION”) in connection with the Design, Acquisition, Construction, Furnishing, and Equipping of Improvements to Certain Recreational Facilities of the City located at Marilla Park

BOPARC Director Mel Burch & Steptoe & Johnson Tom Aman explained. After discussion, this item was referred to the October 1, 2024, Regular Meeting Agenda.

D. An Ordinance Authorizing the Issuance by the Morgantown Building Commission (THE “ISSUER”) of Not Nore than \$11,000,000 in Aggregate Principal Amount of Morgantown Building Commission (West Virginia) Lease Revenue Bonds, in one or more Series, to provide all or a portion of the Funds to Acquire Certain Real Property from the City of Morgantown, West Virginia (THE “CITY”) and to Design, Acquire, Construct, Furnish, and Equip Improvements to Certain Recreational Facilities of the city located at Marilla Park

BOPARC Director Mel Burch & Steptoe & Johnson Tom Aman explained. After discussion, this item was referred to the October 1, 2024, Regular Meeting Agenda.

EXECUTIVE SESSION: Pursuant to WV State Code Section 6-9A-4(b)(9) to discuss acquisition or development of property in the downtown district. Motion by Councilor Trumble, second by Mayor Abu-Ghannam, to go into executive session. Motion carried by acclamation. Time: 9:20 p.m. Present: City Council, and City Attorney.

Pursuant to WV State Code Section 6-9A-4(b)(12) to discuss matters protected by attorney-client privilege.

ADJOURNMENT: There being no further business, motion by Deputy Mayor Selin, second by Councilor Harshbarger, to adjourn the meeting. Time: 10:30 p.m.

City of Morgantown

Item 4D.

City Clerk

Mayor



MORGANTOWN
OFFICE OF THE MAYOR

PROCLAMATION

Whereas, Governor Justice has proclaimed October 14-18, 2024, as Municipal Government Week in West Virginia, and encourages all citizens to become more informed about their government; and

Whereas, all incorporated cities, towns and villages in West Virginia provide services to their citizens; and

Whereas, citizens of cities, towns and villages may not be aware of those services and who is responsible for seeing they are efficiently provided; and

Whereas, municipal officials desire to inform their citizens and to make them more aware of the investment made on their behalf; and

Whereas, municipal officials are planning various events to better inform citizens during Municipal Government Week; and

Whereas, one of the highest priorities is to educate in the Mountain State as to what Municipal government is and the positive impact it has on their lives; and

Whereas, the West Virginia Municipal League will assist in educating citizens and installing positive perception of government, particularly at the municipal level.

Now, therefore, I, Joe Abu-Ghannam, Mayor of the City of Morgantown, West Virginia, do hereby proclaim the week of October 14-18, 2024, as:

Municipal Government Week

Seal:



*Joe Abu-Ghannam, Mayor
October 1, 2024*



CITY OF MORGANTOWN
OFFICE OF THE MAYOR

PROCLAMATION

Whereas, the crime of domestic violence violates an individual’s privacy and dignity, security and humanity, due to systemic use of physical, emotional, sexual, psychological and economic control and/or abuse including abuse to children and the elderly; and

Whereas, domestic violence against the citizens of Monongalia County continues to affect every person in Monongalia County as a victim, survivor, or as a family member, domestic partner, friend, co-worker, or neighbor of a victim or survivor; and

Whereas, the problems of domestic violence are not confined to any group or groups of people, but cut across all economic, racial, gender and societal barriers, and are supported by societal indifferences; and

Whereas, to prevent the future abuse of our citizens, it is critical to foster greater public awareness of the causes and effects of domestic violence, and to address this problem on every civic level; and

Whereas, the staff of Rape and Domestic Violence Information Center alongside volunteers promote domestic violence prevention by offering educational services in Monongalia County throughout the year; and

Whereas, the Rape and Domestic Violence Information Center requests public support and assistance as it continues to work toward a society where all people can live in peace, free from violence and exploitation.

Now therefore, I, Joe Abu-Ghannam, Mayor of the City of Morgantown, West Virginia, on behalf of City Council, in recognition of the important work done by the Rape and Domestic Violence Information Center serving Monongalia, Preston, and Taylor Counties as well as all other domestic violence programs, proclaims the month of October 2024 as

National Domestic Violence Awareness Month

in the City of Morgantown, West Virginia, and urges all citizens to actively participate in the scheduled activities and programs to work towards improving victim safety and holding perpetrators of domestic abuse accountable for their actions against individual victims and society as a whole. We commend this observance to all citizens.

Seal:



Joe Abu-Ghannam, Mayor
October 1, 2024



PROCLAMATION

- Whereas,* Dr. Van F. Anderson has served as the Balloon Meister for the Balloons over Morgantown for almost two decades and is a highly respected figure in the community, and the founder of the Mountaineer Balloon Festival which originated back in 1984. This has since transitioned into the Ballons over Morgantown Event; and
- Whereas,* with three decades of experience as a commercial balloon pilot, Dr. Anderson owns Fun Aviation, a balloon flying service in Morgantown, West Virginia, and holds a Doctor of Education degree and taught a class on Manned Ballooning at West Virginia University for six years, showcasing his commitment to education and community engagement; and
- Whereas,* he achieved his pilot certification for gas ballooning in 1988, using a historic 1936 Goodyear-built Army Signal Corps balloon filled with 33,000 cubic feet of hydrogen making it the oldest airworthy gas balloon in the world at that time; and
- Whereas,* he served for two decades as an FAA Designated Pilot Examiner, where he issued private and commercial pilot certificates for both hot air and gas balloons, and many pilots at the Mountaineer Balloon Festivals owe their certifications to his expertise and guidance; and
- Whereas,* as the Chairman of the Mountaineer Balloon Festival during the first five years, Dr. Anderson has been a pivotal figure in promoting ballooning in our region. He is a two-time recipient of the prestigious Sportsmanship Trophy at the Adirondack Balloon Festival from 1991 – 2007, and participated in the Albuquerque International Balloon Fiesta in 1991, one of the largest ballooning events in the world; and
- Whereas,* throughout his career, he has had the honor of piloting balloon flights for numerous distinguished individuals, including West Virginia Governor Joe Manchin, Congressman Harley O. Staggers, astronauts Sherwood C. “Woody” Spring and Jon McBride, and Air Force One pilot Col. Ralph Albertazzi; and
- Whereas,* in addition to working in ballooning, he also is the Camp Administrator of Camp Mountaineer, a Boy Scout camp just south of Morgantown, further demonstrating his dedication to youth and community service.

Now therefore, I, Joe Abu-Ghannam, Mayor of the City of Morgantown, West Virginia, and behalf of City Council, would like to take the time to recognize

Dr. Van F. Anderson

in his last year in piloting during the Balloons over Morgantown event, October 2 - 6, 2024, that has led his pivotal role in the creation and outstanding contributions to our community and celebrate his remarkable achievements and inspire future generations.

Seal:



*Joe Abu-Ghannam, Mayor
October 1, 2024*



MORGANTOWN
DEVELOPMENT SERVICES

304-284-7431
Morgantownwv.gov
430 Spruce St.
Morgantown, WV 26505

MEMORANDUM

To: A. Kim Haws, City Manager
Christine Wade, City Clerk

Cc: Emily Muzzarelli, Assistant City Manager
Ryan Simonton, City Attorney
Heather Carl, Assistant City Clerk

From: Rickie Yeager, Development Services Director

Date: July 16, 2024

Re: City Council Agenda for Zoning Map Amendment
MAP24-117 / Abdul Tarabishy / 1433 Dorsey Avenue

During its public hearing on July 11, 2024, the Planning Commission made a motion to forward a recommendation to Morgantown City Council that the proposed map amendment be approved. The motion passed (7-0-0). The proposed map amendment would rezone City Tax District 9 (First Ward), Tax Map 48A, Parcel 12, more commonly known as 1433 Dorsey Avenue, from an R-1, Single-Family Residential District to a B-1, Neighborhood Business District. The purpose of the zoning map amendment is not affiliated with an active site plan application.

Attached herewith is the Staff Report presented to the Planning Commission, as well as the draft ordinance and exhibit. Please note the proposed meeting schedule for City Council, provided each ordinance advances to the next step in the review/approval process:

Committee of Whole: Tuesday, July 30, 2024 at 7:00 p.m.

Ordinance – 1st Reading: Tuesday, August 20, 2024 at 7:00 p.m.

Ordinance – 2nd Reading and Public Hearing: Tuesday, October 1, 2024 at 7:00 p.m.

In accordance with the WV State Code, there shall be at least thirty days between the first and second reading of the ordinances to rezone property.

Please include this item of business on the City Council meeting agendas noted above and include this communication and attachments in the Committee of the Whole meeting packet on July 30, 2024. Only the ordinance and associated exhibit should be included in the August 20th and October 1st City Council meeting packets provided the ordinance advances forward at each step.

This memorandum, under a cover letter explaining the public comment opportunities before City Council relating to the matter, will be sent to the petitioner.

Thank you.

ORDINANCE NO. _____

AN ORDINANCE PROVIDING FOR THE ZONING RECLASSIFICATION OF CERTAIN PORTIONS OF PARCELS OF REAL ESTATE IN THE FIRST WARD OF THE CITY OF MORGANTOWN, TAX DISTRICT 9, TAX MAP 48A, PARCEL 12, COMMONLY KNOWN AS 1433 DORSEY AVENUE FROM A R-1, SINGLE-FAMILY RESIDENIAL DISTRICT TO A B-1, NEIGHBORHOOD BUSINESS DISTRICT 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.

THE CITY OF MORGANTOWN HEREBY ORDAINS:

1. That the zoning designation of Tax District 9, Tax Map 48A, Parcel 12 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 a R-1, Single-Family Residential District to a B-1, Neighborhood Business District.
2. 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



Legend

-  Area to Be Rezoned to B-1
-  Monongalia County Tax Parcels

Zoning

-  R-1: Single Family Residential District
-  B-1: Neighborhood Business District
-  B-2: Service Business District
-  Public Roads

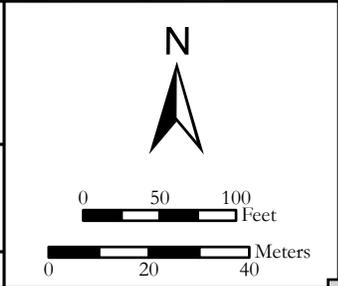


Exhibit:
MAP24-117 / 1433 Dorsey Ave / Parcel 9-48A-12

Created By: Veronica Balcer, GIS Intern. Credits: Maxar, Microsoft

2024

Coordinate System: NAD 1983 2011 StatePlane West Virginia North FIPS 4701 FtUS





MORGANTOWN PLANNING COMMISSION

January 11, 2024

6:30 p.m.

City Hall – City Council Chambers | 243 High Street – 2nd FL

STAFF REPORT

President:

Peter DeMasters, 6th Ward

Vice-President:

Bill Petros, 4th Ward

Planning Commissioners:

Darren Taylor, 1st Ward

Tim Stranko, 2nd Ward

Vacant, 3rd Ward

Brennan Williams, 5th Ward

Danielle Trumble, City Council

Katie See, 7th Ward

Kelly Palmer, City Admin.

CASE NO: MAP24-117 / Abdul Tarabishy / 1433 Dorsey Avenue

REQUEST and Location:

Request by Abdul Tarabishy on behalf of Mohamad and Abdul Tarabishy to rezone City Tax District 9 (First Ward), Tax Map 48A, Parcel 12, commonly known as 1433 Dorsey Avenue, from a R-1, Single-Family Residential District to a B-1, Neighborhood Business District.

SURROUNDING ZONING:

North: R-1, Single-Family Residential District

South: B-1, Neighborhood Business District

East: B-2, Business Services District

West: Unincorporated Monongalia County (no zoning regulations)

BACKGROUND:

The above referenced property encompasses 0.89 acres of land at the intersection of Dorsey Avenue and Luckey Lane in the City of Morgantown. Situated on the property is a brick building and surface parking lot (which contains approximately fourteen striped parking spaces). According to Google Earth, the property was most recently used as an administrative office building by the Monongalia County School District. More specifically, the property was home to the Dorsey Center – Monongalia County School Office of Federal Programs. Please see Addendum A for the location of the subject site, as well photographs of site.

In 2023, the applicant purchased 1433 Dorsey Avenue from the School District, and in so doing, desire to make the property available to commercial tenants. As such, the applicant is seeking a map amendment to rezone the property from a R-1, Single-Family Residential District to a B-1, Neighborhood Business District.

Per Section 1347.01 of the City’s Planning and Zoning Code, *to provide areas for convenient business uses, which tend to meet the daily shopping and service needs of the residents of an immediate neighborhood, and which contain pedestrian-oriented, human-scaled construction that is designed to be compatible with the surrounding neighborhood character. Because of the proximity to residential neighborhoods, high quality design is essential in order to preserve the integrity of those neighborhoods.*

Development Services

Rickie Yeager, AICP
Director

Planning Division

389 Spruce Street
Morgantown, WV 26505
304.284.7431



MORGANTOWN PLANNING COMMISSION

January 11, 2024

6:30 p.m.

City Hall – City Council Chambers | 243 High Street – 2nd FL

President:

Peter DeMasters, 6th Ward

Vice-President:

Bill Petros, 4th Ward

Planning Commissioners:

Darren Taylor, 1st Ward

Tim Stranko, 2nd Ward

Vacant, 3rd Ward

Brennan Williams, 5th Ward

Danielle Trumble, City Council

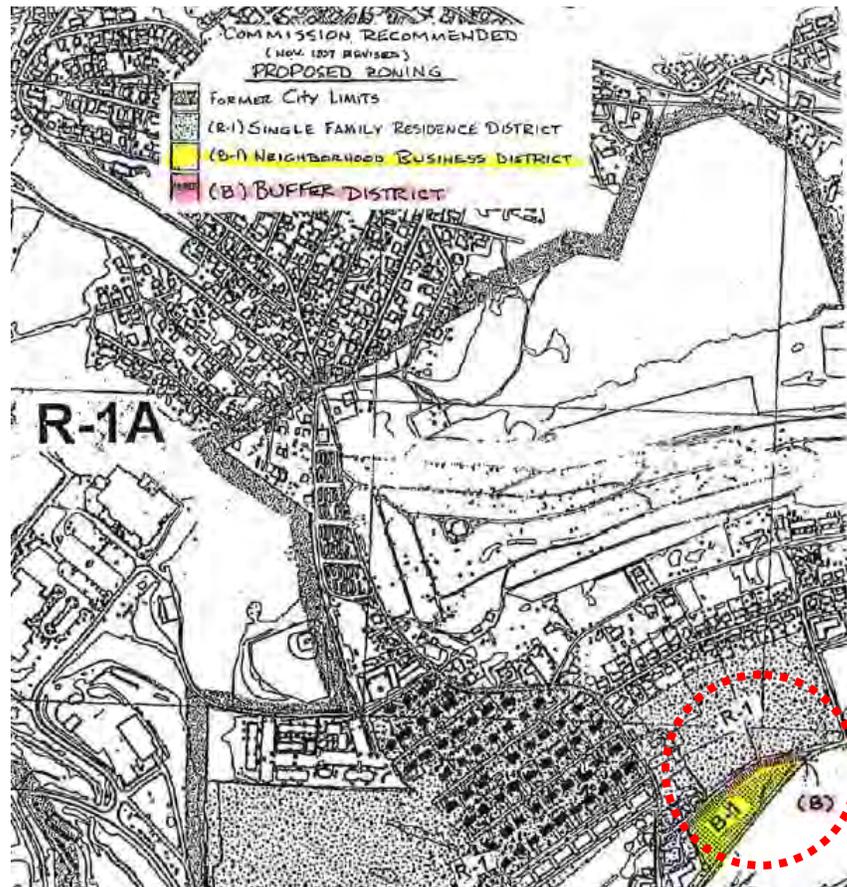
Katie See, 7th Ward

Kelly Palmer, City Admin.

ANALYSIS:

The parcel of land to be rezoned is currently located in a R-1, Single-Family Residential District. However, the parcel is adjacent to two commercially (B-2) zoned properties (Tax District 9, Tax Map 48A, Parcels 15 and 15.1). According to staff records, these parcels were annexed into the City of Morgantown by Ordinance 98-01, and adopted on January 6, 1998. While the properties were initially zoned as a B-1, Neighborhood District and subject to the following provision in said ordinance, and screenshot of said exhibit, below, the property was rezoned from a B-1, Neighborhood District to a B-2 in 2015:

(b) Buffer District Classification where show on the attached exhibit, twenty-five (25) feet in depth with access prohibited to the abutting street, the intent of this zoning classification is to establish the area as a landscape buffer to the adjacent school.



Development Services

Rickie Yeager, AICP
Director

Planning Division

389 Spruce Street
Morgantown, WV 26505
304.284.7431

In doing so, the 'Buffer District Classification' was maintained when the property was rezoned per Ordinance 15-16.

Please further note that the property to the south is not located in the corporation limits of the City of Morgantown. While the property is now vacant, it appears commercial uses previously occupied the space. Those uses included a restaurant and bakery according to cursory search of Google Maps. Additionally, the West Virginia Department



MORGANTOWN PLANNING COMMISSION

January 11, 2024

6:30 p.m.

City Hall – City Council Chambers | 243 High Street – 2nd FL

President:

Peter DeMasters, 6th Ward

Vice-President:

Bill Petros, 4th Ward

Planning Commissioners:

Darren Taylor, 1st Ward

Tim Stranko, 2nd Ward

Vacant, 3rd Ward

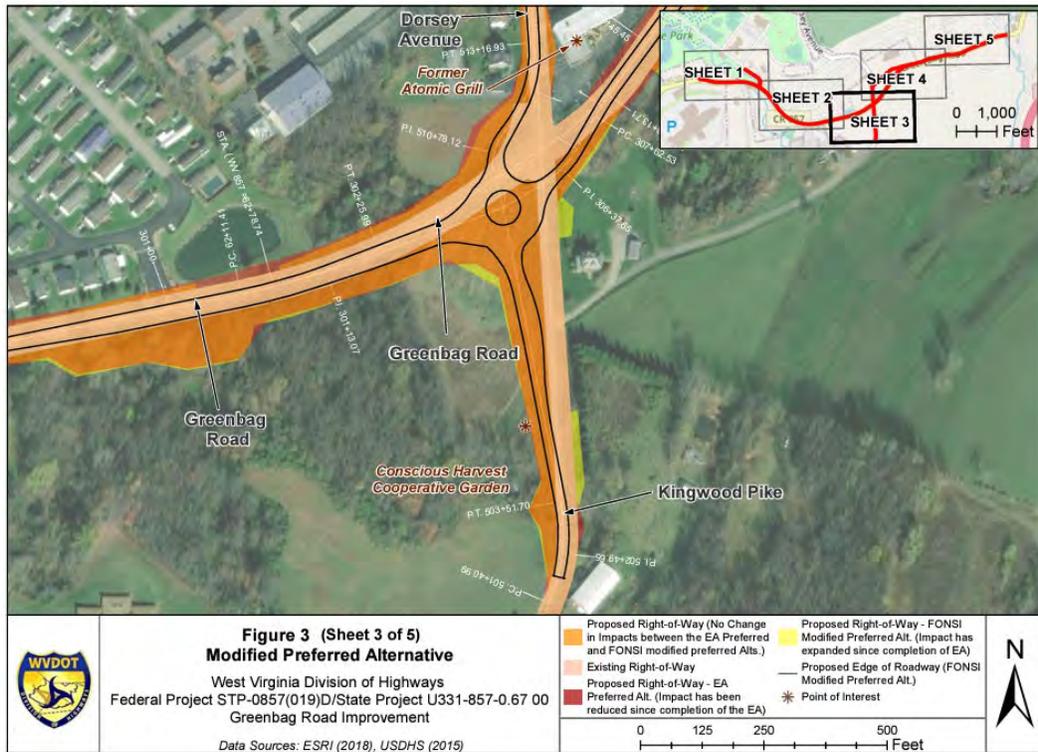
Brennan Williams, 5th Ward

Danielle Trumble, City Council

Katie See, 7th Ward

Kelly Palmer, City Admin.

of Transportation – Division of Highways (WVDOT-DOH) plans to install a new roundabout at the intersection of Greenbag Road and Dorsey Avenue. While the proposed improvement would not directly impact the applicant’s property, it should improve traffic circulation in the area. Please see the screenshot from the Finding of No Significant Impact prepared by WVDOT-DOH.



2023 COMPREHENSIVE PLAN (MORGANTOWN 2033)

The Land Management Plan in Morgantown 2033 did not provide a specific pattern and character type for the property to be rezoned. This must have been an oversight issue, as the plan encourages the City to ‘preserve existing neighborhoods and, where appropriate, encourage a mix of housing types’ per the Growth Framework Map. Given the location and proximity to other character areas, this area could be regarded as Residential: Type 2.

Development Services

Rickie Yeager, AICP
Director

The Residential: Type 2 area is described as follows in the Comprehensive Plan:

This district is primarily single-family residential but has small scale, multi-family, and commercial uses. Multi-family buildings are single-family structures divided into multiple dwellings or small multiunit complexes. These areas tend to include longer blocks and slightly larger lots. The area may include minor commercial and office uses, particularly clustered along higher traffic corridors.

Planning Division

389 Spruce Street
Morgantown, WV 26505
304.284.7431

The City’s Future Land Use Map (Land Management Plan) identifies the area bounded by Luckey Avenue to the north, Greenbag Road to the south, and Dorsey Avenue to the



MORGANTOWN PLANNING COMMISSION

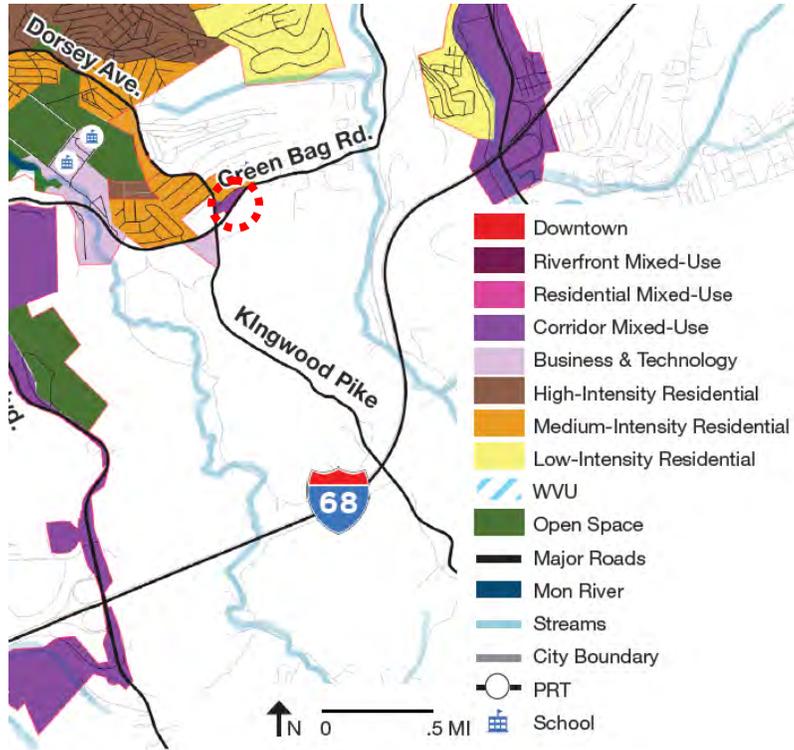
January 11, 2024

6:30 p.m.

City Hall – City Council Chambers | 243 High Street – 2nd FL

- President:**
Peter DeMasters, 6th Ward
- Vice-President:**
Bill Petros, 4th Ward
- Planning Commissioners:**
Darren Taylor, 1st Ward
Tim Stranko, 2nd Ward
Vacant, 3rd Ward
Brennan Williams, 5th Ward
Danielle Trumble, City Council
Katie See, 7th Ward
Kelly Palmer, City Admin.

west as 'Corridor Mixed-Use.' Please see the screenshot from the Comprehensive Plan and note the area circled in red below:



Corridor Mixed-Use is defined as areas located along major gateway roads into the City and may comprise a mix of housing, office, commercial, and/or civic uses adjacent to one another or within the same structure (such as offices or apartments above ground floor retail). Parking should be located behind or to the side of buildings and may be shared between multiple uses.

Development typologies generally appropriate in said areas include the following:

- **TF:** Multi-family dwellings (Apartments, Townhouses)
- **CI:** Civic/Institutional (Schools, Government Buildings, Churches, etc.)
- **C:** Commercial (Retail Restaurants and Accommodation)
- **O:** Office
- **OS:** Open Space (Parks, Recreation Areas)

Morgantown 2033 identifies eleven key land management development principles to consider. After review, the applicant's proposal appears to be consistent with the following principles:

5. **Allow for organic growth of commercial uses that people need close to where they live.** The growth of commercial uses will be encouraged through context-sensitive mixed-uses in neighborhoods to increase walking, rolling, and/or biking access to services such as barber, groceries, and bakeries.

Development Services

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Director

Planning Division

389 Spruce Street
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6. Facilitate economic activity in the City and ensure the availability of sites for incremental business growth and expansion. Facilitate economic activity in the City and ensure the availability of sites for incremental business growth and expansion. Ensure long term economic sustainability of the City by planning for a wide range of commercial land use types.

7. Support the redevelopment of “underutilized” gray-fields along commercial corridors. Community corridors are commercial areas located along – or encompassing – transportation facilities, such as the Mountain Line or PRT Stops. It is preferable to accommodate growth within zones already appropriate for increased development densities and are – or could be – transit accessible. Establish neighborhood business districts/corridors to support existing residential neighborhoods.

Please note, Dorsey Avenue and portions of Greenbag Road are serviced by the Mountain Line Transit Authority (Orange Line).

Please further note, that the applicant applied in 2023 to rezone the same property from an R-1, Single-Family Residential District to a B-2, Services Business District. While the Planning Commission found the request to be consistent with the City’s 2023 Comprehensive Plan in January 2024, the applicant’s petition was denied by Morgantown City Council on March 19, 2024.

STAFF RECOMMENDATION:

Zoning map amendment requests should be evaluated on their land use merits alone. Development intentions are extraneous, and the Commission should consider the request on its merits as a land use decision. In conducting such an analysis, the Commission should determine if the B-2, Service Business District is the appropriate zoning classification for the premises, weighing all possible future development and land use scenarios as permitted by the Planning and Zoning Code; particularly, Article 1345 - B-1, Neighborhood Business District and Table 1331.05.01 - Permitted Land Uses.

After review, staff finds the proposed zoning map amendment to be consistent with the City’s 2023 Comprehensive Plan with respect to the land management plan and goals set forth in the planning document. Note, if the existing structure were demolished and/or redeveloped in the future, said development would be subject to site plan review and the development standards associated with the B-2 District, as well as the development standards outlined in Chapter Nine of the City’s Planning and Zoning Code.

Please see Addendum B to review the City’s Permitted Land Use Table (Table 1331.05.01), and the development standards for the B-1, Neighborhood Business District (Article 1345).

Development Services

Rickie Yeager, AICP
Director

Planning Division

389 Spruce Street
Morgantown, WV 26505
304.284.7431

STAFF REPORT ADDENDUM A

MAP24-117 / Abdul Tarabishy / 1433 Dorsey Avenue

Staff Enhanced Site Area Map:



 Parcel to be rezoned.

Source: *Monogalia County Parcel Viewer Map*

STAFF REPORT ADDENDUM A

MAP24-117 / Abdul Tarabishy / 1433 Dorsey Avenue

Staff Enhanced Morgantown Zoning Map:



 Parcel to be rezoned.

Source: *Monongalia County Parcel Viewer Map*

STAFF REPORT ADDENDUM A

MAP24-117 / Abdul Tarabishy / 1433 Dorsey Avenue

Google Street View (Looking East on Dorsey Avenue)



Source: Google Maps

Google Street View (Looking North on Dorsey Avenue)



Source: Google Maps

STAFF REPORT ADDENDUM A

MAP24-117 / Abdul Tarabishy / 1433 Dorsey Avenue

Google Street View (Looking Southeast on Dorsey Avenue at the Intersection of Dorsey Avenue and Luckey Lane).



Source: Google Maps

STAFF REPORT ADDENDUM B

MAP24-117 / Abdul Tarabishy / 1433 Dorsey Avenue

Section 1331.05 – Permitted Land Uses

Article 1345 – B-1, Neighborhood Business District

Sec. 1331.05. Permitted land uses.

The table and supplemental regulations of the Permitted Land Use Table are incorporated in this section and are adopted as the basic land use regulations for the City. The table and supplemental regulations identify the types of land uses that are permitted within the City and any applicable conditions and limitations.

To determine the zoning district in which a particular use is allowed, find the use in the list of uses along the left-hand side of the Permitted Land Use Table and read across the use row to find the zoning district column designations.

Legend:

- P — Use is permitted by right in a particular zoning district.
- A — Use is permitted as an accessory use in a particular zoning district.
- C — Use is allowed only as a conditional use in a particular zoning district subject to the limitations and conditions specified; a conditional use permit is required.
- Empty — Use is not permitted in a particular zoning district.

The uses listed in the Permitted Land Use Table are defined in the definitions section (Article 1329).

A description of the supplemental regulations immediately follows the Permitted Land Use Table.

Table 1331.05.01: Permitted Land Uses

Uses	R-1	R-1A	R-2	R-3	PRO	B-1	B-2	B-4	OI	B-5	I-1	Supplemental Regulations
Administrative Office				C	P	C	P	P	P	P	P	29
Agricultural Activity	P										P	
Airport											C	
Amphitheater							P	P				
Animal Grooming Service		C	C	C	C	P	P	P		P		28, 29
Animal Shelter							C			C	P	
Apparel Shop						P	P	P		P	P	28
Appliance Repair Establishment		C	C	C		P	P	P		P	P	4, 28, 29
Appliance Sales Establishment							P	P		P		
Art Gallery		C	C	C		P	P	P	P	P		28, 29
Artist Studio		C	C	C	P	P	C	P	P	C		28, 29
Assembly Hall						P	P	P		P		28
Assisted Living Facility				C		C	C					
Athletic Field	C	C	C	C		C	P	P		P		
Automotive Paint Shop							P				P	4, 9, 10
Automotive Rentals							C			C		
Automotive Sales							C			C		
Automotive Supply							C			P	P	

Automotive Tire Repair/Sales							P			P	P	4, 9, 10	
Automotive/Boat Repair Shop							P				P	4, 9, 10	
Automobile Repair Shop, Incidental							C	C		C	P	4, 9, 10	
Bakery, Retail		C	C	C			P	P	P		P	28, 29	
Bakery, Wholesale							P			P	P		
Barber Shop/Beauty Salon		C	C	C	P		P	P	P		P	28, 29	
Bed and Breakfast Inn			C	C			P	P	P			5, 28	
Brew Pub							C	P	P		P	18	
Building Materials Supplier								P			P	9, 10	
Car Wash/Detailing								P			P	P	
Caretaker's Residence	C	C	C	C				C		C	C	P	
Cemetery	P	P	P	P				P	P				
Charitable, Fraternal or Social Organization							P	P	P	P	P	28	
Churches, Places of Worship	C	C	C	C	C		C	P	P	C	P	C	12
Clinic, Medical				C			P	P	P	P	P	P	28, 29
Club or Lodge							P	P	P				28, 29
Coin-operated Cleaning/Laundry Service			A	C			P	P	P		P		28, 29
Communications Equipment Building	C	C	C	C			P	P	C	P	P	P	28
Community Center	C	C	P	P	P		P	P	P	C			28
Community Gardens	P	P	P	P			P						28
Composting Operation											P	P	3
Conference Center								P	P		P		
Consumer Fireworks Retail Sales								C			P	P	33
Consumer Fireworks Retail Sales Establishment								C			P	P	33
Consumer Fireworks Wholesale Establishment												P	34
Convenience Store, Neighborhood		C	C	C			P	P	P				28, 29

Dance or Social Club, Youth						C	P			P		
Day Care Facility, Class 1	P	P	P	P	P	P	P	P	P	P		
Day Care Facility, Class 2	C	C	C	P	P	P	P	P	P	P		19
Day Care Facility, Class 3				C	P	P	P	P	P	P		19
Department Store							P	P		P		
Distribution Center											P	
Dog Run							C			C	C	24
Dormitory				P			P	P				
Drive-in Theatre/Outdoor							P				P	
Drive-through Facility						A	A	A	A	A		25
Driving Range, Golf							C				C	
Drug Store		C	C	C		P	P	P		P		28
Dry Cleaning and Laundry Pick-up				P		P	P	P		P		28, 29
Dry Cleaning and Laundry Service						C	P	P		P		
Dwelling, Mixed Use			C	P		P	P	P	P	P		20, 26, 28
Dwelling, Multi-family			C	P			P	C	C			35
Dwelling, Single family	P	P	P	P	P							16
Dwelling, Townhouse			P	P	P		P	P				
Dwelling, Two-family			P	P	P			C				
Electrical Repair Shop						P	P	P		P		4, 28
Emergency Shelter				C		C	C	P				
Equipment or Furniture Rental Establishment							P	P		P	P	9, 10
Essential Services and Equipment	P	P	P	P	P	P	P	P	P	P	P	28
EV Charging Station, Private	A	A	A	A	A	A	A	A	A	A	A	
EV Charging Station, Public			A	A	A	A	A	A	A	A	A	
Extractive Industry											P	31
Fairgrounds											P	
Farmer's Market						C	C	P				
Financial Services Establishment					P	P	P	P	P	P		28
Florist Shop		C	C	C		P	P	P		P		28, 29
Fraternity or Sorority House			C	P			P	C				

Funeral Home				P		P	P	P				28
Furniture Sales Establishment (Antique, New or Used)							P	P		P		4
Garden Center							P			P		
Gas Station Mini-Mart							P	P		P	P	8
Gasoline Service Station							P	P		P	P	8
Golf Course	C	C	C	P		P	P	P		P	P	28
Government Facility	P	P	P	P		P	P	P	P	P	P	28
Greenhouse, Non-Commercial	A	A	A	A							P	
Greenhouse, Commercial							P				P	
Grocery Store							P	P		P	P	
Group Residential Facility	P	P	P	P		P	P	P				28
Group Residential Home	P	P	P	P		P	P	P				28
Guest House			C	C								
Half-way House			C	C		C	C					
Hardware Store						C	P	P		P	P	
Health/Sports Club			C	C		P	P	P	P	P	P	28, 29
Heavy Machinery Sales										P	P	4, 9, 10
Heliport or Helipad								C		C	C	
Home Improvement Center							P	C		P		
Home Occupation, Class 1	A	A	A	A	A	A	A	A	A	A	A	2
Home Occupation, Class 2	C	C	C	C	C	C	C	C	C	C	C	2
Hospital	C	C	C	C		C	P	C		P	C	
Hotel							P	P	P	P		
Hotel, Full-service							P	P	P	P		1
Hypermarket							P			P		
Industrial Equipment Repair Establishment											P	
Industrial Park											P	
Industrial Supplies Establishment											P	
Industry, Heavy											C	32
Industry, Light							C			C	P	9, 10
Instructional Studio		C	C	C		P	P	P		P		28, 29
Junkyard											C	17
Kennel, Commercial						C	P					7
Laboratories									P	P	P	9, 10

Laundromat			C	C		P	P	P		P		28, 29
Liquor Store							P	P		P		
Lodging or Rooming House			C	P			P					
Manufactured Homes	P	P	P	P	P							16
Manufactured Housing Sales											P	
Manufacturing, Heavy											P	32
Marina, Commercial							C	C		C	C	14
Marina, Private							C	C		C	C	14
Marine Supplies Establishment							P			P	P	9, 10
Medical Cannabis Dispensary							P			P		
Medical Cannabis Growing Facility											P	
Medical Cannabis Processing Facility										P	P	
Mixed Use Building			C	P		P	P	P	P	P		20, 26, 28
Motel							P	P		P		
Motorcycle Sales Establishment							P			P		
Movie Theater, Large							P	C		P		
Movie Theater, Small						P	P	P		P		28
Multi-Use Nonresidential Building					C	C		C	P		P	29
Newsstand		C	C	C		P	P	P	P	P		29
Nursery, Plant							P	C		C		
Nursing Home				P			P		P			
Office Building					P	C	P	P	P	P	P	
Office Equipment Repair Establishment							P	P		P	P	4, 9, 10
Office, Medical					P		P	P	P	P		
Office Park									C	P	P	
Office Supplies Establishment						P	P	P	P	P		28
Oil Change Facility							P	P		P	P	
Outdoor Flea Market						C	C	C		C		
Outdoor Storage							C			C	P	

Outdoor Storage, Seasonal							P				P	P	
Park and Recreational Services	C	C	C	P			P	P	P	P			11, 28
Parking Lot, Principal Use				C			P	P	C		P	P	
Parking Structure, Principal Use				C			P	P	C		P	P	28
Passenger Station, Motor Bus, Railroad							C	P	P		P	P	
Pawnshop							P	P	P		P		28
Penal/Correctional Institution												C	
Personal Services Establishment				C	P		P	P	P	C	P		28, 29
Personal Storage Facility								C			C	C	15
Private Club								C			P	P	18
Professional Services Establishment			C	C	P		P	P	P		P		28, 29
Recreation Facility, Commercial, Outdoor							C	P			P		11
Recreational Facility, Commercial, Indoor							C	P			P		11
Recyclable Collection Center/ Solid Waste Transfer Station												P	6
Recycling Center											P	P	
Repair, Small Engine and Motor Shop								P	P		P	P	4, 9, 10
Research and Development Center										C	P	P	
Restaurant				P			P	P	P	P	P		27, 28, 29
Restaurant with Drive-in								P	P	P	P		
Restaurant, Family			C	P			C	P	P	P	P		28, 29
Restaurant, Fast Food							C	P	P	P	P		22, 25, 27
Restaurant, Private Club							C	P	C		P	P	18, 27
Restaurant, Private Wine							P	P	P		P	P	
Retail Sales Establishment							P	P	P		P		28
Re-use of Closed/Vacant School or Church	C	C	C	C			C	C	C				
Salvage Yard												C	

School (K-12), Private	C	C	C	C		C	P	P		P		
Sexually Oriented Business											C	
Shooting Range, Indoor							C			C	P	
Shopping Center, Large Scale							P			P		
Shopping Center, Medium Scale							P			P		
Shopping Center, Small Scale							P			P		
Snack Bar/Snack Shop				C		P	P	P	A	P		28, 29
Sporting Goods Establishment						C	P	P		P		
Tavern						P	P	P		P	P	21, 28
Taxicab Service							P			P	P	23
Telecommunications Class I	P	P	P	P	P	P	P	P	P	P	P	30
Telecommunications Class II			P	P		P	P	P	P	P	P	30
Telecommunications Class III						C	C	C		C	C	30
Transient Amusement Enterprise							P			P	P	
Terminal, Truck or Motor Freight											P	
University or College, Private							C	P		P		
Upholstery/Interior Decorating Service							P	P		P		4
Video Gaming/Lottery Establishment											P	13
Veterinary Clinic					C	P	P	P		P		7, 28
Warehousing/Distribution									P		P	21
Wellness Center			C	C	P	C	P	P	P	P		29
Wholesale Establishment									P	P	P	
Wrecker Service							C				P	

(Ord. No. 06-37, 11-8-2006; Ord. No. 06-48, 12-5-2006; Ord No. 07-17, 6-5-2007; Ord. No. 07-19, 6-5-2007; Ord. No. 07-20, 6-5-2007; Ord. No. 07-53, 11-6-2007; Ord. No. 09-08, 3-3-2009; Ord. No. 09-16, 5-5-2009; Ord. No. 09-29, 7-7-2009; Ord. No. 11-44, 11-1-2011; Ord. No. 12-27, 7-3-2012; Ord. No. 13-32, 7-2-2013; Ord. No. 16-38, 8-2-

2016; Ord. No. 16-43, 9-6-2016; Ord. No. 16-48, 10-4-2016; Ord. No. 17-27, 7-5-2017; Ord. No. 18-14, 4-3-2018; Ord. No. 18-23, 7-10-2018; Ord. No. 18-24, 6-5-2018; Ord. No. 18-29, 10-16-2018; Ord. No. 2020-21 , 7-7-2020)

PART THIRTEEN - PLANNING AND ZONING CODE
CHAPTER SEVEN - LAND USE
ARTICLE 1345. B-1, NEIGHBORHOOD BUSINESS DISTRICT

ARTICLE 1345. B-1, NEIGHBORHOOD BUSINESS DISTRICT¹

Sec. 1345.01. Purpose.

The purpose of the Neighborhood Business (B-1) District is to provide areas for convenient business uses, which tend to meet the daily shopping and service needs of the residents of an immediate neighborhood, and which contain pedestrian-oriented, human-scaled construction that is designed to be compatible with the surrounding neighborhood character. Because of the proximity to residential neighborhoods, high quality design is essential in order to preserve the integrity of those neighborhoods.

Sec. 1345.02. Permitted and conditional uses.

See Permitted Land Use Table 1331.05.01.

Sec. 1345.03. Lot provisions.

- (a) The minimum lot size shall be 3,000 square feet.
- (b) The minimum lot frontage shall be 30 feet.
- (c) The minimum lot depth shall be 100 feet.
- (d) Maximum lot coverage shall be 70 percent.

Sec. 1345.04. Setbacks and encroachments.

- (a) The following setbacks shall be required for all principal structures, except as otherwise provided in Article Section 1363.02(b), Yard, Building Setbacks and Open Space Exceptions:
 - (1) Minimum front setback:5 feet
 - (2) Maximum front setback:12 feet,
..... unless there is outdoor seating associated with a restaurant, to be located between the building and street, in which case the maximum may be 18 feet
 - (3) Minimum side setback:3 feet
..... for any building abutting a residentially zoned parcel, except where such setbacks may cause sight vision problems for motorists, as determined by the Planning Director or City Engineer; or where such setbacks make it impossible to comply with the parking standards of this ordinance
 - (4) Minimum rear setback:20 feet
..... except for through lots, in which case the parcel will be considered to have two front yards

¹Cross reference(s)—Outdoor kennels—see P. & Z. 1331.06(7), (24); daycare facility—see P. & Z. 1331.06(19).
State law reference(s)—Group residential facility—see W. Va. Code 8A-11-2.

- (b) The minimum setback for accessory structures on a lot shall be five feet from the rear property line and five feet from each side property line. No accessory structures are permitted within the front setback.
- (c) On a corner lot, the front lot line shall be the lot line having the shortest dimension along the street right-of-way line.

Sec. 1345.05. Building height, use and size.

- (a) The minimum permitted height of a principal building shall be two stories. If a one-story building is desired, a conditional use permit shall be required regardless of the proposed use of the building.
- (b) The maximum height of a principal structure shall not exceed 40 feet. Exceptions to this provision can be found in Section 1363.02(a), Height Exceptions.
- (c) The maximum height of an accessory structure shall not exceed 15 feet.
- (d) The maximum gross floor area of the footprint of individual nonresidential buildings shall be 5,000 square feet, unless otherwise specified. The maximum gross floor area shall be 10,000 square feet for two-story buildings and 15,000 square feet for three-story buildings.

(Ord. No. 18-24, 7-10-2018)

Sec. 1345.06. Parking and loading standards.

- (a) All uses within this district shall provide not less than 75 percent of the required parking as set forth in Article 1365, Parking, Loading and Internal Roadways.
- (b) No parking spaces shall be permitted between the front facade of a building and any street right-of-way.

(Ord. No. 15-28, 6-2-2015)

Sec. 1345.07. Performance standards.

- (a) All construction shall conform in street orientation to adjacent structures, except where this shall cause conflict with other provisions.
- (b) Important structures should be built so that they terminate street vistas whenever possible, and should be of sufficient design to create visual anchors for the community. All principal structures within a development should maintain a consistent architectural style.
- (c) Materials:
 - (1) Walls shall be clad in any combination of stone, brick, stucco, marble, or wood.
 - (2) Roofs shall be clad in slate, sheet metal, corrugated metal, and/or diamond tab asphalt shingles, unless the roof is flat and generally not visible from a public street.
 - (3) The orders, if provided, should be made of wood or cast concrete.
- (d) Configuration:
 - (1) Two wall materials may be combined horizontally on one facade. The heavier material shall be below and should not extend above the first floor.
 - (2) Skylights shall be flat (non-bubble).
 - (3) Windows shall be of square or vertical proportion, unless they are transom windows.

(Supp. No. 5)

-
- (4) The ground floor of the principal facade(s) of nonresidential buildings between three feet and eight feet in height shall have a minimum fenestration ratio of 60 percent, comprised of clear windows that allow views of indoor nonresidential component space and/or product display areas.
- (e) Techniques:
- (1) Stucco should be float finish, not of the synthetic variety.
 - (2) Windows should be set to the inside of the building face wall.
 - (3) All rooftop equipment that is enclosed should be enclosed in building material that matches the structure or is visually compatible with the structure.
 - (4) No metal bars or screens shall be permitted to cover windows on any facade facing a street.
- (f) Sidewalks:
- (1) Sidewalks shall be constructed in accordance with the requirements of Article 913 of this Code at each lot upon which a B-1 use is to be constructed.
 - (2) A canvas or fabric awning may be placed extending from a building over the sidewalk and into the public right-of-way. Such awning must be placed no lower than nine feet above the sidewalk and extend no closer than three feet from the curb line. An encroachment permit is required.

(Ord. No. 06-01, 1-3-2006 ; Ord. No. 18-36, 12-4-2018; Ord. No. 21-09 , 4-20-2021)

Sec. 1345.08. Landscaping.

Landscaping and screening as required in Article 1367, Landscaping and Screening, shall be provided for all uses, unless otherwise noted.

MAP24-117 – ZONING MAP AMENDMENT APPLICATION

Edit Person

Name:

Abdul Rahman Tarabishy

Role Code:

Applicant

Property Owner

Add to People

Address 1

13 / 60

911 Dudley St

Address 2

1 / 60

Address 3

0 / 60

City

13 / 60

State

Morgantown

WV - West Virginia

Zip Code

3 / 15

Country

26505

Company Name

0 / 80

Fax

0 / 15

Work Phone

0 / 15

Work Phone Extension

0 / 6

Home Phone

10 / 15

Cell Phone

10 / 15

3137015422

3137015422

Email

17 / 256

Web Site

0 / 256

abdu/md@gmail.com

Comments

Data Group Edit

Street Addressed (if assigned):



Text 1/3/2018

Tax Map Number:



Text 1/3/2018

Parcel Number:



Text 1/3/2018

Size (Acres):



Number 1/3/2018

Current Zoning Classification:



Text 1/3/2018

Proposed Zoning Classification:



Text 1/3/2018

Current Land Use:



Comment

Board of education (inconsistent with City assigned Zone!). Despite inconsistency and adjacent B2 properties City council didnt vote in favor of the approval of proper zoning |

Proposed Land Use:



Comment

Commercial (School, daycare..etc)



Read Email in your inbox

Conditional Use Application

Rickie Yeager <ryeager@morgantownwv.gov>
To: Abdul Rahman Tarabishy <abdulmd@gmail.com>
Cc: Barbara McDonald <bmcdonald@morgantownwv.gov>, Mohamed Tarabishy <tarabishy46@gmail.com>, "A. Kim Hawk" <khawk@morgantownwv.gov>

Hi Mr. Tarabishy,

Thanks for your email. Again, my apologies for the delay in sending the action letter regarding the property on Dorsey Avenue. I will email you a copy for your records by Wednesday, May 1st. If you have any questions upon review, please let me know.

As we discussed previously, you could submit another application to rezone the property to a B-1 Neighborhood Business District. Please click here to see the City's permit (Table 1331.05). I will also follow up with our City Attorney on your comment/question below.

Stay safe and have a nice evening.

Best,

Rickie Yeager, AICP, EDPP

Director of Development Services

Phone: 304-284-7413

Address: 430 Spruce St Morgantown, WV 26505

Office Hours: Monday-Thursday – 7a.m. to 5:30 p.m.



Abdul



MORGANTOWN
DEVELOPMENT SERVICES

304-284-7431
Morgantownwv.gov
430 Spruce St.
Morgantown, WV 26505

MEMORANDUM

To: A. Kim Haws, City Manager
Christine Wade, City Clerk

Cc: Emily Muzzarelli, Assistant City Manager
Ryan Simonton, City Attorney
Heather Carl, Assistant City Clerk

From: Rickie Yeager, Development Services Director

Date: July 19, 2024

Re: City Council Agenda for Zoning Map Amendment
MAP24-117 / Metro Towers, LLC / Ensign Avenue

During its public hearing on July 11, 2024, the Planning Commission made a motion to forward a recommendation to Morgantown City Council that the proposed map amendment be approved. The motion passed (6-1-0). The proposed map amendment would rezone Tax District 12, Tax Map 14, Parcels 12.1, 13, 16, 17, 18, 20, 21 and 498, and Tax Map 15, Parcels 86, 87, 88, 89, 90, 92.1, 93, 93.1, 93.2, 93.3, 94, 95, 96, 97, 277, 278, 279 from a O-I, Office and Institutional District to a R-3, Multi-Family Residential District. The purpose of the zoning map amendment is not affiliated with an active site plan application.

Attached herewith is the Staff Report presented to the Planning Commission, as well as the draft ordinance and exhibit. Please note the proposed meeting schedule for City Council, provided each ordinance advances to the next step in the review/approval process:

- Committee of Whole:** Tuesday, July 30, 2024 at 7:00 p.m.
- Ordinance – 1st Reading:** Tuesday, August 20, 2024 at 7:00 p.m.
- Ordinance – 2nd Reading and Public Hearing:** Tuesday, October 1, 2024 at 7:00 p.m.

In accordance with the WV State Code, there shall be at least thirty days between the first and second reading of the ordinances to rezone property.

Please include this item of business on the City Council meeting agendas noted above and include this communication and attachments in the Committee of the Whole meeting packet on July 30, 2024. Only the ordinance and associated exhibit should be included in the August 20th and October 1st City Council meeting packets provided the ordinance advances forward at each step.

This memorandum, under a cover letter explaining the public comment opportunities before City Council relating to the matter, will be sent to the petitioner.

Thank you.

ORDINANCE NO. _____

AN ORDINANCE PROVIDING FOR THE ZONING RECLASSIFICATION OF CERTAIN PORTIONS OF PARCELS OF REAL ESTATE IN THE FOURTH WARD OF THE CITY OF MORGANTOWN, TAX DISTRICT 12, TAX MAP 14, PARCELS 12.1, 13, 16, 17, 18, 20, 21 and 498, AND TAX MAP 15, PARCELS 86, 87, 88, 89, 90, 92.1, 93, 93.1, 93.2, 93.3, 94, 95, 96, 97, 277, 278, 279 FROM A O-I, OFFICE AND INSTITUIONAL DISTRICT TO A R-3, MULTI-FAMILY RESIDENTIAL DISTRICT 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.

THE CITY OF MORGANTOWN HEREBY ORDAINS:

1. That the zoning designation of Tax District 12, Tax Map 14, Parcels 12.1, 13, 16, 17, 18, 20, 21 and 498, and Tax Map 15, Parcels 86, 87, 88, 89, 90, 92.1, 93, 93.1, 93.2, 93.3, 94, 95, 96, 97, 277, 278, 279 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 a O-I, Office and Institutional District to a R-3, Multi-Family Residential District.
2. 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:

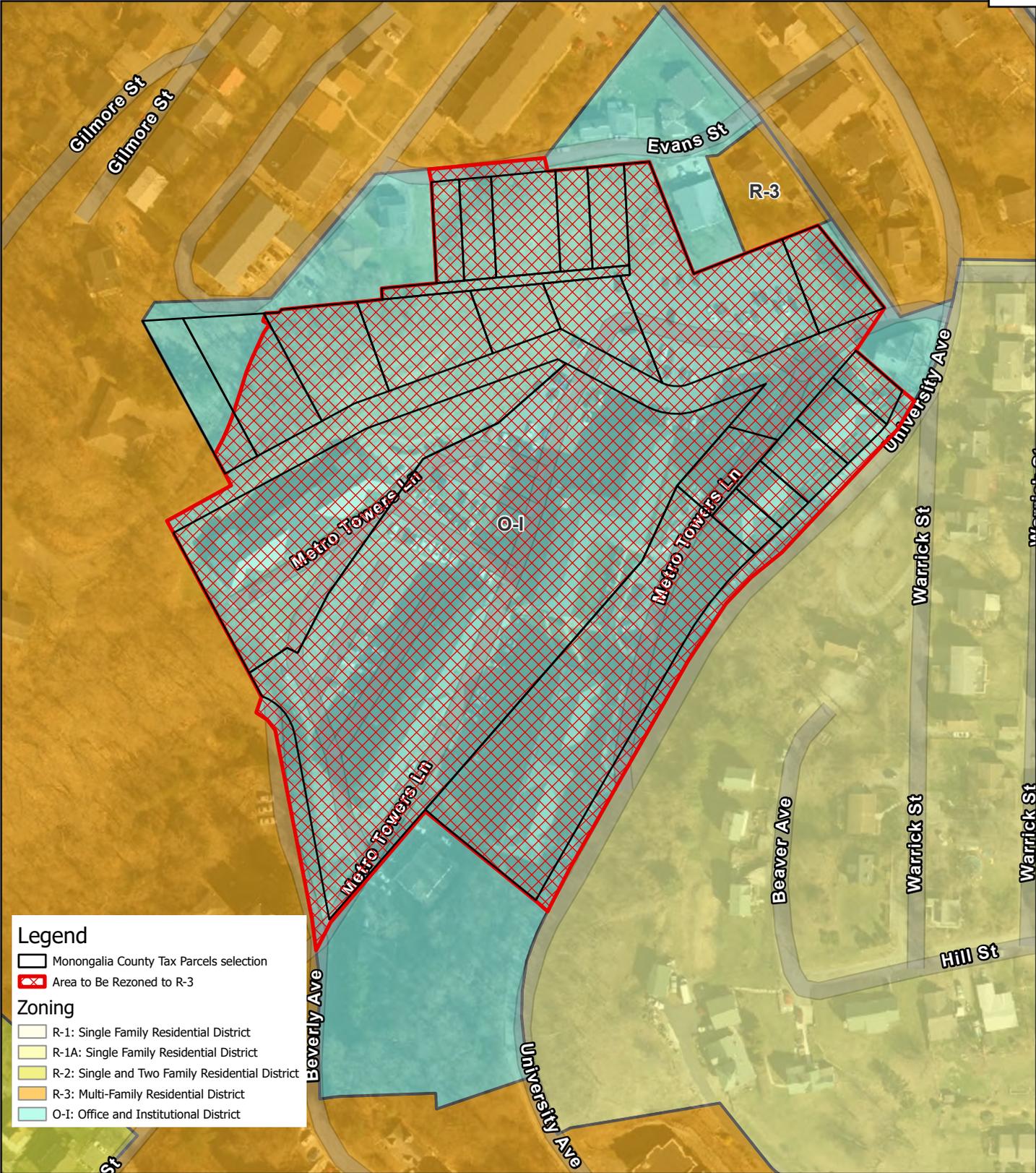
Mayor

ADOPTED:

FILED:

RECORDED:

City Clerk



Legend

- Monongalia County Tax Parcels selection
- Area to Be Rezoned to R-3

Zoning

- R-1: Single Family Residential District
- R-1A: Single Family Residential District
- R-2: Single and Two Family Residential District
- R-3: Multi-Family Residential District
- O-I: Office and Institutional District

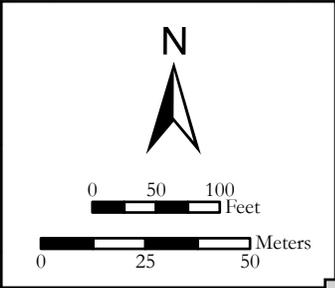


Exhibit:
MAP24-124 / Metro Towers LLC

Created By: Veronica Balcer, GIS Intern. Credits: Maxar, Microsoft, Esri Community Maps Contributors, WVU Facilities, West Virginia GIS, © OpenStreetMap, Microsoft, Esri, TomTom, Garmin, SafeGraph, GeoTechnologies, Inc, METI/NASA, USGS, EPA, NPS, US Census Bureau, USDA, USFWS

2024

Coordinate System: NAD 1983 StatePlane West Virginia North FIPS 4701 Feet





MORGANTOWN PLANNING COMMISSION

July 11, 2024
6:30 p.m.

City Hall – City Council Chambers | 389 Spruce Street – 2nd FL

STAFF REPORT

President:

Peter DeMasters, 6th Ward

Vice-President:

Bill Petros, 4th Ward

Planning Commissioners:

Darren Taylor, 1st Ward

Tim Stranko, 2nd Ward

Vacant, 3rd Ward

Brennan Williams, 5th Ward

Danielle Trumble,
City Council

Katie See, 7th Ward

Kelly Palmer, City Admin.

CASE NO: MAP24-124 / Metro Towers, LLC/ Ensign Avenue

REQUEST AND LOCATION:

Request by David Biafora on behalf of Metro Towers, LLC for a zoning map amendment to rezone the following parcels of land along Ensign Avenue from an O-I, Office and Institutional District to a R-3, Multifamily Residential District; City Tax District 12 (Fourth Ward), Tax Map 14, Parcels 12.1, 13, 16, 17, 18, 20, 21 and 498, and Tax Map 15, Parcels 86, 87, 88, 89, 90, 92.1, 93, 93.1, 93.2, 93.3, 94, 95, 96, 97, 277, 278, 279.

SURROUNDING ZONING:

North: O-I, Office and Institutional District and R-3, Multifamily Residential District.

South: O-I, Office and Institutional District; R-3, Multifamily Residential District; R-1A, Single-Family Residential District.

East: R-3, Multifamily Residential District, and R-1A, Single-Family Residential District.

West: R-3, Multifamily Residential District.

BACKGROUND and ANALYSIS:

The above referenced parcels are contiguous and encompass approximately 9.3 acres of land generally located north of Beverly Avenue, South of Evans Street and west of University Avenue and Skidmore Alley. The property is currently home to several vacant parcels of land and five multi-family apartment buildings, all of which are owned and operated by Metro Towers, LLC. Please see the staff enhanced aerial and zoning maps below.

The applicant desires to construct new townhouses on some of the vacant portions of land in the future. This includes property recently subdivided and conveyed to Metro Towers, LLC via Case No. MSN23-08. As such, the applicant seeks to rezone the above referenced parcels from an O-I District to a R-3. District. Per Table 1331.05.01 of the City’s Planning and Zoning Code, Townhomes are not permitted in an O-I District but are permitted by right in the R-3 District.

A Townhouse (also known as a rowhouse) is defined in Section 1329 of the City’s Planning and Zoning Code as *a one-family dwelling unit, with private entrance, which is part of a structure whose dwelling units are attached horizontally in a linear arrangement and having a totally exposed front and rear wall to be used for access, light, and ventilation. For purposes of determining the required yard for townhouse developments,*

Development Services

Rickie Yeager, AICP
Director

Planning Division

389 Spruce Street
Morgantown, WV 26505
304.284.7431



MORGANTOWN PLANNING COMMISSION

July 11, 2024
6:30 p.m.

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- President:**
Peter DeMasters, 6th Ward
- Vice-President:**
Bill Petros, 4th Ward
- Planning Commissioners:**
Darren Taylor, 1st Ward
Tim Stranko, 2nd Ward
Vacant, 3rd Ward
Brennan Williams, 5th Ward
Danielle Trumble,
City Council
Katie See, 7th Ward
Kelly Palmer, City Admin.

setbacks shall only apply from the perimeter of the main building to the perimeter of the parent parcel upon which the building is situated.

Please see Addendum A to review the City’s Permitted Land Use Table, as well as the development standards for property in the O-I and R-3 Districts.

2023 COMPREHENSIVE PLAN (MORGANTOWN 2033)

The Land Management Plan in Morgantown 2033 identified the above referenced properties as having the pattern and character of a **Mixed-use/Multi-family**. The plan describes Mixed-use/Multi-family as *high-density areas composed of a variety of building types ranging from small two-story residential structures to large multistory buildings. They have the largest mix of uses, including multi-family residential, retail, office, institutional and accommodation facilities.*

Second, the plan’s Growth Framework: Key Opportunities map recommends that the general area described above **continue to improve housing and neighborhood amenities to encourage students, residents, and residential building types.**

Third, the City’s Future Land Map (Land Management Plan) identifies the properties to be rezoned as **Residential Mixed-Use**. Below is a description of the classification for this area:

These areas comprise multi-family housing with ground floor activating commercial uses, particularly at/ near street intersections, to engage the public realm (streets and parks). Buildings in these areas may be larger in scale, with massing that steps down toward lower-scale residential areas. Parking should be located at the rear/sides of buildings and be buffered from public amenities.

Development types generally permitted in Residential Mixed-Use areas include Two-Family Dwellings, Multi-family Dwellings (apartments, townhouses), Civic/Institutional (schools, government buildings, churches, etc.), Commercial (retail, restaurant and accommodations), Office, and Open Space (parks, recreation areas).

Please see Addendum B to review the Character Area, Growth Framework and Land Management Plan Maps associated with the subject site.

The Land Management Plan also set forth *eleven principles that describe the intent about how (character attributes) and where (conceptual location) growth and development in Morgantown should occur.* The principles are also designed to *help guide the City on how to use land resources in a more efficient manner to foster high quality, distinct sense of place.*

The proposed zoning map amendment appears to be consistent with the following principles:

Development Services

Rickie Yeager, AICP
Director

Planning Division

389 Spruce Street
Morgantown, WV 26505
304.284.7431



MORGANTOWN PLANNING COMMISSION

July 11, 2024
6:30 p.m.

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City Council
Katie See, 7th Ward
Kelly Palmer, City Admin.

2. Encourage incremental “house-sized,” contextual infill within existing residential neighborhoods.

The City will continue to invest in and encourage private investment in all neighborhoods that strengthen their existing character and value. Particular attention will be given to infill that blends with the size and form of the existing surrounding structures.

3. Increase opportunities to develop diverse housing options near schools, parks, shopping districts, and employment centers.

Complete neighborhoods include a variety of land uses (residential, commercial, civic, and recreational areas), building types, and housing types to increase access to amenities and services for diverse and multi-generational neighbors. A mix of residential dwelling types will be located within walking, and/or biking distance from amenities.

Additionally, the proposed amendment would help facilitate the development of a missing middle housing in the community, which was identified as a priority action in the Land Management Plan and is more specifically referenced in the following in the following recommendations:

Neighborhood and Housing 1-1.

Encourage mixed-use and mixed-income neighborhoods and housing developments throughout Morgantown

STAFF RECOMMENDATION:

Zoning map amendment requests should be evaluated on their land use merits alone. Development intentions are extraneous, and the Commission should consider the request on its merits as a land use decision. In conducting such an analysis, the Commission should determine if the R-3, Multifamily Residential District is the appropriate zoning classification for the premises, weighing all possible future development and land use scenarios as permitted by the Planning and Zoning Code; particularly, Article 1339 – R-3, Multifamily Residential District and Table 1331.05.01 - Permitted Land Uses.

After review, staff finds the proposed zoning map amendment to be consistent with the City’s 2023 Comprehensive Plan with respect to and goals set forth in the Land Management Plan, as well as Character Area, Growth Framework and Land Management Plan (Future Land Use Map). Staff recommends approval of the zoning map amendment, as requested by the applicant.

Development Services

Rickie Yeager, AICP
Director

Planning Division

389 Spruce Street
Morgantown, WV 26505
304.284.7431

ADDENDUM A

MAP24-124 / Metro Towers, LLC / Ensign Avenue

Section 1331.05: Permitted land uses

Article 1339 : R-3, Multi-Family Residential District

Article 1343: Office and Institutional District

Sec. 1331.05. Permitted land uses.

The table and supplemental regulations of the Permitted Land Use Table are incorporated in this section and are adopted as the basic land use regulations for the City. The table and supplemental regulations identify the types of land uses that are permitted within the City and any applicable conditions and limitations.

To determine the zoning district in which a particular use is allowed, find the use in the list of uses along the left-hand side of the Permitted Land Use Table and read across the use row to find the zoning district column designations.

Legend:

- P — Use is permitted by right in a particular zoning district.
- A — Use is permitted as an accessory use in a particular zoning district.
- C — Use is allowed only as a conditional use in a particular zoning district subject to the limitations and conditions specified; a conditional use permit is required.
- Empty — Use is not permitted in a particular zoning district.

The uses listed in the Permitted Land Use Table are defined in the definitions section (Article 1329).

A description of the supplemental regulations immediately follows the Permitted Land Use Table.

Table 1331.05.01: Permitted Land Uses

Uses	R-1	R-1A	R-2	R-3	PRO	B-1	B-2	B-4	OI	B-5	I-1	Supplemental Regulations
Administrative Office				C	P	C	P	P	P	P	P	29
Agricultural Activity	P										P	
Airport											C	
Amphitheater							P	P				
Animal Grooming Service		C	C	C	C	P	P	P		P		28, 29
Animal Shelter							C			C	P	
Apparel Shop						P	P	P		P	P	28
Appliance Repair Establishment		C	C	C		P	P	P		P	P	4, 28, 29
Appliance Sales Establishment							P	P		P		
Art Gallery		C	C	C		P	P	P	P	P		28, 29
Artist Studio		C	C	C	P	P	C	P	P	C		28, 29
Assembly Hall						P	P	P		P		28
Assisted Living Facility				C		C	C					
Athletic Field	C	C	C	C		C	P	P		P		
Automotive Paint Shop							P				P	4, 9, 10
Automotive Rentals							C			C		
Automotive Sales							C			C		
Automotive Supply							C			P	P	

Automotive Tire Repair/Sales							P			P	P	4, 9, 10	
Automotive/Boat Repair Shop							P				P	4, 9, 10	
Automobile Repair Shop, Incidental							C	C		C	P	4, 9, 10	
Bakery, Retail		C	C	C			P	P	P		P	28, 29	
Bakery, Wholesale							P			P	P		
Barber Shop/Beauty Salon		C	C	C	P		P	P	P		P	28, 29	
Bed and Breakfast Inn			C	C			P	P	P			5, 28	
Brew Pub							C	P	P		P	18	
Building Materials Supplier								P			P	9, 10	
Car Wash/Detailing								P			P	P	
Caretaker's Residence	C	C	C	C				C		C	C	P	
Cemetery	P	P	P	P				P	P				
Charitable, Fraternal or Social Organization							P	P	P	P	P	28	
Churches, Places of Worship	C	C	C	C	C		C	P	P	C	P	C	12
Clinic, Medical				C			P	P	P	P	P	P	28, 29
Club or Lodge							P	P	P				28, 29
Coin-operated Cleaning/Laundry Service			A	C			P	P	P		P		28, 29
Communications Equipment Building	C	C	C	C			P	P	C	P	P	P	28
Community Center	C	C	P	P	P		P	P	P	C			28
Community Gardens	P	P	P	P			P						28
Composting Operation											P	P	3
Conference Center								P	P		P		
Consumer Fireworks Retail Sales								C			P	P	33
Consumer Fireworks Retail Sales Establishment								C			P	P	33
Consumer Fireworks Wholesale Establishment												P	34
Convenience Store, Neighborhood		C	C	C			P	P	P				28, 29

Dance or Social Club, Youth						C	P			P		
Day Care Facility, Class 1	P	P	P	P	P	P	P	P	P	P		
Day Care Facility, Class 2	C	C	C	P	P	P	P	P	P	P		19
Day Care Facility, Class 3				C	P	P	P	P	P	P		19
Department Store							P	P		P		
Distribution Center											P	
Dog Run							C			C	C	24
Dormitory				P			P	P				
Drive-in Theatre/Outdoor							P				P	
Drive-through Facility						A	A	A	A	A		25
Driving Range, Golf							C				C	
Drug Store		C	C	C		P	P	P		P		28
Dry Cleaning and Laundry Pick-up				P		P	P	P		P		28, 29
Dry Cleaning and Laundry Service						C	P	P		P		
Dwelling, Mixed Use			C	P		P	P	P	P	P		20, 26, 28
Dwelling, Multi-family			C	P			P	C	C			35
Dwelling, Single family	P	P	P	P	P							16
Dwelling, Townhouse			P	P	P		P	P				
Dwelling, Two-family			P	P	P			C				
Electrical Repair Shop						P	P	P		P		4, 28
Emergency Shelter				C		C	C	P				
Equipment or Furniture Rental Establishment							P	P		P	P	9, 10
Essential Services and Equipment	P	P	P	P	P	P	P	P	P	P	P	28
EV Charging Station, Private	A	A	A	A	A	A	A	A	A	A	A	
EV Charging Station, Public			A	A	A	A	A	A	A	A	A	
Extractive Industry											P	31
Fairgrounds											P	
Farmer's Market						C	C	P				
Financial Services Establishment					P	P	P	P	P	P		28
Florist Shop		C	C	C		P	P	P		P		28, 29
Fraternity or Sorority House			C	P			P	C				

Funeral Home				P		P	P	P				28
Furniture Sales Establishment (Antique, New or Used)							P	P		P		4
Garden Center							P			P		
Gas Station Mini-Mart							P	P		P	P	8
Gasoline Service Station							P	P		P	P	8
Golf Course	C	C	C	P		P	P	P		P	P	28
Government Facility	P	P	P	P		P	P	P	P	P	P	28
Greenhouse, Non-Commercial	A	A	A	A							P	
Greenhouse, Commercial							P				P	
Grocery Store							P	P		P	P	
Group Residential Facility	P	P	P	P		P	P	P				28
Group Residential Home	P	P	P	P		P	P	P				28
Guest House			C	C								
Half-way House			C	C		C	C					
Hardware Store						C	P	P		P	P	
Health/Sports Club			C	C		P	P	P	P	P	P	28, 29
Heavy Machinery Sales										P	P	4, 9, 10
Heliport or Helipad								C		C	C	
Home Improvement Center							P	C		P		
Home Occupation, Class 1	A	A	A	A	A	A	A	A	A	A	A	2
Home Occupation, Class 2	C	C	C	C	C	C	C	C	C	C	C	2
Hospital	C	C	C	C		C	P	C		P	C	
Hotel							P	P	P	P		
Hotel, Full-service							P	P	P	P		1
Hypermarket							P			P		
Industrial Equipment Repair Establishment											P	
Industrial Park											P	
Industrial Supplies Establishment											P	
Industry, Heavy											C	32
Industry, Light							C			C	P	9, 10
Instructional Studio		C	C	C		P	P	P		P		28, 29
Junkyard											C	17
Kennel, Commercial						C	P					7
Laboratories									P	P	P	9, 10

Laundromat			C	C		P	P	P		P		28, 29
Liquor Store							P	P		P		
Lodging or Rooming House			C	P			P					
Manufactured Homes	P	P	P	P	P							16
Manufactured Housing Sales											P	
Manufacturing, Heavy											P	32
Marina, Commercial							C	C		C	C	14
Marina, Private							C	C		C	C	14
Marine Supplies Establishment							P			P	P	9, 10
Medical Cannabis Dispensary							P			P		
Medical Cannabis Growing Facility											P	
Medical Cannabis Processing Facility										P	P	
Mixed Use Building			C	P		P	P	P	P	P		20, 26, 28
Motel							P	P		P		
Motorcycle Sales Establishment							P			P		
Movie Theater, Large							P	C		P		
Movie Theater, Small						P	P	P		P		28
Multi-Use Nonresidential Building					C	C		C	P		P	29
Newsstand		C	C	C		P	P	P	P	P		29
Nursery, Plant							P	C		C		
Nursing Home				P			P		P			
Office Building					P	C	P	P	P	P	P	
Office Equipment Repair Establishment							P	P		P	P	4, 9, 10
Office, Medical					P		P	P	P	P		
Office Park									C	P	P	
Office Supplies Establishment						P	P	P	P	P		28
Oil Change Facility							P	P		P	P	
Outdoor Flea Market						C	C	C		C		
Outdoor Storage							C			C	P	

Outdoor Storage, Seasonal							P			P	P		
Park and Recreational Services	C	C	C	P			P	P	P	P		11, 28	
Parking Lot, Principal Use				C			P	P	C		P	P	
Parking Structure, Principal Use				C			P	P	C		P	P	28
Passenger Station, Motor Bus, Railroad							C	P	P		P	P	
Pawnshop							P	P	P		P		28
Penal/Correctional Institution												C	
Personal Services Establishment				C	P		P	P	P	C	P		28, 29
Personal Storage Facility								C			C	C	15
Private Club								C			P	P	18
Professional Services Establishment			C	C	P		P	P	P		P		28, 29
Recreation Facility, Commercial, Outdoor							C	P			P		11
Recreational Facility, Commercial, Indoor							C	P			P		11
Recyclable Collection Center/ Solid Waste Transfer Station												P	6
Recycling Center											P	P	
Repair, Small Engine and Motor Shop								P	P		P	P	4, 9, 10
Research and Development Center										C	P	P	
Restaurant				P			P	P	P	P	P		27, 28, 29
Restaurant with Drive-in								P	P	P	P		
Restaurant, Family			C	P			C	P	P	P	P		28, 29
Restaurant, Fast Food							C	P	P	P	P		22, 25, 27
Restaurant, Private Club							C	P	C		P	P	18, 27
Restaurant, Private Wine							P	P	P		P	P	
Retail Sales Establishment							P	P	P		P		28
Re-use of Closed/Vacant School or Church	C	C	C	C			C	C	C				
Salvage Yard												C	

School (K-12), Private	C	C	C	C		C	P	P		P		
Sexually Oriented Business											C	
Shooting Range, Indoor							C			C	P	
Shopping Center, Large Scale							P			P		
Shopping Center, Medium Scale							P			P		
Shopping Center, Small Scale							P			P		
Snack Bar/Snack Shop				C		P	P	P	A	P		28, 29
Sporting Goods Establishment						C	P	P		P		
Tavern						P	P	P		P	P	21, 28
Taxicab Service							P			P	P	23
Telecommunications Class I	P	P	P	P	P	P	P	P	P	P	P	30
Telecommunications Class II			P	P		P	P	P	P	P	P	30
Telecommunications Class III						C	C	C		C	C	30
Transient Amusement Enterprise							P			P	P	
Terminal, Truck or Motor Freight											P	
University or College, Private							C	P		P		
Upholstery/Interior Decorating Service							P	P		P		4
Video Gaming/Lottery Establishment											P	13
Veterinary Clinic					C	P	P	P		P		7, 28
Warehousing/Distribution									P		P	21
Wellness Center			C	C	P	C	P	P	P	P		29
Wholesale Establishment									P	P	P	
Wrecker Service							C				P	

(Ord. No. 06-37, 11-8-2006; Ord. No. 06-48, 12-5-2006; Ord No. 07-17, 6-5-2007; Ord. No. 07-19, 6-5-2007; Ord. No. 07-20, 6-5-2007; Ord. No. 07-53, 11-6-2007; Ord. No. 09-08, 3-3-2009; Ord. No. 09-16, 5-5-2009; Ord. No. 09-29, 7-7-2009; Ord. No. 11-44, 11-1-2011; Ord. No. 12-27, 7-3-2012; Ord. No. 13-32, 7-2-2013; Ord. No. 16-38, 8-2-

2016; Ord. No. 16-43, 9-6-2016; Ord. No. 16-48, 10-4-2016; Ord. No. 17-27, 7-5-2017; Ord. No. 18-14, 4-3-2018; Ord. No. 18-23, 7-10-2018; Ord. No. 18-24, 6-5-2018; Ord. No. 18-29, 10-16-2018; Ord. No. 2020-21 , 7-7-2020)

PART THIRTEEN - PLANNING AND ZONING CODE
CHAPTER SEVEN - LAND USE
ARTICLE 1343. OI, OFFICE AND INSTITUTIONAL DISTRICT

ARTICLE 1343. OI, OFFICE AND INSTITUTIONAL DISTRICT¹

Sec. 1343.01. Purpose.

The purpose of the Office and Institutional (OI) District is to:

- (a) Provide for office and institutional uses and customary accessory uses on appropriately-sized lots; and
- (b) Provide for a suitable environment for office and institutional uses that can be located adjacent to residential uses without undue harmful effects to such residential uses.

Sec. 1343.02. Permitted and conditional uses.

See the Permitted Land Use Table 1331.05.01.

Sec. 1343.03. Lot provisions.

- (a) The minimum lot size shall be 6,000 square feet.
- (b) The minimum lot frontage shall be 60 feet.
- (c) The minimum lot depth shall be 100 feet.
- (d) Maximum lot coverage shall be 60 percent.

Sec. 1343.04. Setbacks and encroachments.

- (a) The following setbacks shall be required for all principal structures, except as otherwise provided in Section 1363.02(b), Yard, Building Setbacks and Open Space Exceptions:
 - (1) Minimum front setback:15 feet
 - (2) Maximum front setback:25 feet
 - (3) Minimum side setback:30 feet
 - (4) Minimum rear setback:40 feet
- (b) The minimum setback for accessory structures on a lot shall be ten feet from the rear property line and ten feet from each side property line. No accessory structures are permitted within the front setback.

Sec. 1343.05. Building height and use.

- (a) The maximum height of a principal structure shall not exceed 72 feet, except as provided in Section 1363.02(a), Height Exceptions.

¹Cross reference(s)—Composting operation—see P. & Z. 1331.06(3); day care facilities—see P. & Z. 1331.06(19); mixed use dwelling units—see P. & Z. 1331.06(26).

(b) The maximum height of an accessory structure shall not exceed 25 feet.

(Ord. No. 06-40, 11-21-2006)

Sec. 1343.06. Parking and loading standards.

(a) All uses within this district shall conform to the off-street parking and loading requirements in Article 1365, Parking, Loading and Internal Roadways.

(b) No parking spaces shall be permitted between the front facade of a building and any street right-of-way.

Sec. 1343.07. Performance standards.

(a) Important structures should be built so that they terminate street vistas whenever possible, and should be of sufficient design to create visual anchors for the community. All principal structures within a development should maintain a consistent architectural style.

(b) Metal paneling may be used for wall surfaces, however the area of metal paneling shall not exceed 20 percent of any one wall face.

(c) Materials:

(1) Walls shall be clad in any combination of stone, brick, marble, approved metal paneling, and/or cast concrete.

(2) Roofs shall be clad in slate, sheet metal, corrugated metal, and/or diamond tab asphalt shingles, when visible. Flat roofs shall be exempt from this requirement.

(3) The orders, if provided, should be made of wood or cast concrete.

(d) Configuration: Flat roof lines are allowed.

(e) Techniques:

(1) Windows should be set to the inside of the building face wall.

(2) Rooftop equipment which is enclosed should be enclosed in building material that matches the structure or is visually compatible with the structure.

(f) Residential construction within this district shall follow the height and performance standards listed in Sections 1339.06 and 1339.07.

(g) Sidewalks shall be constructed in accordance with the requirements of Article 913 of this Code at each lot upon which a use is to be constructed.

(Ord. No. 21-09 , 4-20-2021)

Sec. 1343.08. Landscaping.

Landscaping and screening as required in Article 1367, Landscaping and Screening, shall be provided for all uses, unless otherwise noted.

PART THIRTEEN - PLANNING AND ZONING CODE
CHAPTER SEVEN - LAND USE
ARTICLE 1339. R-3, MULTI-FAMILY RESIDENTIAL DISTRICT

ARTICLE 1339. R-3, MULTI-FAMILY RESIDENTIAL DISTRICT¹

Sec. 1339.01. Purpose.

The purpose of the Multi-Family Residential (R-3) District is to:

- (a) Provide for a variety of housing density and types, and customary accessory uses at a density higher than in other City neighborhoods; and
- (b) Preserve the desirable character of existing high density residential neighborhoods; and
- (c) Provide for adequate light, ventilation, quiet, and privacy for neighborhood residents.

Sec. 1339.02. Permitted principal and conditional uses.

See the Permitted Land Use Table 1331.05.01.

Sec. 1339.03. Lot provisions.

- (a) The minimum lot size shall be 4,000 square feet.
- (b) The minimum lot frontage shall be 40 feet. The frontage requirement may be waived for a parcel not fronting on an existing road if the parcel is served by a proper right-of-way.
- (c) Maximum lot coverage shall be 60 percent.

Sec. 1339.04. Setbacks.

- (a) The following setbacks shall be required for all principal structures, except as otherwise provided in Section 1363.02(b), Yard, Building Setbacks and Open Space Exceptions:
 - (1) Minimum front setback:10 feet
 - (2) Maximum front setback:20 feet
 - (3) Minimum side setback:5 feet
 - (4) Minimum rear setback:20 feet
- (b) On a corner lot, the front lot line shall be the lot line having the shortest dimension along the street right-of-way line. The required side yard setback on the side facing a street shall be one and one-half times the normal side setback requirement.

(Ord. No. 06-24, 7-18-2006)

¹Cross reference(s)—Design standards—see P. & Z. 1331.06(16); non-residential uses—see P. & Z. 1331.06(29); accessory uses—see P. & Z. 1331.08; permitted signs—see P. & Z. 1369.06.

Sec. 1339.05. Encroachments into setbacks.

- (a) Architectural features may project into a required setback as provided below:
 - (1) Fire escapes, chimneys, cornices, awnings, canopies, eaves, sills, pilasters, lintels, gutters or other similar features may extend into a setback a distance not exceeding three feet, except that such features shall not extend closer than three feet from the property line.
 - (2) Uncovered stairs, landings and porches shall not extend closer than three feet from the property line. Such porches may not subsequently be enclosed unless the normal setback requirements for the district are met.
 - (3) Open and covered, but un-enclosed front porches attached to single family or two-family dwellings may extend into the required front setback a distance equal to 50 percent of the setback depth.
- (b) No permitted encroachment noted above shall extend to within three feet of an accessory structure.
- (c) Fences, walls, terraces, steps or other similar features may encroach into a required setback, except as provided in Section 1363.03, Safety and Vision. Such appurtenances shall not be located within access, drainage, or utility easements.
- (d) HVAC mechanical units may be located no closer than two feet to a side lot line and may not be placed in the front yard.

(Ord. No. 06-01, 1-3-2006; Ord. No. 18-24, 7-10-2018)

Sec. 1339.06. Building height.

- (a) The permitted maximum height shall be four stories or 55 feet, whichever is less, except as provided in Section 1363.02(a), Height Exceptions. A conditional use permit shall be required for buildings in excess of 55 feet but less than 80 feet.
- (b) The maximum height of an accessory structure shall not exceed 18 feet.
- (c) Minimum building height for a two-family or multifamily dwelling should be two stories.

(Ord. No. 06-40, 11-21-2006)

Sec. 1339.07. Performance standards.

- (a) All residential construction shall substantially conform in street orientation and massing to adjacent interior lot residential structures.
- (b) Building design standards for single- and two-family dwelling new construction, additions, and redevelopment projects.
 - (1) Buildings should be clad in one or a combination of wood siding, vinyl siding, fiber cement siding, unit masonry, or manufactured masonry.
 - (2) Garden walls shall not be made from concrete masonry units (CMU) unless of the split face ornamental variety designed for use in landscaping projects.
 - (3) Principal building roofs should have a pitch that substantially conforms to the roof pitches of adjacent single-family dwellings.

-
- (4) Two-family dwellings shall have substantial front porches oriented toward the primary street frontage. The total width of a front porch should not be less than 50 percent of the width of the front facade. Covered, but unenclosed, front porches shall not count toward the permitted maximum lot coverage.
 - (5) Front-load garages, if attached to the dwelling, may not take up more than 65 percent of the width of the front facade nor extend closer to the front lot line than the primary building line of the front facade.
- (c) Building design standards for townhouse, multi-family, mixed use, and Nonresidential new construction, additions, and redevelopment projects.
- (1) Prohibited facade materials include vinyl siding; glare producing materials; unfinished wood; wood board sheathing products; ribbed, corrugated, galvanized, and alloy-coated metal panels; and, materials designed and intended for interior use.
 - (2) Prohibited facade primary materials.
 - a. For townhouse and multi-family dwellings, synthetic stucco systems or concrete masonry units (CMU).
 - b. For mixed use and nonresidential buildings, synthetic stucco systems, concrete masonry units (CMU), or fiber cement siding.
 - (3) For new construction of Townhouse Dwellings, masonry shall be used as the primary material on 100 percent of the net facade areas of exposed basement exterior walls and should be used as the primary material on at least 50 percent of the net facade area of the ground floor level. Manufactured masonry must appear identical to traditional unit masonry construction.
 - (4) For new construction of multi-family, mixed use, and nonresidential buildings, masonry shall be used as the primary material on 100 percent of the net facade areas of exposed basement exterior walls and should be used as the primary material on at least 75 percent of the net facade area of the ground floor level and the first story above the ground floor level. Manufactured masonry must appear identical to traditional unit masonry construction.
 - (5) Permitted facade accent materials include unit masonry, manufactured masonry, masonry detailed concrete, smooth metal panel systems, concrete, synthetic stucco systems, concrete masonry units (CMU), and fiber cement siding.
 - (6) Synthetic stone may be used if it is detailed to have the appearance of authentic stone. At a building corner, the synthetic stone must wrap around the corner and, at a minimum, extend to a depth of traditional stone.
 - (7) Building articulation. New development shall incorporate articulation techniques that divide the overall building mass into modules in order to provide a sense of human scale and reinforce, where applicable, the traditionally-scaled building pattern within the surrounding built environment.
 - a. The following design options may be used individually, or in combination, to meet the intent of desired building articulation. Other creative building articulation strategies may also be appropriate.
 - 1. Wall offsets.
 - 2. Wall projections.
 - 3. Step backs.
 - 4. Variations in material.
 - 5. Base, middle, cap design.

-
- b. Appropriate vertical articulation techniques include:
 1. Wall plane offsets such as notches or varied facade setbacks.
 2. Wall projections such as columns, moldings, or pilasters.
 3. Vertical variations in material.
 - c. Appropriate horizontal articulation techniques include:
 1. Stepping back taller building elements.
 2. Belt courses, expression lines, or other techniques that provide horizontal expression.
 3. Awnings, canopies, or other features that help define the ground floor of a building.
 4. Varied roof forms.
 5. Horizontal variations in material.
 6. Horizontally dividing the facade into a distinct base, middle, and cap.
- (8) Roof Form. New development shall incorporate roof forms that convey compatible mass and scale, add visual interest, and are appropriate to a building's use.
- a. Roofing shall be consistent in material, style, pattern, and color throughout. Roofing may only be of earth toned or other muted colors. Glare producing materials and unpainted metal roofing is prohibited.
 - b. Appropriate techniques to create a sense of visual interest along the street include:
 1. Using a combination of gable, hip, and flat roof forms to provide visual interest.
 2. Varying the roof profile by stepping down some parts of the facade.
 3. Defining a flat roof form with a distinct parapet or cornice line to help reinforce a vertical base, middle and cap building articulation, and contribute to a sense of iconic design.
 4. Using an overhang on sloped roof forms.
 5. Other creative roof form strategies may also be appropriate including, but not limited to, entry features, tower elements, and rounded elements.
- (9) No security bars, screens or gates shall be permitted to be attached to the principal facade of a townhouse, multi-family, mixed use, or nonresidential building.
- (10) Transparency. The ground floor of the principal facade of mixed use and nonresidential buildings between three feet and eight feet in height shall have a minimum fenestration ratio of 60 percent, comprised of clear windows that allow views of indoor nonresidential component space and/or product display areas.
- (11) Civic buildings and churches or places of worship should be built so that they terminate street vistas whenever possible, and should be of sufficient design to create visual anchors for the community.
- (d) With the exception of single-family, two-family, and townhouse dwellings, surface parking areas shall be concealed along the street frontage by an architectural screen wall between three and one-half and five feet in height, and by dense landscaping along property lines not adjoining a public street. The material and finish of the architectural screen shall be consistent with the materials and finish of buildings with which it is associated or buildings in the immediate vicinity.
 - (e) Sidewalks shall be constructed in accordance with the requirements of Article 913 of this Code at each lot upon which a use is to be constructed.

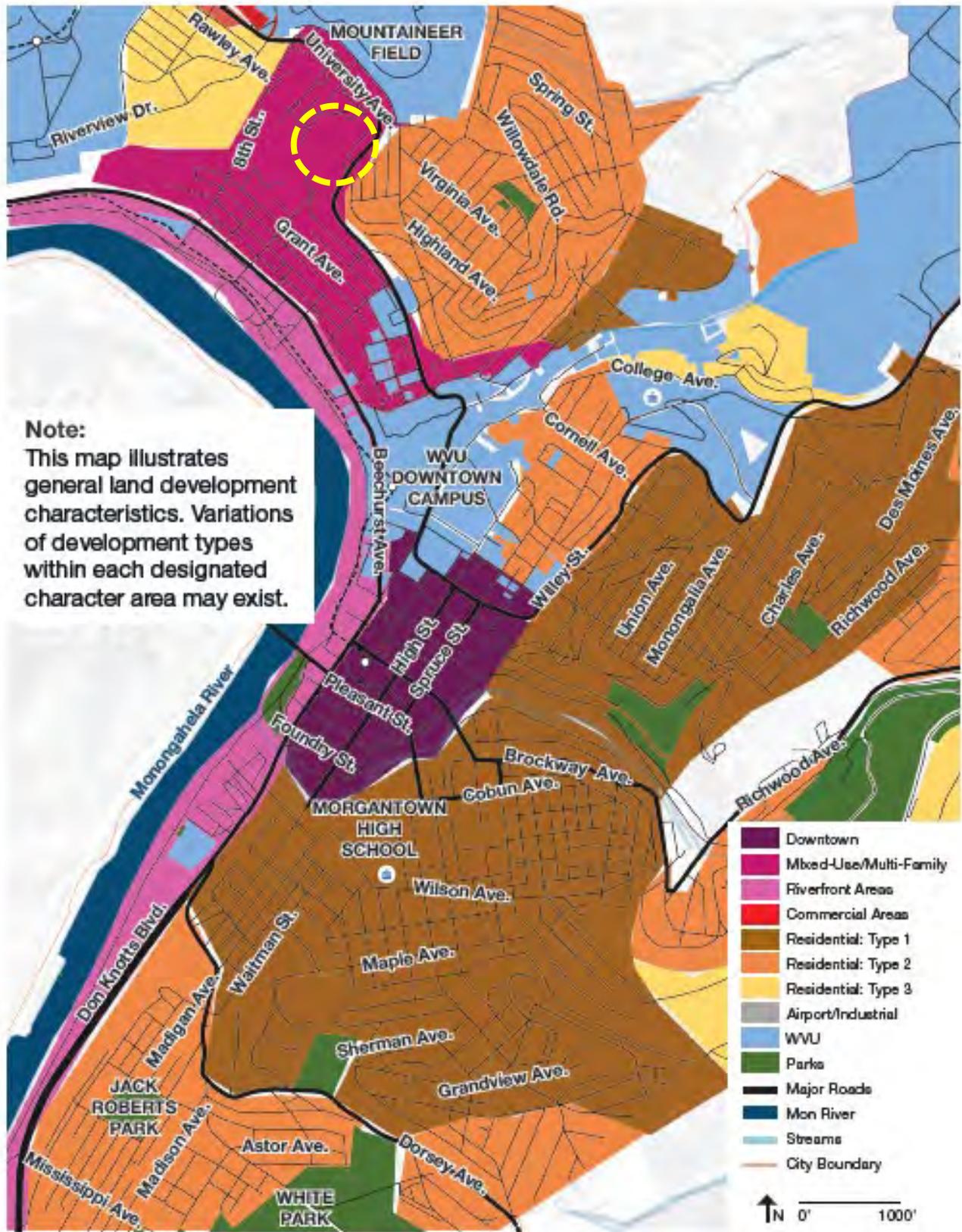
(f) All exterior lights shall be designed, located, installed and directed in such a manner as to prevent glare from encroaching onto adjoining properties or public rights-of-way.

(Ord. No. 18-24, 7-10-2018; Ord. No. 18-25, 8-7-2018; Ord. No. 2019-19, 7-2-2019; Ord. No. 21-09 , 4-20-2021)

ADDENDUM B

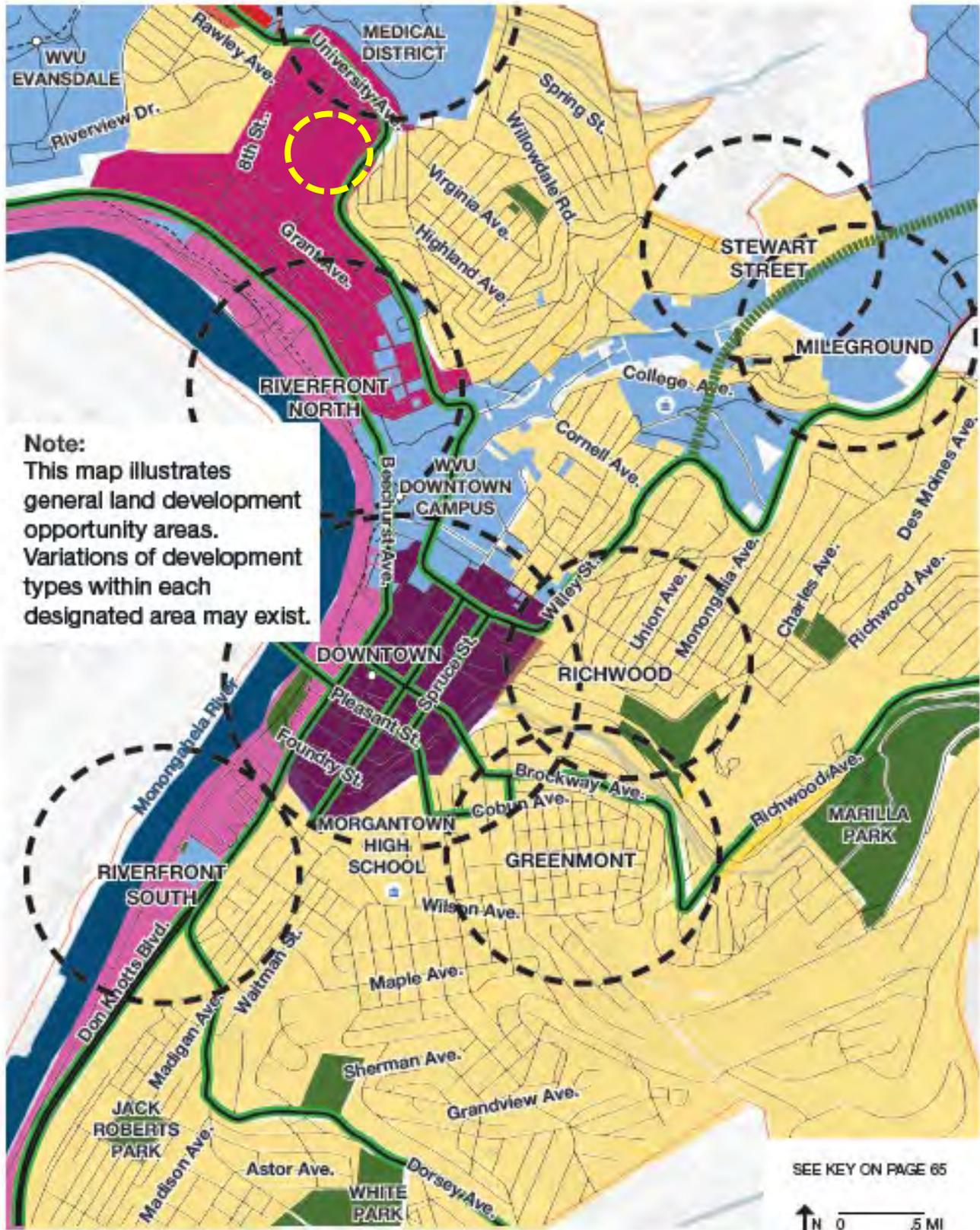
MAP24-124 / Metro Towers, LLC / Ensign Avenue

Pattern and Character Map



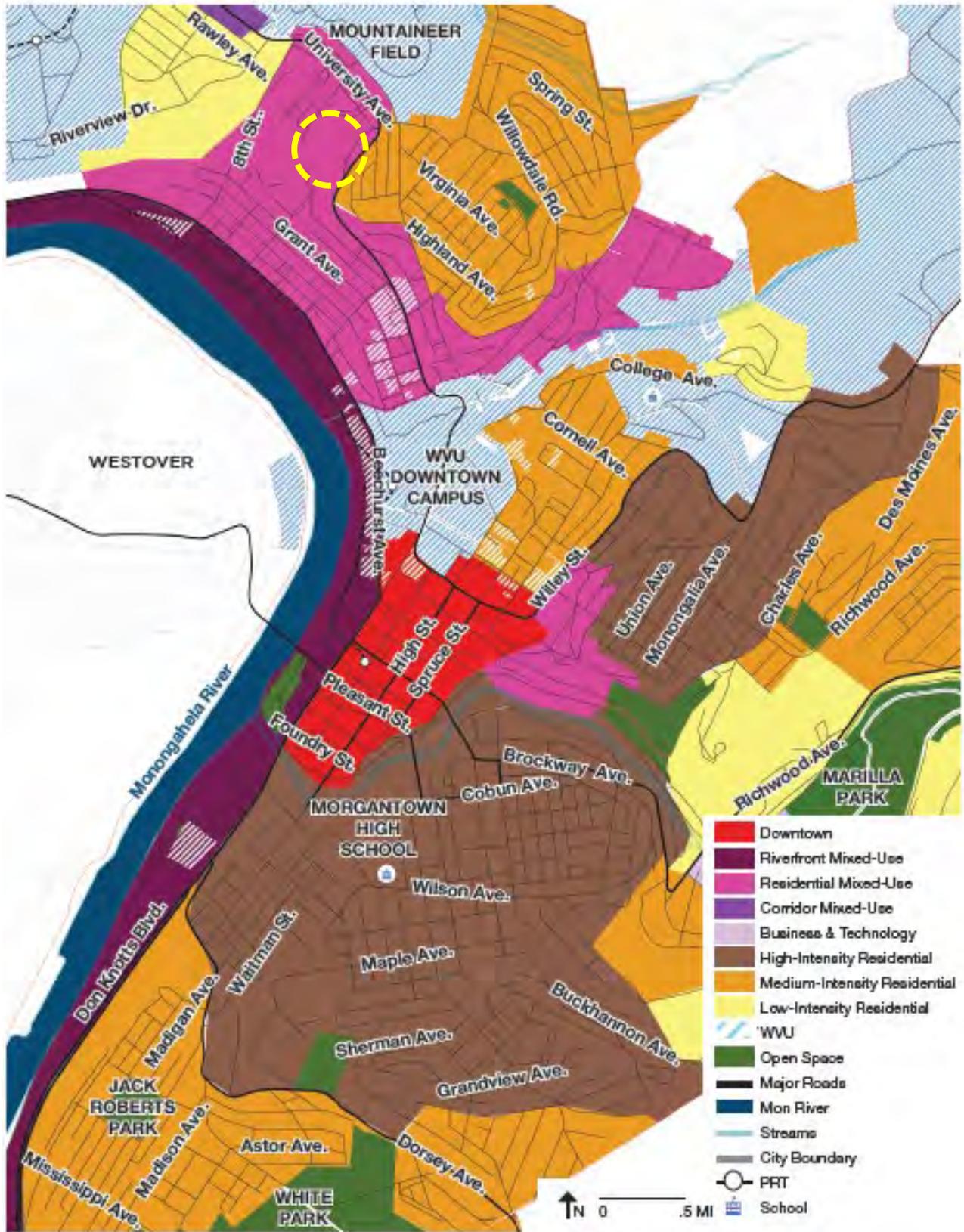
 Subject Site

Growth Framework Map



 Subject Site

Land Management (Future Land Use)Map



 Subject Site

MAP24-124 – ZONING MAP AMENDMENT APPLICATION

Edit Person

David Biafara

Role Code

Applicant Property Owner

Add to People

Address 1 23 / 60
6200 Mid Atlantic Drive

Address 2 0 / 60
Address 3 0 / 60

City 10 / 60 Morgantown State WV - West Virginia

Zip Code 5 / 15 26508 Country

Company Name 16 / 80 Metro Towers LLC Fax 3 / 15

Work Phone 10 / 15 3042920900 Work Phone Extension 6 / 6

Home Phone 10 / 15 Cell Phone 10 / 15 3042765100

Email 17 / 255 wvmetro@gmail.com Web Site 0 / 255

Edit Person

Name

Scott Copen

Role Code

Contact Information

Add to People

Address 1

19 / 60

170 Old Cheat Road

Address 2

11 / 60

Address 3

11 / 60

City

10 / 60

State

Morgantown

WV - West Virginia

Zip Code

5 / 15

Country

26508

Company Name

11 / 80

Fax

10 / 15

Work Phone

11 / 15

Work Phone Extension

10 / 6

Home Phone

10 / 15

Cell Phone

10 / 15

3042125490

3042888393

Email

10 / 256

Web Site

8 / 256

scopen@creww.com

Data Group Edit

Street Addressed (if assigned):



Text 13 / 40

Tax Map Number:



Text 6 / 10

Parcel Number:



Text 8 / 40

Size (Acres):



Number 8 / 10

Current Zoning Classification:



Text 8 / 40

Proposed Zoning Classification:



Text 1 / 40

Current Land Use:



Comment

Multifamily Residential (Apartments)

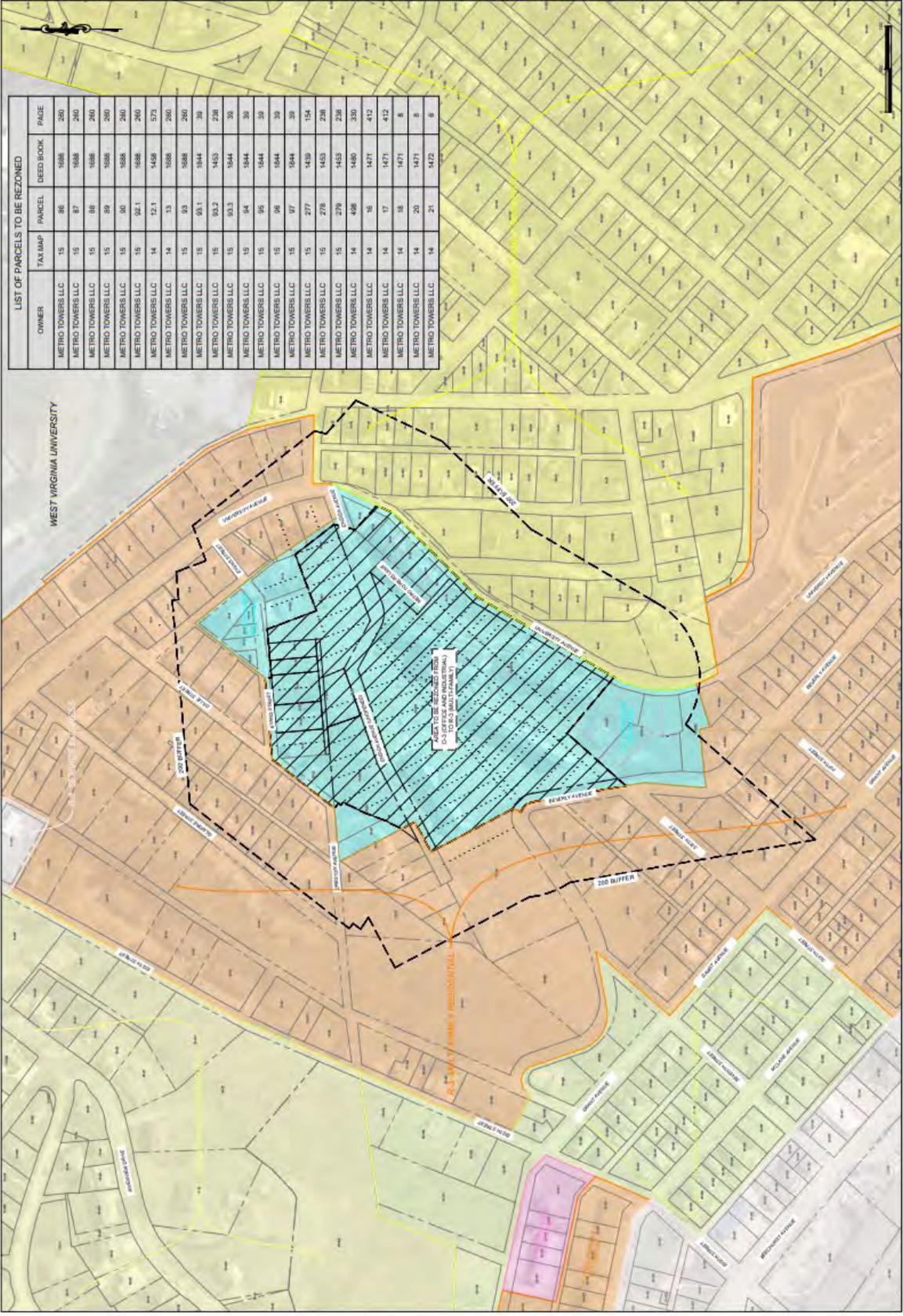
Proposed Land Use:



Comment

Multifamily residential (Townhomes) - Existing apartments to remain. New townhomes to be constructed.

	CHEAT ROAD ENGINEERING, INC. 6240 MID ATLANTIC DRIVE MORGANTOWN, WV 26508 PHONE (304) 212-5130	METRO TOWERS TOWN HOME DEVELOPMENT MORGANTOWN, WV PROJECT NO. 23-111 DRAWING NO. 23-111 23-111 REZONING SHEETS.DWG	DRAWN BY: S. CORN CHECKED BY: SCALE: 1" = 100' DATE: MAY 16, 2024	ZONING SHEET NUMBER C-01
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LIST OF PARCELS TO BE REZONED

OWNER	TAX MAP	PARCEL	DEED BOOK	PAGE
METRO TOWERS LLC	15	80	1688	260
METRO TOWERS LLC	15	87	1688	260
METRO TOWERS LLC	15	88	1688	260
METRO TOWERS LLC	15	89	1688	260
METRO TOWERS LLC	15	90	1688	260
METRO TOWERS LLC	15	92.1	1688	260
METRO TOWERS LLC	14	12.1	1453	273
METRO TOWERS LLC	14	13	1588	260
METRO TOWERS LLC	15	93	1688	260
METRO TOWERS LLC	15	93.1	1644	30
METRO TOWERS LLC	15	93.2	1453	273
METRO TOWERS LLC	15	93.3	1644	30
METRO TOWERS LLC	15	95	1644	30
METRO TOWERS LLC	15	96	1644	30
METRO TOWERS LLC	15	97	1644	30
METRO TOWERS LLC	15	277	1453	154
METRO TOWERS LLC	15	278	1453	273
METRO TOWERS LLC	14	408	1480	330
METRO TOWERS LLC	14	16	1471	412
METRO TOWERS LLC	14	17	1471	412
METRO TOWERS LLC	14	18	1471	412
METRO TOWERS LLC	14	20	1471	8
METRO TOWERS LLC	14	21	1471	6

THE CITY OF MORGANTOWN

BOND ORDINANCE

ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE SEWERAGE PORTION OF THE EXISTING PUBLIC COMBINED WATERWORKS, SEWERAGE AND STORMWATER SYSTEM OF THE CITY OF MORGANTOWN AND THE FINANCING OF THE COST THEREOF, NOT OTHERWISE PROVIDED, THROUGH THE ISSUANCE BY THE CITY OF NOT MORE THAN \$45,000,000 IN AGGREGATE PRINCIPAL AMOUNT OF COMBINED UTILITY SYSTEM REVENUE BONDS, SERIES 2024 A (WEST VIRGINIA SRF PROGRAM); AND NOT MORE THAN \$5,000,000 IN AGGREGATE PRINCIPAL AMOUNT OF COMBINED UTILITY SYSTEM REVENUE BONDS, SERIES 2024 B (WEST VIRGINIA SRF PROGRAM/FORGIVABLE); PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE OF SUCH BONDS; APPROVING, RATIFYING AND CONFIRMING A BOND PURCHASE AGREEMENT RELATING TO SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO.

NOW, THEREFORE, THE CITY OF MORGANTOWN HEREBY ORDAINS:

ARTICLE I

STATUTORY AUTHORITY, FINDINGS AND DEFINITIONS

Section 1.01. Authority for this Ordinance. This Ordinance (together with any ordinance, order or resolution supplemental hereto or amendatory hereof, the “Bond Legislation”) is enacted pursuant to the provisions of Chapter 8, Article 20 and Chapter 22C, Article 2 of the West Virginia Code of 1931, as amended (collectively, the “Act”), and other applicable provisions of law.

Section 1.02. Findings. It is hereby found, determined and declared that:

A. The City of Morgantown (the “Issuer” or “City”) is a municipal corporation and political subdivision of the State of West Virginia in Monongalia County of said State.

B. The City presently owns and operates, through The City of Morgantown Utility Board (the “Board”), a public combined potable waterworks, sanitary sewerage and stormwater system (collectively, the “Combined Utility System,” as hereinafter further described) and has heretofore financed the design, acquisition, construction and equipping of the Combined Utility System and certain

additions, betterments and improvements thereto through the issuance of several series of bonds or refunding bonds, of which there are presently outstanding the Prior Bonds, as hereinafter defined.

C. The Issuer deems it necessary and desirable for the health and welfare of the inhabitants of the Issuer that there be constructed additions, betterments and improvements to the sewerage portion of the existing Combined Utility System, consisting of the design, acquisition, construction and equipment of improvements to the Cheat Lake Wastwater Treatment Plant and appurtenances which may include the replacement of the Whites Run Pump Station, a new preliminary treatment building, oxidation ditch, convert to UV disinfection, increase biosolids storage, a standby power system for the treatment plant, renovation of existing oxidation ditch and final clarifier, improvements to the Administration Building, site work and site utilities and all necessary appurtenances (collectively, the "Project") (the existing Combined Utility System, the Project and any further extensions, additions, betterments and improvements thereto are herein called the "System"), in accordance with the plans and specifications prepared by the Consulting Engineers, which plans and specifications have heretofore been filed with the City Clerk of the Issuer.

D. It is deemed necessary for the Issuer to issue its Combined Utility System Revenue Bonds, in the total aggregate principal amount of not more than \$50,000,000 in two or more series, initially planned to be the (i) Combined Utility System Revenue Bonds, Series 2024 A (West Virginia SRF Program), in the total aggregate principal amount of not more than \$45,000,000 (the "Series 2024 A Bonds"); and (ii) Combined Utility System Revenue Bonds, Series 2024 B (West Virginia SRF Program/Forigivable), in the total aggregate principal amount of not more than \$5,000,000 (the "Series 2024 B Bonds"), (collectively, the "Series 2024 Bonds"), to permanently finance the costs of acquisition and construction of the Project. Said costs shall be deemed to include the cost of all property rights, easements and franchises deemed necessary or convenient therefore and eligible under the SRF Program; amounts which may be deposited in the Series 2024 A Bonds Reserve Account (as hereinafter defined); engineering and legal expenses; expenses for estimates of costs and revenues; expenses for plans, specifications and surveys; other expenses necessary or incident to determining the feasibility or practicability of the enterprise; administrative expense; commitment fees; fees and expenses of the Authority, including the SRF Administrative Fee (as hereafter defined); discount; initial fees for the services of registrars, paying agents, depositories or trustees or other costs in connection with the sale of the Series 2024 Bonds and such other expenses as may be necessary or incidental to the financing herein authorized; the acquisition or construction of the Project and the placing of same in operation; and the performance of the things herein required or permitted, in connection with any thereof; provided, that reimbursement to the Issuer or the Board for any amounts expended by them for allowable costs prior to the issuance of the Series 2024 Bonds or the repayment of indebtedness incurred by the Issuer for such purposes shall be deemed Costs of the Project, as hereinafter defined.

E. The period of usefulness of the System after completion of the Project is not less than 30 years.

F. It is in the best interests of the Issuer that its Series 2024 Bonds be sold to the Authority pursuant to the terms and provisions of one or more Bond Purchase Agreements by and among the Issuer, the Authority and the West Virginia Department of Environmental Protection (the "DEP"), in form satisfactory to the Issuer, the Authority, and the DEP (the "Bond Purchase Agreement"), to be approved hereby if not previously approved by resolution of the Issuer.

G. The Issuer will have the following Outstanding obligations which will rank on a parity with the Series 2024 A Bonds as to liens, pledge, source of and security for payment, being the Issuer's (collectively, the "Prior Bonds"):

Combined Utility System Revenue Bonds, Series 2000 A (West Virginia SRF Program), dated February 29, 2000, issued in the original aggregate principal amount of \$7,842,000 (the "Series 2000 A Bonds");

Combined Utility System Revenue Bonds, Series 2000 B (West Virginia Infrastructure Fund), dated February 29, 2000, issued in the original aggregate principal amount of \$2,488,000 (the "Series 2000 B Bonds");

Combined Utility System Revenue Bonds, Series 2006 A (West Virginia SRF Program), dated June 30, 2006, issued in the original aggregate principal amount of \$6,410,191 (the "Series 2006 A Bonds");

Combined Utility System Revenue Bonds, Series 2007 A (West Virginia SRF Program), dated August 14, 2007, issued in the original aggregate principal amount of \$8,500,000 (the "Series 2007 A Bonds");

Combined Utility System Revenue Bonds, Series 2010 C (West Virginia SRF Program), dated January 28, 2010, issued in the original aggregate principal amount of \$15,380,227 (the "Series 2010 C Bonds");

Combined Utility System Revenue Bonds, Series 2010 D (West Virginia DWTRF Program), dated January 28, 2010, issued in the original aggregate principal amount of \$9,317,286;

Combined Utility System Revenue Bond, Series 2010 E (West Virginia DWTRF Program/ARRA), dated January 28, 2010, issued in the original aggregate principal amount of \$100,000 (the "Series 2010 E Bonds");

Combined Utility System Revenue Bonds, Series 2012 A (West Virginia DWTRF Program), dated August 24, 2012, issued in the original aggregate principal amount of \$570,000 (the "Series 2012 A Bonds");

Combined Utility System Revenue Bonds, Series 2013 A (West Virginia Infrastructure Fund), dated August 22, 2013, issued in the original aggregate principal amount of \$4,605,260 (the "Series 2013 A Bonds");

Combined Utility System Revenue Bonds, Series 2014 B, dated July 23, 2014, issued in the original aggregate principal amount of \$505,421 (the "Series 2014 B Bonds");

Combined Utility System Revenue Bonds, Series 2015 A (West Virginia Water Development Authority), dated March 31, 2015, issued in the original aggregate principal amount of \$137,568 (the "Series 2015 A Bonds");

Combined Utility System Revenue Bonds, Series 2015 B (West Virginia Water Development Authority), dated March 31, 2015, issued in the original aggregate principal amount of \$4,586 (the “Series 2015 B Bonds”);

Combined Utility System Revenue Bonds, Series 2015 C (West Virginia SRF Program), dated March 31, 2015, issued in the original aggregate principal amount of \$8,111,813 (the “Series 2015 C Bonds”);

Combined Utility System Revenue Bonds, Series 2015 D (West Virginia SRF Program), dated March 31, 2015, issued in the original aggregate principal amount of \$1,688,394 (the “Series 2015 D Bonds”);

Combined Utility System Revenue Bonds, Series 2015 E (West Virginia SRF Program), dated June 11, 2015, issued in the original aggregate principal amount of \$662,300 (the “Series 2015 E Bonds”);

Combined Utility System Revenue Bonds, Series 2016 A, dated December 1, 2016, issued in the aggregate principal amount of \$69,755,000 (the “Series 2016 A Bonds”);

Combined Utility System Revenue Bonds, Series 2016 B-1 (West Virginia SRF Program), dated December 15, 2016, issued in the aggregate principal amount of \$25,000,000 (the “Series 2016 B-1 Bonds”);

Combined Utility System Revenue Bonds, Series 2017 A (Bank Qualified), dated December 21, 2017, issued in the original aggregate principal amount of \$2,695,000 (the “Series 2017 A Bonds”);

Combined Utility System Revenue Bonds, Series 2018 A (West Virginia Infrastructure Fund), dated January 31, 2018, issued in the original aggregate principal amount of \$394,074 (the “Series 2018 A Bonds”);

Combined Utility System Revenue Bonds, Series 2018 A-2 (West Virginia Infrastructure Fund), dated July 10, 2018, issued in the original aggregate principal amount of \$140,715 (the “Series 2018 A-2 Bonds”);

Combined Utility System Revenue Bonds, Series 2018 B (Tax-Exempt), dated June 28, 2018, issued in the original aggregate principal amount of \$44,260,000 (the “Series 2018 B Bonds”);

Combined Utility System Revenue Bonds, Series 2019 B (West Virginia DWTRF Program), dated October 22, 2019, issued in the original aggregate principal amount of \$2,546,000 (the “Series 2019 B Bonds”); and

Combined Utility System Refunding Revenue Bonds, Series 2020 A (Tax Exempt), dated October 29, 2020, issued in the original aggregate principal amount of \$31,890,000 (the “Series 2020 A Bonds”).

Simultaneously with the issuance of the Series 2024 A Bonds, the Issuer intends to finance a portion of the costs of the Project through the issuance of its Combined Utility System Revenue Bonds, Series 2024 B (West Virginia SRF Program/Forgivable) (the “Series 2024 B Bonds”). The Series 2024 B Bonds will not be secured by the Gross Revenues of the System and the principal amounts advanced thereunder will be forgiven at the conclusion of each fiscal year in which advanced.

The Series 2024 A Bonds shall be issued on a parity with the Prior Bonds with respect to liens, pledge and source of and security for payment and in all respects. Prior to the issuance of the Series 2024 Bonds, the Issuer will obtain (i) a certificate of an Independent Certified Public Accountant stating that the coverage and parity tests of the Prior Bonds are met, and (ii) the written consent of the Holders of the Prior Bonds, if required, to the issuance of the Series 2024 A Bonds on a parity with the Prior Bonds. The Series 2014 B Bonds, Series 2016 A Bonds, Series 2017 A Bonds, Series 2018 B Bonds and Series 2020 A Bonds do not require written consent from the holders thereof. Other than the Prior Bonds, there are no outstanding bonds or obligations of the Issuer which are secured by revenues or assets of the System. The Issuer is in compliance with the covenants of the Prior Bonds and the Prior Ordinances.

H. The estimated revenues to be derived in each year after completion of the Project from the operation of the System will be sufficient to pay all costs of operation and maintenance of the System, the principal of and interest on the Bonds (as hereinafter defined) and to make all payments into all funds, accounts and other payments provided for herein.

I. The Issuer has complied with all requirements of West Virginia law and the Bond Purchase Agreement relating to authorization of the acquisition and construction of the Project and the operation of the System and issuance of the Series 2024 Bonds, or will have so complied prior to issuance of any thereof, including, among other things and without limitation, the approval of the Project and the financing thereof by the West Virginia Infrastructure and Jobs Development Council.

J. The Project has been reviewed and determined to be technically and financially feasible by the West Virginia Infrastructure and Jobs Development Council as required under Chapter 31, Article 15A of the West Virginia Code of 1931, as amended.

K. Prior to commencing construction of the Project the Issuer will enact a Project Ordinance in compliance with Chapter 24, Article 2, Paragraph 11 of the West Virginia Code of 1931, as amended.

Section 1.03. Bond Legislation Constitutes Contract. In consideration of the acceptance of the Series 2024 Bonds by those who shall be the Registered Owners of the same from time to time, this Bond Legislation shall be deemed to be and shall constitute a contract between the Issuer and such Bondholders, and the covenants and agreements herein set forth to be performed by the Issuer shall be for the equal benefit, protection and security of the Registered Owners of any and all of such Series 2024 Bonds, all which shall be of equal rank and without preference, priority or distinction between any one Bond of a series and any other Bonds of the same series, and by reason of priority of issuance or otherwise, except as expressly provided therein and herein.

Section 1.04. Definitions. The following terms shall have the following meanings herein unless the context expressly requires otherwise:

“Act” means, collectively, Chapter 8, Article 20 and Chapter 22C, Article 2 of the West Virginia Code of 1931, as amended and in effect on the date of enactment hereof.

“Authority” means the West Virginia Water Development Authority, which is expected to be the original purchaser and Registered Owner of the Series 2024 Bonds, or any other agency, board or department of the State of West Virginia that succeeds to the functions of the Authority, acting in its administrative capacity and upon authorization from the DEP under the Act.

“Authorized Officer” means the Mayor and/or City Manager of the Issuer, and in the instance of the Board, the Chairman, the General Manager or the Assistant General Manager or any other officer of the Issuer or the Board specifically designated by resolution of the Governing Body or the Board, as appropriate.

“Board” means The City of Morgantown Utility Board, created by an ordinance of the Issuer, or any successor thereto.

“Bondholder,” “Holder of the Bonds,” “Holder,” “Registered Owner” or any similar term whenever used herein with respect to an Outstanding Bond or Bonds, means the person in whose name such Bond is registered.

“Bond Legislation,” “Ordinance,” “Bond Ordinance” or “Local Act” means this Bond Ordinance and all ordinances, orders and resolutions supplemental hereto or amendatory hereof.

“Bond Purchase Agreement” means the Bond Purchase Agreement or Bond Purchase Agreements heretofore entered into, or to be entered into, by and among the Issuer, the Authority and the DEP, providing for the purchase of the Series 2024 Bonds, or either series thereof, from the Issuer by the Authority, the form of which shall be approved, and the execution and delivery by the Issuer authorized and directed or ratified by the Supplemental Resolution.

“Bond Registrar” means the bank or other entity to be designated as such in the Supplemental Resolution and its successors and assigns.

“Bonds” means, collectively, the Series 2024 Bonds, the Prior Bonds, and, where appropriate, any bonds on a parity therewith subsequently authorized to be issued hereunder or by another ordinance of the Issuer.

“Bond Year” means the 12-month period beginning on the anniversary of the Closing Date in each year and ending on the day prior to the anniversary date of the Closing Date in the following year, except that the first Bond Year shall begin on the Closing Date.

“Cash Working Capital Reserve” means the cash working capital reserve required by Chapter 24, Article 1, Section 1(k) of the Code of West Virginia, 1931, as amended.

“City Clerk” means the City Clerk of the Issuer.

“City Manager” means the City Manager of the Issuer.

“Closing Date” means the date upon which there is an exchange of the Series 2024 Bonds for all or a portion of the proceeds of the Series 2024 Bonds from the Authority and the DEP.

“Code” means the Internal Revenue Code of 1986, as amended, and the Regulations.

“Combined Utility System” means, collectively, the Potable Water System, the Sewer System and the Stormwater System (all as defined herein) of the Issuer, as presently existing in its entirety or any integral part thereof, and shall include any additions, betterments and improvements hereafter acquired, constructed and/or equipped for the Potable Water System, the Sewer System or the Stormwater System, located both within, and outside of, the Issuer’s corporate boundaries.

“Commission” means the West Virginia Municipal Bond Commission or any other agency of the State of West Virginia that succeeds to the functions of the Commission.

“Completion Date” means the completion date of the Project, as defined in the SRF Regulations.

“Consulting Engineers” means Strand Associates, Inc., Madison, Wisconsin, or any qualified engineer or firm of engineers, licensed by the State, that shall at any time hereafter be procured by the Board as Consulting Engineers for the System, or portion thereof, in accordance with Chapter 5G, Article 1 of the West Virginia Code of 1931, as amended; provided however, that the Consulting Engineers shall not be a regular, full-time employee of the State or any of its agencies, commissions, or political subdivisions.

“Costs” or “Costs of the Project” means those costs described in Section 1.02D hereof to be a part of the cost of acquisition and construction of the Project as described in Section 1.02C hereof.

“DEP” means the West Virginia Department of Environmental Protection, or any other agency, board or department of the State that succeeds to the functions of the DEP.

“Depository Bank” means the bank designated as such in the Supplemental Resolution, and its successors and assigns, which shall be a member of FDIC.

“Depreciation Fund” means the Depreciation Fund created by the Prior Ordinances and continued hereby.

“FDIC” means the Federal Deposit Insurance Corporation and any successor to the functions of the FDIC.

“Fiscal Year” means each 12-month period beginning on July 1 and ending on the succeeding June 30.

“Governing Body” means the Council of the Issuer, as it may now or hereafter be constituted.

“Government Obligations” means direct obligations of, or obligations the timely payment of the principal of and interest on which is guaranteed by, the United States of America.

“Gross Revenues” means the aggregate gross operating and non-operating revenues of the System, as hereinafter defined, determined in accordance with generally accepted accounting principles, after deduction of prompt payment discounts, if any, and reasonable provision for uncollectible accounts; provided, that “Gross Revenues” does not include any gains from the sale or other disposition of, or from any increase in the value of, capital assets (including Qualified Investments, as hereinafter defined, purchased pursuant to Article 8.01 hereof) or any Tap Fees, as hereinafter defined.

“Herein,” “hereto” and similar words shall refer to this entire Bond Legislation.

“Independent Certified Public Accountants” means any certified public accountant or firm of certified public accountants that shall at any time hereafter be retained by the Issuer to prepare an independent annual or special audit of the accounts of the System or for any other purpose except keeping the accounts of the System in the normal operation of its business and affairs.

“Issuer” means The City of Morgantown, a municipal corporation and political subdivision of the State of West Virginia, in Monongalia County, West Virginia, and, unless the context clearly indicates otherwise, includes the Governing Body of the Issuer.

“Mayor” means the Mayor of the Issuer.

“Net Proceeds” means the face amount of the Series 2024 Bonds, plus accrued interest and premium, if any, less original issue discount, if any, and less proceeds, if any, deposited in the Series 2024 A Bonds Reserve Account.

“Net Revenues” means the balance of the Gross Revenues, remaining after deduction of Operating Expenses, as hereinafter defined.

“Operating Expenses” means the reasonable, proper and necessary costs of repair, maintenance and operation of the System and includes, without limiting the generality of the foregoing, administrative, engineering, legal, auditing and insurance expenses, other than those capitalized as part of the Costs, the SRF Administrative Fee, fees and expenses of the Authority, fiscal agents, the Depository Bank, the Registrar and the Paying Agent (all as herein defined), other than those capitalized as part of the Costs, payments to pension or retirement funds, taxes and such other reasonable operating costs and expenses as should normally and regularly be included under generally accepted accounting principles; provided, that “Operating Expenses” does not include payments on account of the principal of or redemption premium, if any, or interest on the Bonds, charges for depreciation, losses from the sale or other disposition of, or from any decrease in the value of, capital assets, amortization of debt discount or such miscellaneous deductions as are applicable to prior accounting periods.

“Operation and Maintenance Fund” means the Operation and Maintenance Fund established by the Prior Ordinances and continued hereby.

“Outstanding” when used with reference to Bonds and as of any particular date, describes all Bonds theretofore and thereupon being authenticated and delivered, except (i) any Bond cancelled by the Bond Registrar at or prior to said date; (ii) any Bond for the payment of which monies, equal to its principal amount and redemption premium, if applicable, with interest to the date of maturity or redemption shall be in trust hereunder and set aside for such payment (whether upon or prior to maturity);

(iii) any Bond deemed to have been paid as provided in Article X hereof; and (iv) for purposes of consents or other action by a specified percentage of Bondholders, any Bonds registered to the Issuer.

“Parity Bonds” means additional Bonds issued under the provisions and within the limitations prescribed by Section 7.07 hereof.

“Paying Agent” means the Commission or other entity or authority designated as a Paying Agent by the Issuer in the Supplemental Resolution, with the written consent of the Authority.

“Potable Water System” means, collectively the potable water production, storage and distribution facilities of the System, which specifically includes, but is not limited to, the Issuer’s raw water supply, storage and transmission, water treatment, and treated water storage and distribution, as presently existing in its entirety or any integral part thereof, and shall include any further additions, betterments and improvements thereto hereafter acquired, constructed and/or equipped for the Potable Water System located both within, and outside of, the Issuer’s corporate boundaries.

“Prior Bonds” means, collectively, the Series 2000 A Bonds, Series 2000 B Bonds, Series 2006 A Bonds, Series 2007 A Bonds, Series 2010 C Bonds, Series 2010 D Bonds, Series 2010 E Bonds, Series 2012 A Bonds, Series 2013 A Bonds, Series 2014 B Bonds, Series 2015 A Bonds, Series 2015 B Bonds, Series 2015 C Bonds, Series 2015 D Bonds, Series 2015 E Bonds, Series 2016 A Bonds, Series 2016 B-1 Bonds, Series 2017 A Bonds, Series 2018 A Bonds, Series 2018 A-2 Bonds, Series 2018 B Bonds, Series 2019 B Bonds and Series 2020 A Bonds.

“Prior Ordinances” means the ordinances authorizing the Prior Bonds.

“Project” means the Project as described in Section 1.02C hereof.

“Qualified Investments” means and includes any investment permitted to be made by a municipality, public service district or public corporation of the State pursuant to State Law, specifically including but not limited to Chapter 8, Article 13, Section 22 of the Code of West Virginia and the West Virginia “consolidated fund” managed by the West Virginia Board of Treasury Investments pursuant to Chapter 12, Article 6C of the Code of West Virginia.

“Registered Owner”, “Bondholder,” “Holder” or any similar term means whenever used herein with respect to an Outstanding Bond or Bonds, the person in whose name such Bond is registered.

“Registrar” means the Bond Registrar.

“Regulations” means temporary and permanent regulations promulgated under the Code, or any predecessor thereto.

“Renewal and Replacement Fund” means the Renewal and Replacement Fund established by Prior Ordinances and continued hereby.

“Reserve Accounts” means, collectively, the reserve account established by Section 5.02 hereof for the Series 2024 A Bonds and the reserve accounts established for the Prior Bonds pursuant to the Prior Ordinances.

“Reserve Requirement” means collectively, the respective amounts required to be on deposit in any Reserve Account pursuant to this Ordinance and the Prior Ordinances.

“Revenue Fund” means the Revenue Fund established by Prior Ordinances and continued hereby.

“Series 2000 A Bonds” means the Issuer’s Combined Utility System Revenue Bonds, Series 2000 A (West Virginia SRF Program), dated February 29, 2000, issued in the original aggregate principal amount of \$7,842,000.

“Series 2000 B Bonds” means the Issuer’s Combined Utility System Revenue Bonds, Series 2000 B (West Virginia Infrastructure Fund), dated February 29, 2000, issued in the original aggregate principal amount of \$2,488,000.

“Series 2006 A Bonds” means the Issuer’s Combined Utility System Revenue Bonds, Series 2006 A (West Virginia SRF Program), dated June 30, 2006, issued in the original aggregate principal amount of \$6,410,191.

“Series 2007 A Bonds” means the Issuer’s Combined Utility System Revenue Bonds, Series 2007 A (West Virginia SRF Program), dated August 14, 2007, issued in the original aggregate principal amount of \$8,500,000.

“Series 2010 C Bonds” means the Issuer’s Combined Utility System Revenue Bonds, Series 2010 C (West Virginia SRF Program), dated January 28, 2010, issued in the original aggregate principal amount of \$15,380,227.

“Series 2010 D Bonds” means the Issuer’s Combined Utility System Revenue Bonds, Series 2010 D (West Virginia DWTRF Program), dated January 28, 2010, issued in the original aggregate principal amount of \$9,317,286.

“Series 2010 E Bonds” means the Issuer’s Combined Utility System Revenue Bond, Series 2010 E (West Virginia DWTRF Program/ARRA), dated January 28, 2010, issued in the original aggregate principal amount of \$100,000.

“Series 2012 A Bonds” means the Issuer’s Combined Utility System Revenue Bonds, Series 2012 A (West Virginia DWTRF Program), dated August 24, 2012, issued in the original aggregate principal amount of \$570,000.

“Series 2013 A Bonds” means the Issuer’s Combined Utility System Revenue Bonds, Series 2013 A (West Virginia Infrastructure Fund), dated August 22, 2013, issued in the original aggregate principal amount of \$4,605,260.

“Series 2014 B Bonds” means the Issuer’s Combined Utility System Revenue Bonds, Series 2014 B, dated July 23, 2014, issued in the original aggregate principal amount of \$505,421.

“Series 2015 A Bonds” means the Issuer’s Combined Utility System Revenue Bonds, Series 2015 A (West Virginia Water Development Authority), dated March 31, 2015, issued in the original aggregate principal amount of \$137,568.

“Series 2015 B Bonds” means the Issuer’s Combined Utility System Revenue Bonds, Series 2015 B (West Virginia Water Development Authority), dated March 31, 2015, issued in the original aggregate principal amount of \$4,586.

“Series 2015 C Bonds” means the Issuer’s Combined Utility System Revenue Bonds, Series 2015 C (West Virginia SRF Program), dated March 31, 2015, issued in the original aggregate principal amount of \$8,111,813.

“Series 2015 D Bonds” means Issuer’s Combined Utility System Revenue Bonds, Series 2015 D (West Virginia SRF Program), dated March 31, 2015, issued in the original aggregate principal amount of \$1,688,394.

“Series 2015 E Bonds” means the Issuer’s Combined Utility System Revenue Bonds, Series 2015 E (West Virginia SRF Program), dated June 11, 2015, issued in the original aggregate principal amount of \$662,300.

“Series 2016 A Bonds” means the Issuer’s Combined Utility System Revenue Bonds, Series 2016 A, dated December 1, 2016, issued in the aggregate principal amount of \$69,755,000.

“Series 2016 B-1 Bonds” means the Issuer’s Combined Utility System Revenue Bonds, Series 2016 B-1 (West Virginia SRF Program), dated December 15, 2016, issued in the aggregate principal amount of \$25,000,000.

“Series 2017 A Bonds” means the Issuer’s Combined Utility System Revenue Bonds, Series 2017 A (Bank Qualified), dated December 21, 2017, issued in the original aggregate principal amount of \$2,695,000.

“Series 2018 A Bonds” means the Issuer’s Combined Utility System Revenue Bonds, Series 2018 A (West Virginia Infrastructure Fund), dated January 31, 2018, issued in the original aggregate principal amount of \$394,074.

“Series 2018 A-2 Bonds” means the Issuer’s Combined Utility System Revenue Bonds, Series 2018 A-2 (West Virginia Infrastructure Fund), dated July 10, 2018, issued in the original aggregate principal amount of \$140,715.

“Series 2018 B Bonds” means the Issuer’s Combined Utility System Revenue Bonds, Series 2018 B (Tax-Exempt), dated June 28, 2018, issued in the original aggregate principal amount of \$44,260,000.

“Series 2019 B Bonds” means the Issuer’s Combined Utility System Revenue Bonds, Series 2019 B (West Virginia DWTRF Program), dated October 22, 2019, issued in the original aggregate principal amount of \$2,546,000.

“Series 2020 A Bonds” means the Issuer’s Combined Utility System Refunding Revenue Bonds, Series 2020 A (Tax Exempt), dated October 29, 2020, issued in the original aggregate principal amount of \$31,890,000.

“Series 2024 A Bonds” means the Combined Utility System Revenue Bonds, Series 2024 A (West Virginia SRF Program), of the Issuer, authorized by this Bond Legislation.

“Series 2024 A Bonds Reserve Account” means the Series 2024 A Bonds Reserve Account established by Section 5.02 hereof.

“Series 2024 A Bonds Reserve Requirement” means, as of any date of calculation, the maximum amount of principal and interest which will become due on the Series 2024 A Bonds in the then current or any succeeding year.

“Series 2024 A Bonds Sinking Fund” means the Series 2024 A Bonds Sinking Fund established by Section 5.02 hereof.

“Series 2024 B Bonds” means the Combined Utility System Revenue Bonds, Series 2024 B (West Virginia SRF Program/Forgivable), of the Issuer, authorized by this Bond Legislation.

“Series 2024 Bonds Construction Trust Fund” means the Series 2024 Bonds Construction Trust Fund established by Section 5.01 hereof.

“Sewer System” means, collectively, the sanitary sewerage collection and treatment facilities of the System which specifically includes, but is not limited to, collection lines, transmission mains, pump stations, manholes, and wastewater treatment plants, as presently existing in its entirety or any integral part thereof, and shall include any additions, betterments and improvements thereto hereinafter acquired, constructed and/or equipped for the Sewer System, located both within, and outside of, the Issuer’s corporate boundaries.

"Sinking Funds" means, collectively, the respective sinking funds established for the Prior Bonds and the Series 2024 A Bonds.

“SRF Administrative Fee” means any administrative fee required to be paid pursuant to the Bond Purchase Agreement.

“SRF Program” means the State’s Water Pollution Control Revolving Fund Program, under which the Authority purchases the water pollution control revenue bonds of local governmental entities satisfying certain legal and other requirements with the proceeds of a capitalization grant award from the United States Environmental Protection Agency and funds of the State.

“SRF Regulations” means the regulations set forth in Title 47, Series 31 of the West Virginia Code of State Regulations.

“State” means the State of West Virginia.

“Stormwater System” means, collectively, the stormwater management and conveyance facilities of the System which specifically includes, but is not limited to, pipe, culverts, channels and watercourses, as presently existing in its entirety or any integral part thereof, and shall include any additions, betterments and improvements thereto hereinafter acquired, constructed and/or equipped for the Stormwater System, located both within, and outside of, the Issuer’s corporate boundaries.

“Supplemental Resolution” means any resolution, ordinance or order of the Issuer supplementing or amending this Ordinance and, when preceded by the article “the,” refers specifically to the supplemental resolution authorizing the sale of the Series 2024 Bonds; provided, that any matter intended by this Ordinance to be included in the Supplemental Resolution with respect to the Series 2024 Bonds, and not so included may be included in another Supplemental Resolution.

“Surplus Revenues” means the Net Revenues not required by the Bond Legislation to be set aside and held for the payment of or security for the Prior Bond or Bonds or any other obligation of the Issuer, including, without limitation, the Renewal and Replacement Fund, the Cash Working Capital Reserve, the Sinking Funds and the Reserve Accounts.

“System” means, collectively, the complete existing Combined Utility System of the Issuer, and shall include the Project, any additions, betterments and improvements thereto hereafter acquired or constructed for said Combined Utility System from any sources whatsoever, both within and without the Issuer.

“Tap Fees” means the fees, if any, paid by prospective customers of the System in order to connect thereto.

Additional terms and phrases are defined in this Ordinance as they are used. Words importing singular number shall include the plural number in each case and vice versa; words importing persons shall include firms and corporations; and words importing the masculine, feminine or neutral gender shall include any other gender.

ARTICLE II

AUTHORIZATION OF ACQUISITION AND CONSTRUCTION OF THE PROJECT

Section 2.01. Authorization of Acquisition and Construction of the Project. There is hereby authorized and ordered the acquisition and construction of the Project, at an estimated cost not to exceed \$59,038,417 in accordance with the plans and specifications which have been prepared by the Consulting Engineers, heretofore filed in the office of the City Clerk. The proceeds of the Series 2024 Bonds hereby authorized shall be applied as provided in Article VI hereof. The Issuer has received or will receive bids and will enter into contracts for the acquisition and construction of the Project, compatible with the financing plan submitted to the DEP.

The Cost of the Project is estimated not to exceed \$59,038,417, of which up to \$45,000,000 will be obtained from the proceeds of the Series 2024 A Bonds, up to \$5,000,000 will be obtained from the proceeds of the Series 2024 B Bonds, approximately \$2,288,417 will be obtained from the proceeds of a contribution from the Board and approximately \$6,750,000 will be obtained as an Economic Enhancement Grant from the West Virginia Water Development Authority.

ARTICLE III

AUTHORIZATION, TERMS, EXECUTION, REGISTRATION AND SALE OF BONDS; AUTHORIZATION AND EXECUTION OF BOND PURCHASE AGREEMENT

Section 3.01. Authorization of Bonds. For the purposes of paying the Costs of the Project not otherwise provided for and paying certain costs of issuance of the Series 2024 Bonds and related costs, or any or all of such purposes, as determined by the Supplemental Resolution, there shall be and hereby are authorized to be issued the negotiable Series 2024 Bonds of the Issuer. The Series 2024 Bonds shall be issued in two series, each as a single bond, designated respectively as "Combined Utility System Revenue Bonds, Series 2024 A (West Virginia SRF Program)", in the principal amount of not more than \$45,000,000, and "Combined Utility System Revenue Bonds, Series 2024 B (West Virginia SRF Program/Forgivable)," in the principal amount of not more than \$5,000,000; and all shall have such terms as set forth hereinafter and in the Supplemental Resolution. The proceeds of the Series 2024 A Bonds remaining after funding of the Series 2024 A Bonds Reserve Account (if funded from Bond proceeds) and capitalization of interest, if any, shall be deposited in or credited to the Series 2024 Bonds Construction Trust Fund established by Section 5.01 hereof.

Section 3.02. Terms of Bonds. A. The Series 2024 A Bonds shall be issued in such principal amounts; shall bear interest, if any, at such rate or rates, not exceeding the then legal maximum, payable quarterly on such dates; shall mature on such dates and in such amounts; and shall be redeemable, in whole or in part, all as the Issuer shall prescribe in a Supplemental Resolution or as specifically provided in the Bond Purchase Agreement. The Series 2024 A Bonds shall be payable as to principal at the office of the Paying Agent, in any coin or currency which, on the dates of payment of principal is legal tender for the payment of public or private debts under the laws of the United States of America. Interest, if any, on the Series 2024 A Bonds shall be paid by check or draft of the Paying Agent or its agent, mailed to the Registered Owner thereof at the address as it appears on the books of the Bond Registrar, or by such other method as shall be mutually agreeable so long as the Authority is the Registered Owner thereof.

Unless otherwise provided by the Supplemental Resolution, the Series 2024 A Bonds shall initially be issued in the form of a single bond, fully registered and delivered to the Authority, with a record of advances and a debt service schedule attached, representing the aggregate principal amount, and shall mature in principal installments, all as provided in the Supplemental Resolution. The Series 2024 A Bonds shall be exchangeable at the option and expense of the Registered Owner for another fully registered Bond or Bonds of the same series in aggregate principal amount equal to the amount of said Bonds then Outstanding and being exchanged, with principal installments or maturities, as applicable, corresponding to the dates of payment of principal installments of said Bonds; provided, that the Authority shall not be obligated to pay any expenses of such exchange.

Subsequent series of Bonds, if any, shall be issued in fully registered form and in denominations as determined by a Supplemental Resolution. Such Bonds shall be dated and shall bear interest as specified in a Supplemental Resolution.

B. The Series 2024 B Bonds shall be issued in such principal amount as determined in the Supplemental Resolution and shall not bear interest. The principal amounts advanced under the Series 2024 B Bonds will be deemed forgiven on the 30th day of June in the fiscal year in which

advanced. The Series 2024 B Bonds shall be deemed no longer Outstanding after the last advance is forgiven.

Unless otherwise provided by the Supplemental Resolution, the Series 2024 B Bonds shall initially be issued as one series, fully registered and delivered to the Authority, with a record of advances attached, representing the aggregate principal amount of the Series 2024 B Bonds. The Series 2024 B Bonds shall be exchangeable at the option and expense of the Registered Owner for another fully registered Bond or Bonds of the same series in aggregate principal amount equal to the amount of said Bonds then Outstanding and being exchanged, with principal installments or maturities, as applicable, corresponding to the dates of payment of principal installments of said Bonds; provided, that the Authority shall not be obligated to pay any expenses of such exchange.

Subsequent series of Bonds, if any, shall be issued in fully registered form and in denominations as determined by a Supplemental Resolution. Such Bonds shall bear interest, if any, and shall be dated as set forth in a Supplemental Resolution.

Section 3.03. Execution of Bonds. The Series 2024 Bonds shall be executed in the name of the Issuer by the Mayor and City Manager, and the seal of the Issuer shall be affixed thereto or imprinted thereon and attested by the City Clerk. In case any one or more of the officers who shall have signed or sealed the Series 2024 Bonds shall cease to be such officer of the Issuer before the Series 2024 Bonds so signed and sealed have been actually sold and delivered, such Bonds may nevertheless be sold and delivered as herein provided and may be issued as if the person who signed or sealed such Bonds had not ceased to hold such office. Any Series 2024 Bonds may be signed and sealed on behalf of the Issuer by such person as at the actual time of the execution of such Bonds shall hold the proper office in the Issuer, although at the date of the authorization of such Bonds such person may not have held such office or may not have been so authorized.

Section 3.04. Authentication and Registration. No Series 2024 Bonds shall be valid or obligatory for any purpose or entitled to any security or benefit under this Bond Legislation unless and until the Certificate of Authentication and Registration on such Bond, substantially in the form set forth in Section 3.10 hereof shall have been manually executed by the Bond Registrar. Any such executed Certificate of Authentication and Registration upon any such Bond shall be conclusive evidence that such Bond has been authenticated, registered and delivered under this Bond Legislation. The Certificate of Authentication and Registration on any Series 2024 Bonds shall be deemed to have been executed by the Bond Registrar if manually signed by an authorized officer of the Bond Registrar, but it shall not be necessary that the same officer sign the Certificate of Authentication and Registration on all of the Bonds issued hereunder.

Section 3.05. Negotiability, Transfer and Registration. Subject to the provisions for transfer of registration set forth below, the Series 2024 Bonds shall be and have all of the qualities and incidents of negotiable instruments under the Uniform Commercial Code of the State of West Virginia, and each successive Holder, in accepting the Series 2024 Bonds shall be conclusively deemed to have agreed that such Bonds shall be and have all of the qualities and incidents of negotiable instruments under the Uniform Commercial Code of the State of West Virginia, and each successive Holder shall further be conclusively deemed to have agreed that said Bonds shall be incontestable in the hands of a bona fide Holder for value.

So long as the Series 2024 Bonds remain Outstanding, the Issuer, through the Bond Registrar as its agent, shall keep and maintain books for the registration and transfer of the Series 2024 Bonds.

The registered Series 2024 Bonds shall be transferable only upon the books of the Bond Registrar, by the Registered Owner thereof in person or by his attorney duly authorized in writing, upon surrender thereto together with a written instrument of transfer satisfactory to the Bond Registrar duly executed by the Registered Owner or his duly authorized attorney.

In all cases in which the privilege of exchanging or transferring the registered Series 2024 Bonds are exercised, all Series 2024 Bonds shall be delivered in accordance with the provisions of this Bond Legislation. All Series 2024 Bonds surrendered in any such exchanges or transfers shall forthwith be cancelled by the Bond Registrar. For every such exchange or transfer of Series 2024 Bonds, the Bond Registrar may make a charge sufficient to reimburse it for any tax, fee or other governmental charge required to be paid with respect to such exchange or transfer and the cost of preparing each new Bond upon each exchange or transfer, and any other expenses of the Bond Registrar incurred in connection therewith, which sum or sums shall be paid by the Issuer. The Bond Registrar shall not be obliged to make any such exchange or transfer of Series 2024 Bonds during the period commencing on the 15th day of the month next preceding an interest payment date on the Series 2024 Bonds or, in the case of any proposed redemption of Series 2024 Bonds, next preceding the date of the selection of Bonds to be redeemed, and ending on such interest payment date or redemption date.

Section 3.06. Bonds Mutilated, Destroyed, Stolen or Lost. In case any Series 2024 Bonds shall become mutilated or be destroyed, stolen or lost, the Issuer may, in its discretion, issue, and the Bond Registrar shall, if so advised by the Issuer, authenticate and deliver, a new Bond of the same series and of like tenor as the Bonds so mutilated, destroyed, stolen or lost, in exchange and substitution for such mutilated Bond, upon surrender and cancellation of such mutilated Bond, or in lieu of and substitution for the Bond destroyed, stolen or lost, and upon the Holder's furnishing satisfactory indemnity and complying with such other reasonable regulations and conditions as the Issuer may prescribe and paying such expenses as the Issuer and the Bond Registrar may incur. All Bonds so surrendered shall be cancelled by the Bond Registrar and held for the account of the Issuer. If any such Bond shall have matured or be about to mature, instead of issuing a substitute Bond, the Issuer may pay the same, upon being indemnified as aforesaid, and if such Bond be lost, stolen or destroyed, without surrender thereof.

Section 3.07. Bonds not to be Indebtedness of the Issuer. The Series 2024 Bonds shall not, in any event, be or constitute a corporate indebtedness of the Issuer within the meaning of any constitutional or statutory provision or limitation, but such Series 2024 A Bonds shall be payable solely from the Gross Revenues derived from the operation of the System as herein provided. No Holder or Holders of the Series 2024 Bonds shall ever have the right to compel the exercise of the taxing power of the Issuer to pay the Series 2024 Bonds or the interest, if any, thereon.

Section 3.08. Series 2024 A Bonds Secured by Pledge of Gross Revenues. A. The payment of the debt service on the Series 2024 A Bonds shall be secured forthwith equally and ratably by a first lien on the Gross Revenues derived from the operation of the System on a parity with the Prior Bonds. Such Gross Revenues in an amount sufficient to pay the principal of and interest, if any, on and other payments for the Series 2024 A Bonds and to make the payments into all funds and accounts and all

other payments provided for in the Bond Legislation, are hereby irrevocably pledged to such payments as the same become due.

B. The principal amounts of the Series 2024 B Bonds advanced will be deemed forgiven on the 30th day of June of the Fiscal Year in which advanced. The Series 2024 B Bonds shall be deemed no longer Outstanding after the last advance is forgiven. The Series 2024 B Bonds are not secured by the Gross Revenues or Net Revenues of the System.

Section 3.09. Delivery of Bonds. The Issuer shall execute and deliver the Series 2024 Bonds to the Bond Registrar, and the Bond Registrar shall authenticate, register and deliver the Series 2024 Bonds to the original purchasers upon receipt of the documents set forth below:

- A. If other than the Authority, a list of the names in which the Series 2024 Bonds are to be registered upon original issuance, together with such taxpayer identification and other information as the Bond Registrar may reasonably require;
- B. A request and authorization to the Bond Registrar on behalf of the Issuer, signed by an Authorized Officer, to authenticate and deliver the Series 2024 Bonds to the original purchasers;
- C. An executed and certified copy of the Bond Legislation;
- D. An executed copy of the Bond Purchase Agreement; and
- E. The unqualified approving opinions of bond counsel on the Series 2024 Bonds.

Section 3.10. Form of Bonds. The text of the Series 2024 Bonds shall be in substantially the following form, with such omissions, insertions and variations as may be necessary and desirable and authorized or permitted hereby, or by any Supplemental Resolution adopted prior to the issuance thereof:

[Remainder of Page Intentionally Blank]

(FORM OF SERIES 2024 A BOND)

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
THE CITY OF MORGANTOWN
COMBINED UTILITY SYSTEM REVENUE BONDS, SERIES 2024 A
(WEST VIRGINIA SRF PROGRAM)

No. AR-1 \$ _____

KNOW ALL MEN BY THESE PRESENTS: The ____ day of _____, 2024, that THE CITY OF MORGANTOWN, a municipal corporation and political subdivision of the State of West Virginia in Monongalia County of said State (the "Issuer"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to the WEST VIRGINIA WATER DEVELOPMENT AUTHORITY (the "Authority") or registered assigns the sum of _____ DOLLARS (\$ _____), or such lesser amount as shall have been advanced to the Issuer hereunder and not previously repaid, as set forth in the "Record of Advances" attached as EXHIBIT A hereto and incorporated herein by reference, in quarterly installments on March 1, June 1, September 1 and December 1 of each year, commencing _____ 1, 20____, to and including _____ 1, 20____ as set forth on the "Debt Service Schedule" attached as EXHIBIT B hereto and incorporated herein by reference. The SRF Administrative Fee of _____% (as defined in the hereinafter described Bond Legislation) on this Bond shall be payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing _____, 20____, as set forth on EXHIBIT B attached hereto.

This Bond shall bear interest at the rate of _____% per annum. Principal installments of this Bond are payable in any coin or currency which, on the respective dates of payment of such installments, is legal tender for the payment of public and private debts under the laws of the United States of America, at the office of the West Virginia Municipal Bond Commission, Charleston, West Virginia (the "Paying Agent"). The interest on this bond is payable by check or draft of the Paying Agent mailed to the Registered Owner hereof at the address as it appears on the books of United Bank, Charleston, West Virginia, as registrar (the "Registrar"), on the 15th day of the next month preceding an interest payment date, or such other method as shall be mutually agreeable so long as the Authority is the Registered Owner hereof.

This Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority on behalf of the West Virginia Department of Environmental Protection (the "DEP"), and upon the terms and conditions prescribed by, and otherwise in compliance with, the Bond Purchase Agreement (the "Bond Purchase Agreement") by and among the Issuer, the Authority and the DEP, dated _____, 2024.

This Bond is issued (i) to pay the costs of acquisition and construction of certain additions, betterments and improvements to the sewerage portion of the existing public combined waterworks, sewerage and stormwater system of the Issuer (the "Project"); and (ii) to pay certain costs of issuance of the Bonds of this series (the "Bonds") and related costs. The existing public waterworks,

sewerage and stormwater system of the Issuer, the Project, and any further extensions, additions, betterments or improvements thereto are herein called the "System". This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 8, Article 20 and Chapter 22C, Article 2 of the West Virginia Code of 1931, as amended (collectively, the "Act"), a Bond Ordinance duly enacted by the Issuer on _____, 2024, and a Supplemental Resolution duly adopted by the Issuer on _____, 2024 (collectively, the "Bond Legislation"), and is subject to all the terms and conditions thereof. The Bond Legislation provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bonds under the Bond Legislation.

THIS BOND IS ISSUED ON A PARITY AS TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT WITH THE ISSUER'S (COLLECTIVELY, THE "PRIOR BONDS"):

Combined Utility System Revenue Bonds, Series 2000 A (West Virginia SRF Program), dated February 29, 2000, issued in the original aggregate principal amount of \$7,842,000 (the "Series 2000 A Bonds");

Combined Utility System Revenue Bonds, Series 2000 B (West Virginia Infrastructure Fund), dated February 29, 2000, issued in the original aggregate principal amount of \$2,488,000 (the "Series 2000 B Bonds");

Combined Utility System Revenue Bonds, Series 2006 A (West Virginia SRF Program), dated June 30, 2006, issued in the original aggregate principal amount of \$6,410,191 (the "Series 2006 A Bonds");

Combined Utility System Revenue Bonds, Series 2007 A (West Virginia SRF Program), dated August 14, 2007, issued in the original aggregate principal amount of \$8,500,000 (the "Series 2007 A Bonds");

Combined Utility System Revenue Bonds, Series 2010 C (West Virginia SRF Program), dated January 28, 2010, issued in the original aggregate principal amount of \$15,380,227 (the "Series 2010 C Bonds");

Combined Utility System Revenue Bonds, Series 2010 D (West Virginia DWTRF Program), dated January 28, 2010, issued in the original aggregate principal amount of \$9,317,286;

Combined Utility System Revenue Bond, Series 2010 E (West Virginia DWTRF Program/ARRA), dated January 28, 2010, issued in the original aggregate principal amount of \$100,000 (the "Series 2010 E Bonds");

Combined Utility System Revenue Bonds, Series 2012 A (West Virginia DWTRF Program), dated August 24, 2012, issued in the original aggregate principal amount of \$570,000 (the "Series 2012 A Bonds");

Combined Utility System Revenue Bonds, Series 2013 A (West Virginia Infrastructure Fund), dated August 22, 2013, issued in the original aggregate principal amount of \$4,605,260 (the “Series 2013 A Bonds”);

Combined Utility System Revenue Bonds, Series 2014 B, dated July 23, 2014, issued in the original aggregate principal amount of \$505,421 (the “Series 2014 B Bonds”);

Combined Utility System Revenue Bonds, Series 2015 A (West Virginia Water Development Authority), dated March 31, 2015, issued in the original aggregate principal amount of \$137,568 (the “Series 2015 A Bonds”);

Combined Utility System Revenue Bonds, Series 2015 B (West Virginia Water Development Authority), dated March 31, 2015, issued in the original aggregate principal amount of \$4,586 (the “Series 2015 B Bonds”);

Combined Utility System Revenue Bonds, Series 2015 C (West Virginia SRF Program), dated March 31, 2015, issued in the original aggregate principal amount of \$8,111,813 (the “Series 2015 C Bonds”);

Combined Utility System Revenue Bonds, Series 2015 D (West Virginia SRF Program), dated March 31, 2015, issued in the original aggregate principal amount of \$1,688,394 (the “Series 2015 D Bonds”);

Combined Utility System Revenue Bonds, Series 2015 E (West Virginia SRF Program), dated June 11, 2015, issued in the original aggregate principal amount of \$662,300 (the “Series 2015 E Bonds”);

Combined Utility System Revenue Bonds, Series 2016 A, dated December 1, 2016, issued in the aggregate principal amount of \$69,755,000 (the “Series 2016 A Bonds”);

Combined Utility System Revenue Bonds, Series 2016 B-1 (West Virginia SRF Program), dated December 15, 2016, issued in the aggregate principal amount of \$25,000,000 (the “Series 2016 B-1 Bonds”);

Combined Utility System Revenue Bonds, Series 2017 A (Bank Qualified), dated December 21, 2017, issued in the original aggregate principal amount of \$2,695,000 (the “Series 2017 A Bonds”);

Combined Utility System Revenue Bonds, Series 2018 A (West Virginia Infrastructure Fund), dated January 31, 2018, issued in the original aggregate principal amount of \$394,074 (the “Series 2018 A Bonds”);

Combined Utility System Revenue Bonds, Series 2018 A-2 (West Virginia Infrastructure Fund), dated July 10, 2018, issued in the original aggregate principal amount of \$140,715 (the “Series 2018 A-2 Bonds”);

Combined Utility System Revenue Bonds, Series 2018 B (Tax-Exempt), dated June 28, 2018, issued in the original aggregate principal amount of \$44,260,000 (the “Series 2018 B Bonds”);

Combined Utility System Revenue Bonds, Series 2019 B (West Virginia DWTRF Program), dated October 22, 2019, issued in the original aggregate principal amount of \$2,546,000 (the “Series 2019 B Bonds”);

Combined Utility System Refunding Revenue Bonds, Series 2020 A (Tax Exempt), dated October 29, 2020, issued in the original aggregate principal amount of \$31,890,000 (the “Series 2020 A Bonds”); and

The Issuer is issuing its Combined Utility System Revenue Bonds, Series 2024 B (Clean Water SRF Program/Forigivable), in the aggregate principal amount of \$_____ (the “Series 2024 B Bonds”) contemporaneously with the issuance of the Bonds. However, the principal amount of the Series 2024 B Bonds advanced from time to time is forgivable at the conclusion of each fiscal year in which such funds are advanced and the Series 2024 B Bonds are not secured by the Gross Revenues of the System.

This Bond is payable only from and secured by a pledge of the Gross Revenues (as defined in the Bond Legislation) to be derived from the operation of the System on a parity with the Prior Bonds, and from monies in the Reserve Account created under the Bond Legislation for the Bonds (the “Series 2024 A Bonds Reserve Account”), and unexpended proceeds of the Bonds. Such Gross Revenues shall be sufficient to pay the principal of and interest, if any, on all bonds which may be issued pursuant to the Act and which shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute a corporate indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same or the interest, if any, hereon, except from said special fund provided from the Gross Revenues, the monies in the Series 2024 A Bonds Reserve Account and unexpended proceeds of the Bonds. Pursuant to the Bond Legislation, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient, together with other revenues of the System, to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the maximum amount payable in any year for principal of and interest, if any, on the Bonds, the Prior Bonds and all other obligations secured by a lien on or payable from such revenues on a parity with the Bonds; provided however, that so long as there exists in the Series 2024 A Bonds Reserve Account an amount at least equal to the maximum amount of principal and interest, if any, which will become due on the Bonds in the then current or any succeeding year, and in the respective reserve accounts established for any other obligations Outstanding on a parity with or junior and subordinate, to the Bonds, including the Prior Bonds, an amount at least equal to the requirement therefore, such percentage may be reduced to 110%. The Issuer has entered into certain further covenants with the Registered Owners of the Bonds for the terms of which reference is made to the Bond Legislation. Remedies provided the Registered Owners of the Bonds are exclusively as provided in the Bond Legislation, to which reference is here made for a detailed description thereof.

Subject to the registration requirements set forth herein, this Bond is transferable, as provided in the Bond Legislation, only upon the books of the Registrar (as defined in the Bond Legislation), by the Registered Owner, or by its attorney duly authorized in writing, upon the surrender of this Bond, together with a written instrument of transfer satisfactory to the Registrar, duly executed by the Registered Owner or its attorney duly authorized in writing.

Subject to the registration requirements set forth herein, this Bond, under the provision of the Act is, and has all the qualities and incidents of, a negotiable instrument under the Uniform Commercial Code of the State of West Virginia.

All money received from the sale of this Bond, after reimbursement and repayment of all amounts advanced for preliminary expenses as provided by law and the Bond Legislation, shall be applied solely to payment of the Costs of the Project and costs of issuance hereof described in the Bond Legislation, and there shall be and hereby is created and granted a lien upon such monies, until so applied, in favor of the Registered Owner of this Bond.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and at the issuance of this Bond do exist, have happened, and have been performed in due time, form and manner as required by law, and that the amount of this Bond, together with all other obligations of the Issuer, does not exceed any limit prescribed by the Constitution or statutes of the State of West Virginia and that a sufficient amount of the Gross Revenues of the System has been pledged to and will be set aside into said special fund by the Issuer for the prompt payment of the principal and interest, if any, on of this Bond.

All provisions of the Bond Legislation, resolutions and statutes under which this Bond is issued shall be deemed to be a part of the contract evidenced by this Bond to the same extent as if written fully herein.

[Remainder of Page Intentionally Blank]

IN WITNESS WHEREOF, THE CITY OF MORGANTOWN has caused this Bond to be signed by its Mayor and City Manager, and its corporate seal to be hereunto affixed and attested by its City Clerk, and has caused this Bond to be dated the day and year first written above.

[SEAL]

Mayor

City Manager

ATTEST:

City Clerk

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 2024 A Bonds described in the within-mentioned Bond Legislation and has been duly registered in the name of the Registered Owner set forth above, as of the date set forth below.

Date: _____, 2024.

UNITED BANK,
as Registrar

Authorized Officer

EXHIBIT A

RECORD OF ADVANCES

<u>AMOUNT</u>	<u>DATE</u>	<u>AMOUNT</u>	<u>DATE</u>
(1) \$ _____		(21) \$ _____	
(2) \$ _____		(22) \$ _____	
(3) \$ _____		(23) \$ _____	
(4) \$ _____		(24) \$ _____	
(5) \$ _____		(25) \$ _____	
(6) \$ _____		(26) \$ _____	
(7) \$ _____		(27) \$ _____	
(8) \$ _____		(28) \$ _____	
(9) \$ _____		(29) \$ _____	
(10) \$ _____		(30) \$ _____	
(11) \$ _____		(31) \$ _____	
(12) \$ _____		(32) \$ _____	
(13) \$ _____		(33) \$ _____	
(14) \$ _____		(34) \$ _____	
(15) \$ _____		(35) \$ _____	
(16) \$ _____		(36) \$ _____	
(17) \$ _____		(37) \$ _____	
(18) \$ _____		(38) \$ _____	
(19) \$ _____		(39) \$ _____	
(20) \$ _____		(40) \$ _____	
		TOTAL \$ _____	

EXHIBIT B

DEBT SERVICE SCHEDULE

(Form of)

ASSIGNMENT

FOR VALUE RECEIVED the undersigned sells, assigns, and transfers unto
the within Bond and does hereby irrevocably constitute and appoint
_____, Attorney to transfer the said Bond on the books
kept for registration of the within Bond of the said Issuer with full power of substitution in the premises.

Dated: _____, 20____.

In the presence of:

(FORM OF SERIES 2024 B BOND)

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
THE CITY OF MORGANTOWN
COMBINED UTILITY SYSTEM REVENUE BONDS, SERIES 2024 B
(WEST VIRGINIA SRF PROGRAM/FORGIVABLE)

No. BR-1 \$ _____

KNOW ALL MEN BY THESE PRESENTS: The ____ day of _____, 2024, that THE CITY OF MORGANTOWN, a municipal corporation and political subdivision of the State of West Virginia in Monongalia County of said State (the "Issuer"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to the WEST VIRGINIA WATER DEVELOPMENT AUTHORITY (the "Authority") or registered assigns the sum of _____ DOLLARS (\$ _____), or such lesser amount as shall have been advanced to the Issuer hereunder and not previously forgiven, as set forth in the "Record of Advances" attached as EXHIBIT A hereto and incorporated herein by reference. The Series 2024 B Bonds are not subject to the SRF Administrative Fee (as defined in the hereinafter described Bond Legislation).

This Bond shall bear no interest. The principal amounts advanced under the Series 2024 B Bonds will be deemed forgiven on the 30th day of June in the fiscal year in which advanced. The Series 2024 B Bonds shall be deemed no longer Outstanding after the last advance is forgiven.

This Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority on behalf of the West Virginia Department of Environmental Protection (the "DEP"), and upon the terms and conditions prescribed by, and otherwise in compliance with, the Bond Purchase Agreement (the "Bond Purchase Agreement") by and among the Issuer, the Authority and the DEP, dated _____, 2024.

This Bond is issued (i) to pay the costs of acquisition and construction of certain additions, betterments and improvements to the sewerage portion of the existing public combined waterworks, sewerage and stormwater system of the Issuer (the "Project"); and (ii) to pay certain costs of issuance of the Bonds (the "Bonds") and related costs. The existing public waterworks, sewerage and stormwater system of the Issuer, the Project, and any further extensions, additions, betterments or improvements thereto are herein called the "System". This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 8, Article 20 and Chapter 22C, Article 2 of the West Virginia Code of 1931, as amended (collectively, the "Act"), a Bond Ordinance duly enacted by the Issuer on _____, 2024, and a Supplemental Resolution duly adopted by the Issuer on _____, 2024 (collectively, the "Bond Legislation"), and is subject to all the terms and conditions thereof. The Bond Legislation provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled

to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bonds under the Bond Legislation.

THIS BOND IS FORGIVABLE AND HAS NO LIEN ON THE GROSS REVENUES OR NET REVENUES OF THE SYSTEM.

Subject to the registration requirements set forth herein, this Bond is transferable, as provided in the Bond Legislation, only upon the books of the Registrar (as defined in the Bond Legislation) by the Registered Owner, or by its attorney duly authorized in writing, upon the surrender of this Bond, together with a written instrument of transfer satisfactory to the Registrar, duly executed by the Registered Owner or its attorney duly authorized in writing.

Subject to the registration requirements set forth herein, this Bond, under the provision of the Act is, and has all the qualities and incidents of, a negotiable instrument under the Uniform Commercial Code of the State of West Virginia.

All money received from the sale of this Bond, after reimbursement and repayment of all amounts advanced for preliminary expenses as provided by law and the Bond Legislation, shall be applied solely to payment of the Costs of the Project and costs of issuance described in the Bond Legislation, and there shall be and hereby is created and granted a lien upon such monies, until so applied, in favor of the Registered Owner of this Bond.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and in the issuance of this Bond do exist, have happened, and have been performed in due time, form and manner as required by law, and that the amount of this Bond, together with all other obligations of the Issuer, does not exceed any limit prescribed by the Constitution or statutes of the State of West Virginia.

All provisions of the Bond Legislation, resolutions and statutes under which this Bond is issued shall be deemed to be a part of the contract evidenced by this Bond to the same extent as if written fully herein.

[Remainder of Page Intentionally Blank]

IN WITNESS WHEREOF, THE CITY OF MORGANTOWN has caused this Bond to be signed by its Mayor and City Manager, and its corporate seal to be hereunto affixed and attested by its City Clerk, and has caused this Bond to be dated the day and year first written above.

[SEAL]

Mayor

City Manager

ATTEST:

City Clerk

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 2024 B Bonds described in the within-mentioned Bond Legislation and has been duly registered in the name of the Registered Owner set forth above, as of the date set forth below.

Date: _____, 2024.

UNITED BANK,
as Registrar

Authorized Officer

EXHIBIT A
RECORD OF ADVANCES

<u>AMOUNT</u>	<u>DATE</u>	<u>AMOUNT</u>	<u>DATE</u>
(1) \$		(19)	
(2)		(20)	
(3)		(21)	
(4)		(22)	
(5)		(23)	
(6)		(24)	
(7)		(25)	
(8)		(26)	
(9)		(27)	
(10)		(28)	
(11)		(29)	
(12)		(30)	
(13)		(31)	
(14)		(32)	
(15)		(33)	
(16)		(34)	
(17)		(35)	
(18)		(36)	

TOTAL \$ _____

(Form of)

ASSIGNMENT

FOR VALUE RECEIVED the undersigned sells, assigns, and transfers unto _____ the within Bond and does hereby irrevocably constitute and appoint _____, Attorney to transfer the said Bond on the books kept for registration of the within Bond of the said Issuer with full power of substitution in the premises.

Dated: _____, 20__.

In the presence of:

Section 3.11. Sale of Bonds; Approval and Ratification of Execution of Bond Purchase Agreement. The Series 2024 Bonds shall be sold to the Authority, pursuant to the terms and conditions of the Bond Purchase Agreement. If not so authorized by previous ordinance or resolution, the Mayor and City Manager are specifically authorized and directed to execute the Bond Purchase Agreement, and the City Clerk is directed to affix the seal of the Issuer, attest the same and deliver the Bond Purchase Agreement to the Authority, and any such prior execution and delivery is hereby authorized, approved, ratified and confirmed.

Section 3.12. "Amended Schedule" Filing. Within 60 days following the Completion Date of the Project, the Board will file with the Authority and the DEP a schedule setting forth the actual Costs of the Project and sources of funds therefor.

ARTICLE IV

[RESERVED]

ARTICLE V

FUNDS AND ACCOUNTS; SYSTEM REVENUES AND APPLICATION THEREOF

Section 5.01. Establishment of Funds and Accounts with Depository Bank. The following special funds or accounts are hereby created with (or continued if previously established by Prior Ordinances) and shall be held by the Depository Bank, separate and apart from all other funds or accounts of the Depository Bank and the Issuer or the Board and from each other and used solely for the purposes provided herein:

- (1) Revenue Fund (established by Prior Ordinances);
- (2) Depreciation Fund (established by the Prior Ordinances);
- (3) Operation and Maintenance Fund (established by the Prior Ordinances);
- (4) Renewal and Replacement Fund (established by Prior Ordinances);
- (5) Cash Working Capital Reserve; and
- (6) Series 2024 Bonds Construction Trust Fund.

Section 5.02. Establishment of Funds and Accounts with Commission. The following special funds or accounts are hereby created with (or continued if previously established by Prior Ordinances) and shall be held by the Commission, separate and apart from all other funds or accounts of the Commission, the Issuer and the Board and from each other:

- (1) Series 2000 A Bonds Sinking Fund (established by Prior Ordinances);

- (2) Series 2000 A Bonds Reserve Account (established by Prior Ordinances);
- (3) Series 2000 B Bonds Sinking Fund (established by Prior Ordinances);
- (4) Series 2000 B Bonds Reserve Account (established by Prior Ordinances);
- (5) Series 2006 A Bonds Sinking Fund (established by Prior Ordinances);
- (6) Series 2006 A Bonds Reserve Account (established by Prior Ordinances);
- (7) Series 2007 A Bonds Sinking Fund (established by Prior Ordinances);
- (8) Series 2007 A Bonds Reserve Account established by Prior Ordinances);
- (9) Series 2010 C Bonds Sinking Fund (established by Prior Ordinances);
- (10) Series 2010 C Bonds Reserve Account (established by Prior Ordinances);
- (11) Series 2010 D Bonds Sinking Fund (established by Prior Ordinances);
- (12) Series 2010 D Bonds Reserve Account (established by Prior Ordinances);
- (13) Series 2010 E Bonds Sinking Fund (established by Prior Ordinances);
- (14) Series 2010 E Bonds Reserve Account (established by Prior Ordinances);
- (15) Series 2012 A Bonds Sinking Fund (established by Prior Ordinances);
- (16) Series 2012 A Bonds Reserve Account (established by Prior Ordinances);
- (17) Series 2013 A Bonds Sinking Fund (established by Prior Ordinances);
- (18) Series 2013 A Bonds Reserve Account (established by Prior Ordinances);
- (19) Series 2014 B Bonds Sinking Fund (established by Prior Ordinances);
- (20) Series 2014 B Bonds Reserve Account (established by Prior Ordinances);
- (21) Series 2015 A Bonds Sinking Fund (established by Prior Ordinances);
- (22) Series 2015 A Bonds Reserve Account (established by Prior Ordinances);
- (23) Series 2015 B Bonds Sinking Fund (established by Prior Ordinances);
- (24) Series 2015 B Bonds Reserve Account (established by Prior Ordinances);

- (25) Series 2015 C Bonds Sinking Fund (established by Prior Ordinances);
- (26) Series 2015 C Bonds Reserve Account (established by Prior Ordinances);
- (27) Series 2015 D Bonds Sinking Fund (established by Prior Ordinances);
- (28) Series 2015 D Bonds Reserve Account (established by Prior Ordinances);
- (29) Series 2015 E Bonds Sinking Fund (established by Prior Ordinances);
- (30) Series 2015 E Bonds Reserve Account (established by Prior Ordinances);
- (31) Series 2016 A Bonds Sinking Fund (established by Prior Ordinances);
- (32) Series 2016 A Bonds Reserve Account (established by Prior Ordinances);
- (33) Series 2016 B-1 Bonds Sinking Fund (established by Prior Ordinances);
- (34) Series 2016 B-1 Bonds Reserve Account (established by Prior Ordinances);
- (35) Series 2017 A Bonds Sinking Fund (established by Prior Ordinances);
- (36) Series 2017 A Bonds Reserve Account (established by Prior Ordinances);
- (37) Series 2018 A Bonds Sinking Fund (established by Prior Ordinances);
- (38) Series 2018 A Bonds Reserve Account (established by Prior Ordinances);
- (39) Series 2018 A-2 Bonds Sinking Fund (established by Prior Ordinances);
- (40) Series 2018 A-2 Bonds Reserve Account (established by Prior Ordinances);
- (41) Series 2018 B Bonds Sinking Fund (established by Prior Ordinances);
- (42) Series 2018 B Bonds Reserve Account (established by Prior Ordinances);
- (43) Series 2019 B Bonds Sinking Fund (established by Prior Ordinances);
- (44) Series 2019 B Bonds Reserve Account (established by Prior Ordinances);
- (45) Series 2020 A Bonds Sinking Fund;
- (46) Series 2020 A Bonds Reserve Account;
- (47) Series 2024 A Bonds Sinking Fund; and

(48) Series 2024 A Bonds Reserve Account.

The Series 2024 B Bonds are forgivable; therefore, no accounts are established for the Series 2024 B Bonds at the Commission.

Section 5.03. System Revenues; Flow of Funds. A. The entire Gross Revenues derived from the operation of the System shall be deposited upon receipt in the Revenue Fund. The Revenue Fund shall constitute a trust fund for the purposes provided in this Bond Legislation and shall be kept separate and distinct from all other funds of the Issuer and the Depository Bank and used only for the purposes and in the manner provided in this Bond Legislation. All revenues at any time on deposit in the Revenue Fund shall be disposed of only in the following manner order of priority:

(1) The Issuer shall first, each month, transfer from the Revenue Fund and remit to the Commission (i) the amounts required by the Prior Ordinances to be deposited in the respective Sinking Funds for the Prior Bonds for the payment of interest on the Prior Bonds; and (ii) commencing 4 months prior to the first date of payment of interest on the Series 2024 A Bonds, for which interest has not been capitalized or as required in the Bond Purchase Agreement, for deposit in the Series 2024 A Bonds Sinking Fund, an amount equal to 1/3rd of the amount of interest which will become due on the Series 2024 A Bonds on the next ensuing quarterly interest payment date; provided, that in the event the period to elapse between the date of such initial deposit in the Series 2024 A Bonds Sinking Fund and the next quarterly interest payment date is less than 3 months, then such monthly payments shall be increased proportionately to provide, 1 month prior to the next quarterly interest payment date, the required amount of interest coming due on such date.

(2) The Issuer shall next, each month, transfer from the Revenue Fund and simultaneously remit to the Commission (i) the amounts required by the Prior Ordinances to be deposited in the respective Sinking Funds for the Prior Bonds for payment of principal of the Prior Bonds; and (ii) commencing 4 months prior to the first date of payment of principal of the Series 2024 A Bonds, for deposit in the Series 2024 A Bonds Sinking Fund, an amount equal to 1/3rd of the amount of principal which will mature and come due on the Series 2024 A Bonds on the next ensuing quarterly principal payment date; provided, that in the event the period to elapse between the date of such initial deposit in the Series 2024 A Bonds Sinking Fund and the next quarterly principal payment date is less than 3 months, then such monthly payment shall be increased proportionately to provide, 1 month prior to the next quarterly principal payment date, the required amount of principal coming due on such date.

(3) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and simultaneously remit to the Commission (i) the amount required by the Prior Ordinances to be deposited in the respective

reserve accounts for the Prior Bonds; and (ii) commencing 4 months prior to the first date of payment of principal of the Series 2024 A Bonds, if not fully funded upon issuance of the Series 2024 A Bonds, for deposit in the Series 2024 A Bonds Reserve Account, an amount equal to 1/120th of the Series 2024 A Bonds Reserve Requirement; provided, that no further payments shall be made into the Series 2024 A Bonds Reserve Account when there shall have been deposited therein, and as long as there shall remain on deposit therein, an amount equal to the Series 2024 A Bonds Reserve Requirement.

(4) The Issuer shall next, each month, transfer from the Revenue Fund and deposit in the Operation and Maintenance Fund, an amount sufficient to pay all current Operating Expenses of the System.

(5) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and remit to the Depository Bank (as required in the Prior Ordinances and not in addition thereto), for deposit in the Renewal and Replacement Fund, a sum equal to 2.5% of the Gross Revenues each month, exclusive of any payments for account of any Reserve Account. All funds in the Renewal and Replacement Fund shall be kept apart from all other funds of the Issuer or of the Depository Bank and shall be invested and reinvested in accordance with Article VIII hereof. Withdrawals and disbursements may be made from the Renewal and Replacement Fund for replacements, repairs, improvements or extensions to the System; provided, that any deficiencies in any Reserve Account (except to the extent such deficiency exists because the required payments into such accounts have not, as of the date of determination of a deficiency, funded such accounts to the maximum extent required hereof) shall be promptly eliminated with monies from the Renewal and Replacement Fund.

(6) The Issuer shall next, each month, transfer from the monies remaining in the Revenue Fund the amount required, if any, to fund or maintain the Cash Working Capital Reserve at the required level. All funds in the Cash Working Capital Reserve shall be kept separate and apart from all other funds of the Issuer or of the Depository Bank and shall be invested and reinvested in accordance with Article VIII hereof. Withdrawals and disbursements may be made from the Cash Working Capital Reserve for such purposes as permitted by the laws and regulations of the State in effect at such time.

All investment earnings on monies in the Series 2024 A Bonds Sinking Fund and the Series 2024 A Bonds Reserve Account shall be returned, not less than once each year, by the Commission to the Issuer, and such amounts shall, during construction of the Project, be deposited in the Series 2024 Bonds Construction Trust Fund, and following completion of construction of the Project, shall be deposited in the Revenue Fund and applied in full, first to the next ensuing interest payment, if any, due on the Series 2024 A Bonds and then to the next ensuing principal payment due thereon.

Any withdrawals from the Series 2024 A Bonds Reserve Account which result in a reduction in the balance of the Series 2024 A Bonds Reserve Account to below the Series 2024 A Bonds Reserve Requirement shall be subsequently restored from the first Gross Revenues available after all required payments have been made in full in the priority as set forth above.

As and when additional Bonds ranking on a parity with the Series 2024 A Bonds are issued, provision shall be made for additional payments into the respective sinking funds sufficient to pay the interest on such additional parity Bonds and accomplish retirement thereof at maturity and to accumulate a balance in the respective reserve accounts in an amount equal to the requirement therefor.

The Issuer shall not be required to make any further payments into the Series 2024 A Bonds Sinking Fund or into the Series 2024 A Bonds Reserve Account therein when the aggregate amount of funds therein are at least equal to the aggregate principal amount of the Series 2024 A Bonds issued pursuant to this Bond Legislation then Outstanding and all interest, if any, to accrue until the maturity thereof.

Interest, principal and reserve payments, whether made for a deficiency or otherwise, shall be made on a parity and pro rata, with respect to the Prior Bonds and the Series 2024 A Bonds in accordance with the respective principal amounts then Outstanding.

The Commission is hereby designated as the fiscal agent for the administration of the Series 2024 A Bonds Sinking Fund and the Series 2024 A Bonds Reserve Account created hereunder, and all required amounts shall be remitted to the Commission from the Revenue Fund by the Issuer at the times provided herein. The Issuer, through the Board, shall make the necessary arrangements whereby required payments into said accounts shall be automatically debited from the Revenue Fund and electronically transferred to the Commission on the dates required hereunder.

Monies in the Series 2024 A Bonds Sinking Fund and the Series 2024 A Bonds Reserve Account shall be invested and reinvested by the Commission in accordance with Section 8.01 hereof.

The Series 2024 A Bonds Sinking Fund and the Series 2024 A Bonds Reserve Account, shall be used solely and only for, and are hereby pledged for, the purpose of servicing the Series 2024 A Bonds under the conditions and restrictions set forth herein.

B. The Issuer, through the Board, shall, on the first day of each month (if the first day is not a business day, then the first business day of each month), deposit with the Commission the required interest, if any, principal and reserve account payments with respect to the Series 2024 A Bonds and all such payments shall be remitted to the Commission with appropriate instructions as to the custody, use and application thereof consistent with the provisions of this Bond Legislation. The Issuer, through the Board, shall, on the first day of each month (if the first day is not a business day, then the first business day of each month) deposit with the Commission, the SRF Administrative Fee as set forth in the Schedule Y attached to the Bond Purchase Agreement for the Series 2024 A Bonds.

C. Whenever all of the required and provided transfers and payments from the Revenue Fund into the several special funds, as hereinbefore provided, are current and there remains in the Revenue Fund a balance in excess of the estimated amounts required to be so transferred and paid into

such funds during the following month or such other period as required by the Act, such excess shall be considered Surplus Revenues. Surplus Revenues may be used for any lawful purpose of the System.

D. The Issuer, through the Board, shall remit from the Revenue Fund to the Commission, the Registrar, the Paying Agent or the Depository Bank, on such dates as the Commission, the Registrar, the Paying Agent or the Depository Bank, as the case may be, shall require, such additional sums as shall be necessary to pay their respective charges and fees then due. In the case of payments to the Commission under this paragraph, the Issuer, through the Board, shall make the necessary arrangements whereby such required payments shall be automatically debited from the Revenue Fund and electronically transferred to the Commission on the dates required.

E. The monies in excess of the maximum amounts insured by FDIC in all funds and accounts shall at all times be secured, to the full extent thereof in excess of such insured sum, by Qualified Investments as shall be eligible as security for deposits of state and municipal funds under the laws of the State.

F. If on any monthly payment date the revenues are insufficient to place the required amount in any of the funds and accounts as hereinabove provided, the deficiency shall be made up in the subsequent payments in addition to the payments which would otherwise be required to be made into the funds and accounts on the subsequent payment dates; provided, however, that the priority of curing deficiencies in the funds and accounts herein shall be in the same order as payments are to be made pursuant to this Section 5.03, and the Gross Revenues shall be applied to such deficiencies on a parity and pro rata with respect to the Series 2024 A Bonds and the Prior Bonds all in accordance with the respective principal amounts Outstanding before being applied to any other payments hereunder.

G. All remittances made by the Issuer, through the Board, to the Commission and the Depository Bank shall clearly identify the fund or account into which each amount is to be deposited.

H. The Gross Revenues of the System shall only be used for purposes of the System.

I. All Tap Fees shall be deposited in the Revenue Fund and may be used for any lawful purpose of the System.

Section 5.04. Reserve Account Letter of Credit or Surety Bond. With the advance written consent of the Authority, the Issuer may, in lieu of funding the Series 2024 A Bonds Reserve Account with cash or Qualified Investments, satisfy the Series 2024 A Bonds Reserve Requirement by obtaining a municipal bond debt service reserve insurance policy, a reserve account letter of credit, a surety bond, or other credit facility satisfactory to the Authority in an amount equal to the Series 2024 A Bonds Reserve Requirement. The Issuer hereby authorizes the purchase of, or payment of the premium for, a municipal bond debt service reserve insurance policy, a reserve account letter of credit, a surety bond, or other credit facility satisfactory to the Authority, all as set forth in a Supplemental Resolution, and the execution and delivery of any applicable reimbursement agreement or note in such forms as shall be described in a Supplemental Resolution.

ARTICLE VI

BOND PROCEEDS; CONSTRUCTION DISBURSEMENTS

Section 6.01. Application of Bond Proceeds; Pledge of Unexpended Bond Proceeds.

From the monies received from the sale of the Series 2024 Bonds, the following amounts shall be first deducted and deposited in the order set forth below:

A. From the proceeds of the Series 2024 A Bonds, there shall first be deposited with the Commission in the Series 2024 A Bonds Sinking Fund, the amount, if any, set forth in the Supplemental Resolution as capitalized interest.

B. Next, from the proceeds of the Series 2024 A Bonds, the Issuer may purchase a municipal bond debt service reserve insurance policy, surety bond, letter of credit or other financial instrument to fund the Series 2024 A Bonds Reserve Account as set forth in the Supplemental Resolution, or there shall be deposited with the Commission in the Series 2024 A Bonds Reserve Account, the amount, if any, set forth in the Supplemental Resolution for funding of the Series 2024 A Bonds Reserve Account.

C. As the Issuer receives advances of the remaining monies derived from the sale of the Series 2024 A Bonds, such monies shall be deposited with the Depository Bank in the Series 2024 Bonds Construction Trust Fund and applied solely to payment of Costs of the Project in the manner set forth in Section 6.02 hereof, and until expended, are hereby pledged as additional security for the Series 2024 A Bonds.

D. As the Issuer receives advances of monies derived from the sale of the Series 2024 B Bonds, such monies shall be deposited with the Depository Bank in the Series 2024 Bonds Construction Trust Fund and applied solely to payment of the Costs of the Project in the manner set forth in Section 6.02 hereof, and until expended, are hereby pledged as additional security for the Series 2024 B Bonds.

E. After completion of construction of the Project, as certified by the Consulting Engineers, and all costs have been paid, any remaining proceeds of the Series 2024 Bonds shall be expended as approved by the DEP.

Section 6.02. Disbursements From the Series 2024 Bonds Construction Trust Fund.

On or before the Closing Date, the Issuer, through the Board, shall have delivered to the Authority and the DEP a report listing the specific purposes for which the proceeds of the Series 2024 Bonds will be expended and the disbursement procedures of such proceeds, including an estimated monthly draw schedule. Payments for Costs of the Project shall be made monthly. Invoices for which repayment from the Series 2024 Bonds Construction Trust Fund will be sought must first be approved by the Issuer and the Board.

The Issuer hereby appoints and designates the Board, and the Authorized Officers thereof, as its agent (i) for the review and approval of all invoices for the Project to be paid from the proceeds of the Series 2024 Bonds; (ii) to take any and all actions necessary to apply for and obtain a commitment from the

DEP, specifically including, but not limited to, any administrative loan documents required by DEP; and (iii) to act on and execute documents on behalf of the Issuer for any and all federal and state actions as they relate to the planning, design and/or construction of the Project.

Except as provided in Section 6.01 hereof, disbursements from the Series 2024 Bonds Construction Trust Fund shall be made only after submission to, and approval from, the Authority and the DEP of a completed and signed "Payment Requisition Form," a form of which is attached to the Bond Purchase Agreement, in compliance with the construction schedule.

Pending such application, monies in the Series 2024 Bonds Construction Trust Fund shall be invested and reinvested in Qualified Investments at the written direction of the Issuer.

ARTICLE VII

ADDITIONAL COVENANTS OF THE ISSUER

Section 7.01. General Covenants of the Issuer. All the covenants, agreements and provisions of this Bond Legislation shall be and constitute valid and legally binding covenants of the Issuer and shall be enforceable in any court of competent jurisdiction by any Holder or Holders of the Series 2024 Bonds. In addition to the other covenants, agreements and provisions of this Bond Legislation, the Issuer hereby covenants and agrees with the Holders of the Series 2024 Bonds as hereinafter provided in this Article VII. All such covenants, agreements and provisions shall be irrevocable, except as provided herein, as long as any of the Series 2024 Bonds or the interest, if any, thereon is Outstanding and unpaid.

Section 7.02. Bonds not to be Indebtedness of the Issuer. The Series 2024 Bonds shall not be nor constitute a corporate indebtedness of the Issuer within the meaning of any constitutional, statutory or charter limitation of indebtedness, but shall be payable solely from the funds pledged for such payment by this Bond Legislation. No Holder or Holders of any Series 2024 Bonds shall ever have the right to compel the exercise of the taxing power of the Issuer to pay the Series 2024 Bonds or the interest, if any, thereon.

Section 7.03. Series 2024 A Bonds Secured by Pledge of Gross Revenues. The payment of the debt service of the Series 2024 A Bonds shall be secured forthwith equally and ratably by a first lien on the Gross Revenues derived from the System on a parity with the Prior Bonds. The Gross Revenues in an amount sufficient to pay the principal of and interest, if any, on the Series 2024 A Bonds and the Prior Bonds and to make the payments into all funds and accounts and all other payments provided for in the Bond Legislation are hereby irrevocably pledged, in the manner provided herein, to such payments as they become due, and for the other purposes provided in the Bond Legislation.

Section 7.04. Rates and Charges. The Issuer has obtained any and all approvals of rates and charges required by State law and has taken any other action required to establish and impose such rates and charges, with all requisite appeal periods having expired without successful appeal and the Issuer shall supply an opinion of counsel to such effect. Such rates and charges shall be sufficient to comply with the requirements of the Bond Purchase Agreement and the Issuer shall provide a certificate

of a Certified Public Accountant to such effect. The initial schedule of rates and charges for the services of the facilities of the System shall be as set forth in the water rate ordinance duly enacted by the Issuer on July 16, 2024, and the sewer and stormwater rate ordinances enacted by the Issuer on August 24, 2021, which rates are incorporated herein by reference as a part hereof.

So long as the Series 2024 A Bonds are outstanding, the Issuer covenants and agrees to fix and collect rates, fees and other charges for the use of the System and to take all such actions necessary to provide funds sufficient to produce the required sums set forth in the Bond Legislation and in compliance with the Bond Purchase Agreement. In the event the schedule of rates and charges initially established for the System in connection with the Series 2024 A Bonds shall prove to be insufficient to produce the required sums set forth in this Bond Legislation and the Bond Purchase Agreement, the Issuer hereby covenants and agrees that it will, to the extent or in the manner authorized by law, immediately adjust and increase such schedule of rates, fees and charges and take all such actions necessary to provide funds sufficient to produce the required sums set forth in this Bond Legislation and the Bond Purchase Agreement.

Section 7.05. Sale of the System. So long as the Prior Bonds are Outstanding, the Issuer or the Board, as their interest shall appear, may not sell, lease, mortgage or in any manner dispose of or encumber the System, or any part thereof, except as provided in the Prior Ordinances and with the written consent of the Authority.

So long as the Series 2024 Bonds are Outstanding and except as otherwise required by law or with the written consent of the Authority, the System may not be sold, mortgaged, leased or otherwise disposed of, except as a whole, or substantially as a whole, and only if the net proceeds to be realized shall be sufficient to fully pay all the Bonds Outstanding in accordance with Article X hereof. The proceeds from any such sale, mortgage, lease or other disposition of the System shall, with respect to the Series 2024 Bonds, immediately be remitted to the Commission for deposit in the Series 2024 A Bonds Sinking Fund, and, with the written permission of the Authority or in the event the Authority is no longer a Bondholder, the Issuer shall direct the Commission to apply such proceeds to the payment of principal of and interest, if any, on the Series 2024 A Bonds in accordance with Article X hereof. Any balance remaining after the payment of the Bonds and the interest, if any, thereon shall be remitted to the Issuer by the Commission unless necessary for the payment of other obligations of the Issuer payable out of the revenues of the System.

The foregoing provision notwithstanding, the Issuer and the Board, as their interest may appear, shall have and hereby reserves the right to sell, lease or otherwise dispose of any of the property comprising a part of the System hereinafter determined in the manner provided herein to be no longer necessary, useful or profitable in the operation thereof. Prior to any such sale, lease or other disposition of such property, if the amount to be received therefor, together with all other amounts received during the same Fiscal Year for such sales, leases or other dispositions of such properties, is not in excess of \$5,000,000, the Issuer or the Board, as their interest may appear, shall, by resolution duly adopted, determine that such property comprising a part of the System is no longer necessary, useful or profitable in the operation thereof and may then provide for the sale of such property. The proceeds of any such sale shall be deposited in the Renewal and Replacement Fund. If the amount to be received from such sale, lease or other disposition of said property, together with all other amounts received during the same Fiscal Year for such sales, leases or other dispositions of such properties, shall be in excess of \$5,000,000

but not in excess of \$10,000,000, the Issuer or the Board, as their interest may appear, shall first obtain the written approval of the Consulting Engineers that such property comprising a part of the System is no longer necessary, useful or profitable in the operation thereof, and the Issuer or the Board, as their interest may appear, may then, if it be so advised, by resolution duly adopted, approve and concur in such finding and authorize such sale, lease or other disposition of such property in accordance with the laws of the State. The proceeds of any such sale shall be deposited in the Renewal and Replacement Fund. The payment of such proceeds into the Renewal and Replacement Fund shall not reduce the amounts required to be paid into such funds by other provisions of this Bond Legislation.

No sale, lease or other disposition of the properties of the System shall be made by the Issuer or the Board, as their interest may appear, if the proceeds to be derived therefrom, together with all other amounts received during the same Fiscal Year for such sales, leases, or other dispositions of such properties, shall be in excess of \$10,000,000 and insufficient to pay all Bonds then Outstanding without the prior approval and consent in writing of (i) any applicable Bond Insurer, or (ii) if the Series 2024 A Bonds are not insured, the Holders, or their duly authorized representatives, of 60% in amount of Series 2024 A Bonds then Outstanding. The Issuer or the Board, as their interest may appear, shall prepare the form of such approval and consent for execution by the Bond Insurer or the then Holders of the Series 2024 A Bonds for the disposition of the proceeds of the sale, lease or other disposition of such properties of the System.

Section 7.06. Issuance of Other Obligations Payable Out of Revenues and General Covenant Against Encumbrances. Except as provided for in this Section 7.06 and Section 7.07 hereof, the Issuer shall not issue any obligations whatsoever payable from the revenues of the System which rank prior to, or equally, as to lien on and source of and security for payment from such revenues with the Series 2024 A Bonds. All obligations issued by the Issuer after the issuance of the Series 2024 Bonds and payable from the revenues of the System, except such additional parity Bonds, shall contain an express statement that such obligations are junior and subordinate, as to lien on and source of and security for payment from such revenues and in all other respects, to the Series 2024 A Bonds; provided, that no such subordinate obligations shall be issued unless all payments required to be made into all funds and accounts established by this Bond Legislation have been made and are current at the time of the issuance of such subordinate obligations.

Except as provided above, the Issuer shall not create, or cause or permit to be created, any debt, lien, pledge, assignment, encumbrance or any other charge having priority over or being on a parity with the lien of the Series 2024 A Bonds, and the interest, if any, thereon, upon any of the income and revenues of the System pledged for payment of the Series 2024 A Bonds and the interest, if any, thereon in this Bond Legislation, or upon the System or any part thereof.

The Issuer shall give the Authority and the DEP prior written notice of its issuance of any other obligations to be used for the System, payable from the revenues of the System or from any grants for the Project, or any other obligations related to the Project or the System.

Section 7.07. Parity Bonds. So long as the Prior Bonds are Outstanding, the limitations on the issuance of parity obligations set forth in the Prior Ordinances shall be applicable. In addition, no additional Parity Bonds, payable out of the revenues of the System, shall be issued after the issuance of the Series 2024 Bonds pursuant to this Bond Legislation, without the prior written consent of

the Authority under the conditions and in the manner herein provided (unless less restrictive than the provisions of the Prior Ordinances).

All Parity Bonds issued hereunder shall be on a parity in all respects with the Series 2024 A Bonds.

No such additional Parity Bonds shall be issued except for the purpose of financing the costs of design, acquisition or construction of additions, extensions, betterments or improvements to the System, refunding all or a portion of one or more series of Bonds, or to pay claims which may exist against the revenues or facilities of the System or all of such purposes.

No Parity Bonds shall be issued at any time, however, unless and until there has been procured and filed with the City Clerk a written statement by the Independent Certified Public Accountants reciting the conclusion that the Net Revenues actually derived, subject to the adjustments hereinafter provided for, from the System during any 12 consecutive months within the 18 months immediately preceding the date of the actual issuance of such additional Parity Bonds, plus the estimated average increased annual Net Revenues to be received in each of the 3 succeeding years after the completion of the improvements to be financed by such Parity Bonds, if any, shall not be less than 115% of the largest aggregate amount that will mature and become due in any succeeding Fiscal Year for principal of and interest, if any, on the following:

- (1) The Bonds then Outstanding;
- (2) Any additional Parity Bonds theretofore issued pursuant to the provisions contained in the Prior Ordinances and this Bond Legislation then Outstanding; and
- (3) The additional Parity Bonds then proposed to be issued.

The “estimated average increased annual Net Revenues to be received in each of the 3 succeeding years,” as that term is used in the computation provided in the above paragraph, shall refer only to the increased Net Revenues estimated to be derived from the improvements to be financed by such Parity Bonds and any increase in rates enacted by the Issuer, the time for appeal of which shall have expired (without successful appeal) prior to the issuance of such Parity Bonds, and shall not exceed the amount to be stated in a certificate of the Independent Certified Public Accountants, which shall be filed in the office of the City Clerk prior to the issuance of such Parity Bonds.

The Net Revenues actually derived from the System during the 12-consecutive month period hereinabove referred to may be adjusted by adding to such Net Revenues such additional Net Revenues which would have been received, in the opinion of the Independent Certified Public Accountants, as stated in a certificate, on account of increased rates, rentals, fees and charges for the System enacted by the Issuer, the time for appeal of which shall have expired (without successful appeal) prior to issuance of such Parity Bonds.

All covenants and other provisions of this Bond Legislation (except as to details of such Parity Bonds inconsistent herewith) shall be for the equal benefit, protection and security of the Holders

of the Bonds and the Holders of any Parity Bonds subsequently issued from time to time within the limitations of and in compliance with this section. Bonds issued on a parity, regardless of the time or times of their issuance, shall rank equally with respect to their lien on the Gross Revenues of the System and their source of and security for payment from said Gross Revenues, without preference of any Bond of one series over any other Bond of the same series. The Issuer shall comply fully with all the increased payments into the various funds and accounts created in this Bond Legislation required for and on account of such Parity Bonds, in addition to the payments required for Bonds theretofore issued pursuant to this Bond Legislation.

Parity Bonds shall not be deemed to include bonds, notes, certificates or other obligations subsequently issued, the lien of which on the revenues of the System is subject to the prior and superior lien of the Bonds on such revenues. The Issuer shall not issue any obligations whatsoever payable from the revenues of the System, or any part thereof, which rank prior to or, except in the manner and under the conditions provided in this section, equally, as to lien on and source of and security for payment from such revenues, with the Bonds.

No Parity Bonds shall be issued at any time, however, unless all of the payments into the respective funds and accounts provided for in this Bond Legislation with respect to the Bonds then Outstanding (exclusive of the Renewal and Replacement Fund), and any other payments provided for in this Bond Legislation and the Prior Ordinances, shall have been made in full as required to the date of delivery of the Parity Bonds, and the Issuer then be in full compliance with all the covenants, agreements and terms of this Bond Legislation and the Prior Ordinances or shall have fully corrected any delinquency or deficiency with respect to such payments and compliance.

Section 7.08. Books; Records and Audit. The Board shall keep complete and accurate records of the cost of acquiring the Project site and the costs of acquiring, constructing and installing the Project. The Board shall permit the Authority and the DEP or their agents and representatives, to inspect all books, documents, papers and records relating to the Project and the System at all reasonable times for the purpose of audit and examination. The Board shall submit to the Authority and the DEP such documents and information as they may reasonably require in connection with the acquisition, construction and installation of the Project, the operation and maintenance of the System and the administration of the loan or any grants or other sources of financing for the Project.

The Board shall permit the Authority and the DEP or their agents and representatives, to inspect all records pertaining to the operation and maintenance the System at all reasonable times following completion of construction of the Project and commencement of operation thereof, or, if the Project is an improvement to an existing system, at any reasonable time following commencement of construction.

The Board will keep books and records of the System, which shall be separate and apart from all other books, records and accounts of the Board and the Issuer, in which complete and correct entries shall be made of all transactions relating to the System, and any Holder of a Bond or Bonds issued pursuant to this Bond Legislation shall have the right at all reasonable times to inspect the System and all parts thereof and all records, accounts and data of the Board relating thereto.

The accounting system for the System shall follow current generally accepted accounting principles and safeguards to the extent allowed and as prescribed by the Public Service Commission of West Virginia. Separate control accounting records shall be maintained by the Board. Subsidiary records as may be required shall be kept in the manner and on the forms, books and other bookkeeping records as prescribed by the Board. The Board shall prescribe and institute the manner by which subsidiary records of the accounting system which may be installed remote from the direct supervision of the Board shall be reported to such agent of the Issuer as the Issuer shall direct.

The Board shall file with the Authority and the DEP, or any other original purchaser of the Series 2024 Bonds, and shall mail in each year to any Holder or Holders of the Series 2024 Bonds, requesting the same, an annual report containing the following:

- (A) A statement of Gross Revenues, Operating Expenses, Net Revenues and Surplus Revenues derived from and relating to the System.
- (B) A balance sheet statement showing all deposits in all the funds and accounts provided for in this Bond Legislation and the status of all said funds and accounts.
- (C) The amount of any Bonds, notes or other obligations payable from the revenues of the System Outstanding.

The Board shall also, at least once a year, cause the books, records and accounts of the System to be audited by Independent Certified Public Accountants (to the extent legally required in compliance with 2 CFR 200 Subpart F, or any successor thereto), and shall mail upon request, and make available generally, the report of said Independent Certified Public Accountants, or a summary thereof, to any Holder or Holders of the Series 2024 Bonds and shall submit said report to the Authority and the DEP, or any other original purchaser of the Series 2024 Bonds. Such audit report submitted to the Authority and the DEP shall include a statement that the Board is in compliance with the terms and provisions of the Act, the Bond Purchase Agreement and this Bond Legislation and that the revenues of the System are adequate to meet the Board's Operating Expenses and debt service and reserve requirements.

Subject to the terms, conditions and provisions of the Bond Purchase Agreement and the Act, the Issuer has acquired, or shall do all things necessary to acquire, the proposed site of the Project and shall do, is doing or has done all things necessary to construct the Project in accordance with the plans, specifications and designs prepared by the Consulting Engineers. All real estate and interests in real estate and all personal property constituting the Project and the Project site heretofore or hereafter acquired shall at all times be and remain the property of the Issuer.

The Issuer shall provide the DEP with all appropriate documentation to comply with any special conditions established by federal and/or state regulations as set forth in the Bond Purchase Agreement for the Series 2024 Bonds or any Exhibit thereto or as promulgated from time to time.

The Board shall permit the Authority and the DEP, or their agents and representatives, to enter and inspect the Project site and Project facilities at all reasonable times. Prior to, during and after

completion of construction and commencement of operation of the Project, the Board shall provide the Authority and the DEP, or their agents and representatives, with access to the System site and System facilities as may be reasonably necessary to accomplish all of the powers and rights of the Authority and the DEP with respect to the System pursuant to the Act.

Section 7.09. Rates. Prior to the issuance of the Series 2024 Bonds, equitable rates or charges for the use of and service rendered by the System have been established all in the manner and form required by law, and copies of such rates and charges so established will be continuously on file with the City Clerk, which copies will be open to inspection by all interested parties. The schedule of rates and charges shall at all times be adequate to produce Gross Revenues from the System sufficient to pay Operating Expenses and to make the prescribed payments into the funds created hereunder. Such schedule of rates and charges shall be changed and readjusted whenever necessary so that the aggregate of the rates and charges will be sufficient for such purposes. In order to assure full and continuous performance of this covenant, with a margin for contingencies and temporary unanticipated reduction in income and revenues, the Issuer hereby covenants and agrees that the schedule of rates or charges from time to time in effect shall be sufficient, together with other revenues of the System to meet the coverage requirements set forth in the Prior Ordinances so long as the Prior Bonds are Outstanding and thereafter, (i) to provide for all Operating Expenses of the System and (ii) to leave a balance each year equal to at least 115% of the maximum amount required in any year for payment of principal of and interest, if any, on the Series 2024 A Bonds, the Prior Bonds and all other obligations secured by a lien on or payable from such revenues on a parity with, or subordinate to, the Series 2024 A Bonds, including the Prior Bonds provided, that in the event that amounts equal to or in excess of the reserve requirements are on deposit respectively in the Series 2024 A Bonds Reserve Account and any Reserve Accounts for obligations on a parity with the Series 2024 A Bonds, are funded at least at the requirement therefor, such balance each year need only equal at least 110% of the maximum amount required in any year for payment of principal of and interest, if any, on the Series 2024 A Bonds, the Prior Bonds and all other obligations secured by a lien on or payable from such revenues on a parity with the Series 2024 A Bonds. In any event, the Issuer shall not reduce the rates or charges for services set forth in the rate ordinances described in Section 7.04 hereof.

The Issuer hereby covenants to commence enactment of such ordinance or ordinances as shall be required to increase the rates and charges for the services and facilities of the System within 30 days following a determination of the Independent Certified Public Accountant that less than the above-required coverage exists or in the event that the annual audit report shows less than the above-required coverage, such increase to provide rates and charges sufficient to produce such required coverage.

Section 7.10. Operating Budget and Monthly Financial Report. The Board shall annually, at least 45 days preceding the beginning of each Fiscal Year, prepare and adopt by resolution a detailed, balanced budget of the estimated revenues and expenditures for operation and maintenance of the System during the succeeding Fiscal Year and shall submit a copy of such budget to the DEP and the Authority within 30 days of adoption thereof. The Board shall mail copies of such annual budget and all resolutions authorizing increased expenditures for operation and maintenance within 30 days of adoption to the Authority and the DEP and to any Holder of the Bonds, who shall file his or her address with the Issuer and request in writing that copies of all such budgets and resolutions be furnished him or her and shall make available such budgets and all resolutions authorizing increased expenditures for operation and

maintenance of the System at all reasonable times to the DEP, the Authority and to any Holder of any Bonds, or anyone acting for and in behalf of such Holder of any Bonds.

Commencing on the date contracts are executed for the acquisition and construction of the Project and for two years following the completion of the Project, the Board shall each month complete a "Monthly Financial Report," a form of which is attached to the Bond Purchase Agreement, and forward a copy of such report to the DEP and the Authority by the 20th day of each month.

Section 7.11. Engineering Services and Operating Personnel. The Board will obtain a certificate of the Consulting Engineers in the form attached to the Bond Purchase Agreement, stating, among other things, that the Project has been or will be constructed in accordance with the approved plans, specifications and designs as submitted to the Authority and the DEP, the Project is adequate for the purposes for which it was designed, the funding plan as submitted to the Authority and the DEP is sufficient to pay the costs of acquisition and construction of the Project, and all permits required by federal and state laws for construction of the Project have been obtained.

The Board shall provide and maintain competent and adequate engineering services satisfactory to the Authority and the DEP covering the supervision and inspection of the development and construction of the Project and bearing the responsibility of assuring that construction conforms to the plans, specifications and designs prepared by the Consulting Engineers, which have been approved by all necessary governmental bodies. Such engineer shall certify to the Authority, the DEP, the Issuer and the Board at the completion of construction that construction of the Project is in accordance with the approved plans, specifications and designs, or amendments thereto, approved by all necessary governmental bodies.

The Board shall require the Consulting Engineers to submit Record Drawings, as defined in the SRF Regulations, to it within 60 days of the completion of the Project. The Board shall notify the DEP in writing of such receipt. The Board shall submit a "Performance Certificate," a form of which is attached to the Bond Purchase Agreement as Exhibit A, to the DEP within 60 days of the end of the first year after the Project is completed.

The Board shall require the Consulting Engineers to submit the final Operation and Maintenance Manual, as defined in the SRF Regulations, to the DEP when the Project is 90% completed. The Board shall at all times provide operation and maintenance of the System in compliance with all state and federal standards.

The Board shall employ qualified operating personnel properly certified by the State before the Project is 50% complete and shall retain such a certified operator to operate the System during the entire term of the Bond Purchase Agreement. The Board shall notify the DEP in writing of the certified operator employed at the 50% completion stage.

The Board shall serve the additional customers, if any, at the location(s) as set forth in Certificate of Engineer. The Board shall not reduce the amount of additional customers, if any, served by the Project without the prior written approval of the Board of the Authority. Following completion of the Project the Board shall certify to the Authority the number of customers added to the System, if any.

Section 7.12. No Competing Franchise. To the extent legally allowable, neither the Issuer nor the Board will grant or cause, consent to or allow the granting of, any franchise or permit to any person, firm, corporation, body, agency or instrumentality whatsoever for the providing of any services which would compete with services provided by the System.

Section 7.13. Enforcement of Collections. The Board will diligently enforce and collect all fees, rentals or other charges for the services and facilities of the System, and take all steps, actions and proceedings for the enforcement and collection of such fees, rentals or other charges which shall become delinquent to the full extent permitted or authorized by the Act, the rules and regulations of the Public Service Commission of West Virginia and other laws of the State of West Virginia.

Whenever any fees, rates, rentals or other charges for the services and facilities of the System shall remain unpaid for a period of 30 days after the same shall become due and payable, the property and the owner thereof, as well as the user of the services and facilities, shall be delinquent until such time as all such rates and charges are fully paid. To the extent authorized by the laws of the State and the rules and regulations of the Public Service Commission of West Virginia, rates, rentals and other charges, if not paid when due, shall become a lien on the premises served by the System. The Board further covenants and agrees that, it will, to the full extent permitted by law and the rules and regulations promulgated by the Public Service Commission of West Virginia, discontinue and shut off the services of the System, to all users of the services of the System delinquent in payment of charges for the services of the System and will not restore such services of the System until all delinquent charges for the services of the System, plus reasonable interest and penalty charges for the restoration of service, have been fully paid and shall take all further actions to enforce collections to the maximum extent permitted by law. If the water facilities are not owned by the Issuer, the Issuer shall enter into a termination agreement with the water provider of such water, subject to any required approval of such agreement by the Public Service Commission of West Virginia and all rules, regulations and orders of the Public Service Commission of West Virginia.

Section 7.14. No Free Services. The Board will not render or cause to be rendered any free services of any nature by the System, nor will any preferential rates be established for users of the same class; and in the event the Board or Issuer, or any department, agency, instrumentality, officer or employee of the Board or Issuer shall avail itself or themselves of the facilities or services provided by the System, or any part thereof, the same rates, fees or charges applicable to other customers receiving like services under similar circumstances shall be charged the Board and the Issuer and any such department, agency, instrumentality, officer or employee. The revenues so received shall be deemed to be revenues derived from the operation of the System, and shall be deposited and accounted for in the same manner as other revenues derived from such operation of the System.

Section 7.15. Insurance and Construction Bonds. A. The Board hereby covenants and agrees that so long as the Series 2024 Bonds remain Outstanding, the Board will, as an Operating Expense, procure, carry and maintain insurance with a reputable insurance carrier or carriers as is customarily covered with respect to works and properties similar to the System. Such insurance shall initially cover the following risks and be in the following amounts:

- (1) FIRE, LIGHTNING, VANDALISM, MALICIOUS MISCHIEF AND EXTENDED COVERAGE INSURANCE, on all above-ground insurable

portions of the System in an amount equal to the actual cost thereof. In time of war the Board will also carry and maintain insurance to the extent available against the risks and hazards of war. In the event of any damage to or destruction of any portion of the System, the proceeds of all such insurance policies shall be placed in the Renewal and Replacement Fund and used only for the repairs and restoration of the damaged or destroyed properties or for the other purposes provided herein for the Renewal and Replacement Fund. The Board will itself, or will require each contractor and subcontractor to, obtain and maintain builder's risk insurance (fire and extended coverage) to protect the interests of the Board, the Issuer, the Authority, the prime contractor and all subcontractors as their respective interests may appear, in accordance with the Bond Purchase Agreement, during construction of the Project on a 100% basis (completed value form) on the insurable portion of the Project, such insurance to be made payable to the order of the Authority, the Board, the Issuer, the contractors and subcontractors, as their interests may appear.

(2) PUBLIC LIABILITY INSURANCE, with limits of not less than \$1,000,000 per occurrence to protect the Issuer and the Board from claims for bodily injury and/or death and not less than \$500,000 per occurrence from claims for damage to property of others which may arise from the operation of the System, and insurance with the same limits to protect the Issuer and the Board from claims arising out of operation or ownership of motor vehicles of or for the System.

(3) WORKERS' COMPENSATION COVERAGE FOR ALL EMPLOYEES OF OR FOR THE SYSTEM ELIGIBLE THEREFOR; AND PERFORMANCE AND PAYMENT BONDS, such bonds to be in the amounts of 100% of the construction contract and to be required of each contractor contracting directly with the Board, and such payment bonds will be filed with the Clerk of The County Commission of the County in which such work is to be performed prior to commencement of construction of the Project in compliance with West Virginia Code, Chapter 38, Article 2, Section 39.

(4) FLOOD INSURANCE, if the facilities of the System are or will be located in designated special flood or mudslide-prone areas and to the extent available at reasonable cost to the Board.

(5) BUSINESS INTERRUPTION INSURANCE, to the extent available at reasonable cost to the Board.

(6) FIDELITY BONDS will be provided as to every officer, member and employee of the Board having custody of the revenues or of any other funds of the System, in an amount at least equal to the total funds in the custody of any such person at any one time.

B. The Board shall require all contractors engaged in the construction of the Project to furnish a performance bond and a payment bond, each in an amount equal to 100% of the contract price of the portion of the Project covered by the particular contract as security for the faithful performance of such contract. The Board shall verify such bonds prior to commencement of construction.

The Board shall also require all contractors engaged in the construction of the Project to carry such workers' compensation coverage for all employees working on the Project and public liability insurance, vehicular liability insurance and property damage insurance in amounts adequate for such purposes and as is customarily carried with respect to works and properties similar to the Project; provided, that the amounts and terms of such coverage are satisfactory to the Authority and the DEP and the Board shall verify such insurance prior to commencement of construction. In the event the Bond Purchase Agreement so requires, such insurance shall be made payable to the order of the Authority, the Issuer, the Board, the prime contractor and all subcontractors, as their interests may appear.

Section 7.16. Mandatory Connections. The mandatory use of the sewerage portion of the System is essential and necessary for the protection and preservation of the public health, comfort, safety, convenience and welfare of the inhabitants and residents of, and the economy of, the Issuer and in order to assure the rendering harmless of sewage and water-borne waste matter produced or arising within the territory served by the System. Accordingly, every owner, tenant or occupant of any house, dwelling or building located near the System, where sewage will flow by gravity or be transported by such other methods approved by the State Department of Health from such house, dwelling or building into the System, to the extent permitted by the laws of the State and the rules and regulations of the Public Service Commission of West Virginia, shall connect with and use the System and shall cease the use of all other means for the collection, treatment and disposal of sewage and waste matters from such house, dwelling or building where there is such gravity flow or transportation by such other method approved by the State Department of Health and such house, dwelling or building can be adequately served by the System, and every such owner, tenant or occupant shall, after a 20-day notice of the availability of the System, pay the rates and charges established therefor.

Any such house, dwelling or building from which emanates sewage or water-borne waste matter and which is not so connected with the System is hereby declared and found to be a hazard to the health, safety, comfort and welfare of the inhabitants of the Issuer and a public nuisance which shall be abated to the extent permitted by law and as promptly as possible by proceedings in a court of competent jurisdiction.

Section 7.17. Completion and Operation of Project; Permits and Orders. The Board shall complete the Project as promptly as possible and operate and maintain the System as a revenue-producing utility in good condition and in compliance with all federal and state requirements and standards.

The Board has obtained all permits required by State and federal laws for the acquisition and construction of the Project, all orders and approvals required by State law necessary for the acquisition and construction of the Project and the operation of the System and has obtained all approvals for the issuance of the Series 2024 Bonds required by State law, with all appeal periods having expired without successful appeal and the Board shall supply an opinion of counsel to such effect.

Section 7.18. Compliance with Bond Purchase Agreement and Law. The Issuer and the Board shall perform, satisfy and comply with all the terms and conditions of the Bond Purchase Agreement and the Act. Notwithstanding anything herein to the contrary, the Issuer and the Board shall provide the DEP with copies of all documents submitted to the Authority.

The Issuer and the Board shall also comply with all applicable laws, rules and regulations issued by the Authority, DEP or other State, federal or local bodies in regard to the acquisition and construction of the Project and the operation, maintenance and use of the System.

The Board shall perform an annual maintenance audit which maintenance audit shall be submitted to the Authority and the Public Service Commission of West Virginia in the manner prescribed by and the guidelines established by the Authority and the Public Service Commission of West Virginia.

Section 7.19. [RESERVED]

Section 7.20. Securities Laws Compliance. The Issuer and the Board will provide the Authority, in a timely manner, with any and all information that may be requested of them (including its annual audit report, financial statements, related information and notices of changes in usage and customer base) so that the Authority may comply with the provisions of SEC Rule 15c2-12 (17 CFR Part 240).

Section 7.21. Contracts; Change Orders; Public Releases. A. The Issuer shall, simultaneously with the delivery of the Series 2024 Bonds or immediately thereafter, enter into written contracts for the immediate acquisition or construction of the Project.

B. The Issuer shall submit all proposed change orders to the DEP for written approval. The Issuer shall obtain the written approval of the DEP before expending any proceeds of the Series 2024 Bonds held in "contingency" as set forth in the Schedule attached to the certificate of the Consulting Engineer. The Issuer shall also obtain the written approval of the DEP before expending any proceeds of the Series 2024 Bonds made available due to bid or construction or project underruns.

C. The Issuer shall list the funding provided by the DEP and the Authority in any press release, publication, program bulletin, sign or other public communication that references the Project, including but not limited to any program document distributed in conjunction with any ground breaking or dedication of the Project.

Section 7.22. Statutory Mortgage Lien. For the further protection of the Holders of the Series 2024 A Bonds, a statutory mortgage lien upon the System is granted and created by the Act, which statutory mortgage lien is hereby recognized and declared to be valid and binding, shall take effect immediately upon delivery of the Series 2024 A Bonds and shall be on a parity with the statutory mortgage lien in favor of the Holders of the Prior Bonds.

ARTICLE VIII

INVESTMENT OF FUNDS

Section 8.01. Investments. Any monies held as a part of the funds and accounts created by this Bond Legislation other than the Revenue Fund, shall be invested and reinvested by the Commission, the Depository Bank, or such other bank or national banking association holding such fund or account, as the case may be, at the written direction of the Issuer in any Qualified Investments to the fullest extent possible under applicable laws, this Bond Legislation, the need for such monies for the purposes set forth herein and the specific restrictions and provisions set forth in this Section 8.01.

Any investment shall be held in and at all times deemed a part of the fund or account in which such monies were originally held, and the interest accruing thereon and any profit or loss realized from such investment shall be credited or charged to the appropriate fund or account. The investments held for any fund or account shall be valued at the lower of cost or then current market value, or at the redemption price thereof if then redeemable at the option of the holder, including the value of accrued interest and giving effect to the amortization of discount, or at par if such investment is held in the “Consolidated Fund.” The Commission, the Depository Bank, or such other bank or national banking association, as the case may be, shall sell and reduce to cash a sufficient amount of such investments whenever the cash balance in any fund or account is insufficient to make the payments required from such fund or account, regardless of the loss on such liquidation. The Depository Bank may make any and all investments permitted by this section through its own investment or trust department and shall not be responsible for any losses from such investments, other than for its own negligence or willful misconduct.

The Depository Bank shall keep complete and accurate records of all funds, accounts and investments, and shall distribute to the Issuer, at least once each year, or more often as reasonably requested by the Issuer, a summary of such funds, accounts and investment earnings. The Issuer shall retain all such records and any additional records with respect to such funds, accounts and investment earnings so long as any of the Series 2024 Bonds are Outstanding and as long thereafter as necessary to assure the exclusion of interest on the Series 2024 Bonds from gross income for federal income tax purposes.

Section 8.02. Certificate as to Use of Proceeds; Covenants as to Use of Proceeds. The Issuer shall deliver a certificate as to use of proceeds or other similar certificate to be prepared by nationally recognized bond counsel relating to restrictions on the use of proceeds of the Series 2024 Bonds as a condition to issuance of the Series 2024 Bonds. In addition, the Issuer covenants (i) to comply with the Code and all Regulations from time to time in effect and applicable to the Series 2024 Bonds as may be necessary in order to maintain the status of the Series 2024 Bonds as governmental bonds; (ii) that it shall not take, or permit or suffer to be taken, any action with respect to the Issuer’s use of the proceeds of the Series 2024 Bonds which would cause any bonds, the interest on which is exempt from federal income taxation under Section 103(a) of the Code, issued by the Authority or the DEP, as the case may be, from which the proceeds of the Series 2024 Bonds are derived, to lose their status as tax-exempt bonds; and (iii) to take such action, or refrain from taking such action, as shall be deemed necessary by the Issuer, or requested by the Authority or the DEP, to ensure compliance with the covenants and agreements set forth in this Section, regardless of whether such actions may be contrary to any of the provisions of this Bond Legislation.

The Issuer shall annually furnish to the Authority information with respect to the Issuer’s use of the proceeds of the Series 2024 Bonds and any additional information requested by the Authority.

ARTICLE IX

DEFAULT AND REMEDIES

Section 9.01. Events of Default. Each of the following events shall constitute an “Event of Default” with respect to the Series 2024 Bonds:

- (1) If default occurs in the due and punctual payment of the principal of or interest, if any, on the Series 2024 A Bonds; or
- (2) If default occurs in the Issuer’s observance of any of the covenants, agreements or conditions on its part relating to the Series 2024 Bonds set forth in this Bond Legislation, any supplemental resolution or in the Series 2024 Bonds, and such default shall have continued for a period of 30 days after the Issuer shall have been given written notice of such default by the Commission, the Depository Bank, the Registrar, the Paying Agent or any other Paying Agent or a Holder of a Bond; or
- (3) If the Issuer or the Board files a petition seeking reorganization or arrangement under the federal bankruptcy laws or any other applicable law of the United States of America; or
- (4) If default occurs with respect to the Prior Bonds or the Prior Ordinances.

Section 9.02. Remedies. Upon the happening and continuance of any Event of Default, any Registered Owner of a Bond may exercise any available remedy and bring any appropriate action, suit or proceeding to enforce his or her rights and, in particular, (i) bring suit for any unpaid principal or interest then due; (ii) by mandamus or other appropriate proceeding enforce all rights of such Registered Owners including the right to require the Issuer to perform its duties under the Act and the Bond Legislation relating thereto, including but not limited to the making and collection of sufficient rates or charges for services rendered by the System; (iii) bring suit upon the Bonds; (iv) by action at law or bill in equity require the Issuer to account as if it were the trustee of an express trust for the Registered Owners of the Bonds; and (v) by action or bill in equity enjoin any acts in violation of the Bond Legislation with respect to the Bonds, or the rights of such Registered Owners; provided, that all rights and remedies of the Holders of the Series 2024 A Bonds shall be on a parity with those Holders of the Prior Bonds.

Section 9.03. Appointment of Receiver. Any Registered Owner of a Bond may, by proper legal action, compel the performance of the duties of the Issuer and the Board under the Bond Legislation and the Act, including, the completion of the Project and after commencement of operation of the System, the making and collection of sufficient rates and charges for services rendered by the System and segregation of the revenues therefrom and the application thereof. If there be any Event of Default with respect to such Bonds, any Registered Owner of a Bond shall, in addition to all other remedies or rights, have the right by appropriate legal proceedings to obtain the appointment of a receiver to administer the System or to complete the acquisition and construction of the Project on behalf of the

Issuer, with power to charge rates, rentals, fees and other charges sufficient to provide for the payment of Operating Expenses of the System, the payment of the Bonds and interest and the deposits into the funds and accounts hereby established, and to apply such rates, rentals, fees, charges or other revenues in conformity with the provisions of this Bond Legislation and the Act.

The receiver so appointed shall forthwith, directly or by his or her or its agents and attorneys, enter into and upon and take possession of all facilities of said System and shall hold, operate and maintain, manage and control such facilities, and each and every part thereof, and in the name of the Issuer exercise all the rights and powers of the Issuer with respect to said facilities as the Issuer itself might exercise.

Whenever all that is due upon the Bonds and interest thereon and under any covenants of this Bond Legislation for reserve, sinking or other funds and upon any other obligations and interest thereon having a charge, lien or encumbrance upon the revenues of the System shall have been paid and made good, and all defaults under the provisions of this Bond Legislation shall have been cured and made good, possession of the System shall be surrendered to the Issuer upon the entry of an order of the court to that effect. Upon any subsequent default, any Registered Owner of any Bonds shall have the same right to secure the further appointment of a receiver upon any such subsequent default.

Such receiver, in the performance of the powers hereinabove conferred upon him or her or it, shall be under the direction and supervision of the court making such appointment, shall at all times be subject to the orders and decrees of such court and may be removed thereby, and a successor receiver may be appointed in the discretion of such court. Nothing herein contained shall limit or restrict the jurisdiction of such court to enter such other and further orders and decrees as such court may deem necessary or appropriate for the exercise by the receiver of any function not specifically set forth herein.

Any receiver appointed as provided herein shall hold and operate the System in the name of the Issuer and for the joint protection and benefit of the Issuer and Registered Owners of the Bonds. Such receiver shall have no power to sell, assign, mortgage or otherwise dispose of any assets of any kind or character belonging or pertaining to the System, but the authority of such receiver shall be limited to the completion of the Project and the possession, operation and maintenance of the System for the sole purpose of the protection of both the Issuer and Registered Owners of such Bonds and the curing and making good of any Event of Default with respect thereto under the provisions of this Bond Legislation, and the title to and ownership of said System shall remain in the Issuer, and no court shall have any jurisdiction to enter any order or decree permitting or requiring such receiver to sell, assign, mortgage or otherwise dispose of any assets of the System.

ARTICLE X

PAYMENT OF BONDS

Section 10.01. Payment of Series 2024 A Bonds. If the Issuer shall pay or there shall otherwise be paid to the Holders of the Series 2024 A Bonds, the principal of and interest due or to become due thereon, if any, at the times and in the manner stipulated therein and in this Bond Legislation, then the pledge of Gross Revenues and other monies and securities pledged under this Bond Legislation and all covenants, agreements and other obligations of the Issuer to the Registered Owners of the Series

2024 A Bonds shall thereupon cease, terminate and become void and be discharged and satisfied, except as may otherwise be necessary to assure the exclusion of interest, if any, on the Series 2024 A Bonds from gross income for federal income tax purposes.

ARTICLE XI

MISCELLANEOUS

Section 11.01. Amendment or Modification of Bond Legislation. Prior to issuance of the Series 2024 Bonds, this Ordinance may be amended or supplemented in any way by the Supplemental Resolution. Following issuance of the Series 2024 Bonds, no material modification or amendment of this Ordinance, or of any ordinance, resolution or order amendatory or supplemental hereto, that would materially and adversely affect the rights of Registered Owners of the Series 2024 Bonds, shall be made without the consent in writing of the Registered Owners of the Series 2024 Bonds so affected and then Outstanding; provided, that no change shall be made in the maturity of any Bond or Bonds or the rate of interest, if any, thereon, or in the principal amount thereof, or affecting the unconditional promise of the Issuer to pay such principal and interest out of the funds herein pledged therefor without the consent of the respective Registered Owner thereof. No amendment or modification shall be made that would reduce the percentage of the principal amount of the Series 2024 Bonds required for consent to the above-permitted amendments or modifications. Notwithstanding the foregoing, this Bond Legislation may be amended without the consent of any Bondholder as may be necessary to assure compliance with Section 148(f) of the Code relating to rebate requirements or otherwise as may be necessary to assure the exclusion of interest, if any, on the Series 2024 Bonds from gross income of the Holders thereof.

Section 11.02. Bond Legislation Constitutes Contract. The provisions of the Bond Legislation shall constitute a contract between the Issuer and the Registered Owners of the Series 2024 Bonds, and no change, variation or alteration of any kind of the provisions of the Bond Legislation shall be made in any manner, except as in this Bond Legislation provided.

Section 11.03. Severability of Invalid Provisions. If any section, paragraph, clause or provision of this Ordinance should be held invalid by any court of competent jurisdiction, the invalidity of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance, the Supplemental Resolution or the Series 2024 Bonds.

Section 11.04. Headings, Etc. The headings and catchlines of the articles, sections and subsections hereof are for convenience of reference only, and shall not affect in any way the meaning or interpretation of any provision hereof.

Section 11.05. Conflicting Provisions Repealed. All ordinances, orders or resolutions and or parts thereof in conflict with the provisions of this Ordinance are, to the extent of such conflict, hereby repealed; provided, that in the event of any conflict between this Ordinance and the Prior Ordinances, the Prior Ordinances shall control (unless less restrictive), so long as the Prior Bonds are Outstanding.

Section 11.06. Covenant of Due Procedure, Etc. The Issuer covenants that all acts, conditions, things and procedures required to exist, to happen, to be performed or to be taken precedent to

and in the adoption of this Ordinance do exist, have happened, have been performed and have been taken in regular and due time, form and manner as required by and in full compliance with the laws and Constitution of the State of West Virginia applicable thereto; and that the Mayor, the City Manager and members of the Governing Body were at all times when any actions in connection with this Ordinance occurred and are duly in office and duly qualified for such office.

Section 11.07. Statutory Notice and Public Hearing. Upon adoption hereof, an abstract of this Ordinance determined by the Governing Body to contain sufficient information as to give notice of the contents hereof shall be published once a week for 2 successive weeks within a period of fourteen consecutive days, with at least 6 full days intervening between each publication, in the *Dominion Post*, a newspaper published and of general circulation in The City of Morgantown, together with a notice stating that this Ordinance has been adopted and that the Issuer contemplates the issuance of the Series 2024 Bonds, and that any person interested may appear before the Governing Body upon a date certain, not less than ten days subsequent to the date of the first publication of such abstract of this Ordinance and notice, and present protests, and that a certified copy of this Ordinance is on file with the Governing Body for review by interested persons during office hours of the Governing Body. At such hearing, all objections and suggestions shall be heard and the Governing Body shall take such action as it shall deem proper in the premises.

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Section 11.08. Effective Date. This Ordinance shall take effect immediately following the public hearing and final reading hereof.

Passed on First Reading: September 3, 2024

Passed on Second Reading: September 17, 2024

Passed on Final Reading
Following Public Hearing: October 1, 2024

THE CITY OF MORGANTOWN

Mayor

City Manager

CERTIFICATION

Certified a true copy of an Ordinance duly enacted by the Council of THE CITY OF MORGANTOWN on the _____ day of _____, 2024.

Dated: _____, 2024.

[SEAL]

City Clerk

THE CITY OF MORGANTOWN
Combined Utility System Revenue Bonds, Series 2024 A
(West Virginia SRF Program); and
Combined Utility System Revenue Bonds, Series 2024 B
(West Virginia SRF Program/Forgivable)

BOND ORDINANCE

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AN ORDINANCE AMENDING THE FY 2024-2025 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 2024-2025 Annual Budget of the General Fund of the City of Morgantown is amended as shown in the revised budget (Revision 02) attached hereto and made a part of this ordinance.

This Ordinance and the General Fund budget as adopted herein, may be amended, supplemented, or modified by a resolution enacted by the City Council.

First Reading:

Adopted:

Mayor

Filed:

Recorded:

City Clerk

REQUEST FOR REVISION TO APPROVED BUDGET

Ora Ash, Deputy State Auditor
 West Virginia State Auditor's Office
200 West Main Street
 Clarksburg, WV 26301
 Phone: 627-2415 ext. 5114
 Fax: **304-340-5090**
 Email: **igs@wvsao.gov**

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 Ending: **2024-2025**
 Fund: **001**
 Revision Number: **2**
 Pages: **1 of 2**

City of Morgantown
 GOVERNMENT ENTITY

Person To Contact Regarding Request:
 Name: **Jonathan Furgison**
 Phone: **304-284-7407**
 Fax: **304-284-7418**
 Email: **jfurgison@morgantownwv.gov**

389 Spruce Street
 STREET OR PO BOX
 Morgantown 26508
 CITY ZIP CODE

Municipality
 Government Type

REVENUES: (net each acct.)

ACCOUNT NUMBER	ACCOUNT DESCRIPTION	PREVIOUSLY APPROVED AMOUNT	(INCREASE)	(DECREASE)	REVISED AMOUNT
313-00	Municipal Sales Tax	2,466,958	250,000		2,716,958
	#N/A				

NET INCREASE/(DECREASE) Revenues (ALL PAGES) 250,000

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

EXPENDITURES: (net each account category)

(WV CODE 7-1-9)

ACCOUNT NUMBER	ACCOUNT DESCRIPTION	PREVIOUSLY APPROVED AMOUNT	(INCREASE)	(DECREASE)	REVISED AMOUNT
444-566.01	Contribution Other Fund Capital Escrow	2,415,000	500,000		2,915,000
699-568.00	Contingencies*	599,597		250,000	349,597
	#N/A				

NET INCREASE/(DECREASE) Expenditures 250,000

APPROVED BY THE STATE AUDITOR

BY: **Deputy State Auditor, Local Government Services Division** Date

AUTHORIZED SIGNATURE OF ENTITY

APPROVAL DATE

Boards & Commissions Vacant Position List

Updated 9/30/2024

- **Building Commission: 1 Vacant – City Resident (Must be a Republican or Independent)**
1 – 1yr – 5yr term: 10/2/2019 – 10/3/2024 (Terry Jones resigned)
- **Civilian Police Review & Advisory Board: 2 Vacant – (City Resident or Work within City)**
1 – 1yr – 3yr term: 7/5/2023 – 7/4/2026
1 – 2yr – 3yr term: 7/5/2024 – 7/4/2027
- **Fire Civil Service Commission: 1 Vacant – City Resident (City Manager Appointee)**
1 – 4yr term: 7/1/2023 – 6/30/2027
- **Fire Code Board of Appeals: 1 Vacant – City Resident (Legal, Building Contractor, Engineering/Architectural Design)**
1 – 3yr terms: 5/2/2022 – 4/30/2025 (Legal)
- **Health & Wellness Commission: 3 Vacant – City Resident**
2 – 3yr – 3yr term: 1/1/2024 – 12/31/2026
1 – 1yr – 3yr term: 1/1/2022 – 12/31/2024
- **Historic Landmarks Commission: 1 Vacant – City Resident**
1 – 4yr – 4yr term: 11/5/2022 – 11/4/2026
- **Human Rights Commission: 3 Vacant – City Resident**
2 – 2yr – 2yr term: 7/1/2024 – 6/30/2026
1 – 1yr – 2yr term: 7/1/2023 – 6/30/2025 (Bronson Herr resigned 7/18/24)
- **“ICC” Building Code Board of Appeals: 1 Vacant (Architect/Engineer or Bldg. Contractor)**
1 – 1yr – 5yr term: 5/1/2021 – 4/30/2026
- **Library Board of Directors: 1 Vacant – City Resident**
1 – 4yr – 5yr term: 7/1/2023 – 6/30/2028
- **Personnel Board: 1 Vacant – City Resident**
1 – 3yr – 1yr – 3yr term: 7/1/2024 – 6/30/2027
- **Planning Commission: 1 Vacant – City Resident Ward Specific**
1 – 1yr – 3yr term: 3rd Ward 1/1/2023 – 12/31/2025
- **Sister Cities Commission: 4 Vacant**
1 – 1yr – 3yr term: 6/1/2023 – 5/31/2026
2 – 2yr – 3yr term: 6/1/2024 – 5/31/2027
1 – 3yr – 3yr term: 6/1/2022 – 5/31/2025
- **Traffic Commission: 3 Vacant – City Resident Ward Specific**
3 – 3yr term: 4/4/2024 – 4/3/2027 – 2nd Ward, 4th Ward, and 7th Ward
- **Transit Authority Board of Directors: 1 Vacant – City Resident**
1 – 3yr – 3yr term: 1/1/2023 – 12/31/2025 (Marly Ynigues resigned – Moved out of state)
- **Urban Landscape Commission: 2 Vacant (Landscape Design – Horticulture - Plant Health)**
1 – 3yr – 3yr term: 7/1/2023 – 6/30/2026
1 – 1yr – 3yr term: 7/1/2024 – 6/30/2027
- **Ward & Boundary Commission: 2 Vacant – City Resident Ward Specific**
2 – 2yr terms: 7/1/2023 – 6/30/2025 - Wards 4 & 7
- **Woodburn Commission: 2 Vacant – City Resident**
1 – 2yr – 3yr terms: 1/1/2022 – 12/31/2024
1 – 1yr – 3yr terms: 1/1/2024 – 12/31/2026

RESOLUTION APPROVING AND AUTHORIZING TO SUBMIT TO THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD) THE CITY OF MORGANTOWN'S PATHWAYS TO REMOVING OBSTACLES TO HOUSING (PRO HOUSING) COMPETITIVE GRANT APPLICATION

WHEREAS, the U.S. Department of Housing and Urban Development (HUD) issued a Pathways to Removing Obstacles to Housing (PRO Housing) Round 2 Notice of Funding Availability (NOFO) [FR-6800-N-98] under the authority of the Consolidated Appropriations Act, 2024 (Public Law 118-12242), which appropriated \$100 million for competitive grant funding for the identification and removal of barriers to affordable housing production and preservation; and

WHEREAS, the PRO Housing competitive funding grant supports communities who are actively taking steps to remove barriers to affordable housing, such as:

- Barriers caused by outdated zoning, land use policies, or regulations;
- Inefficient procedures;
- Gaps in available resources for development;
- Deteriorating or inadequate infrastructure;
- Lack of neighborhood amenities; or
- Challenges to preserving existing housing stock such as increasing threats from natural hazards, redevelopment pressures, or expiration of affordability requirements.

WHEREAS, per the Appropriations Act, HUD will prioritize applicants that demonstrate: (1) progress and a commitment to overcoming local barriers to facilitate the increase in affordable housing production and preservation, primarily by having enacted improved laws and regulations that HUD reasonably expects to preserve or produce new housing units; and (2) an acute need for housing affordable to households with incomes below 100 percent of the area median income.

WHEREAS, PRO Housing grantees may use awards to further develop, evaluate, and implement affordable housing policy plans, improve affordable housing strategies, and facilitate affordable housing production and preservation.

WHEREAS, the Morgantown City Manager's Office has prepared an application under the Round 2 PRO Housing NOFO [FR-6800-N-98], which seeks \$7 million to empower the City of Morgantown to undertake activities, which will remove barriers to affordable housing, increase affordable housing production, and lower housing costs for families over the long-term under the following key application components:

- Streamlining development processes;
- Increasing housing supply;
- Enhancing affordability;
- Promoting inclusivity and equity; and,
- Supporting sustainability

WHEREAS, the City’s draft PRO Housing Grant Application was on public display from September 14, 2024 through September 30, 2024 and the City held a public hearing on September 30, 2024.

NOW, THEREFORE BE IT RESOLVED on this 1st day of October, 2024 that the City of Morgantown:

SECTION 1. Hereby and in all respects APPROVES the City of Morgantown’s Pathways to Removing Obstacles to Housing (PRO Housing) Round 2 grant application and directs the City Clerk to file a copy of same with the Official Minutes of this Meeting of this City Council.

SECTION 2. Is COGNIZANT of the conditions that are imposed in the undertaking and carrying out of Pathways to Removing Obstacles to Housing (PRO Housing) funded activities with Federal Financial Assistance, if awarded, including those relating to Environmental Review, Uniform Relocation Act, Financial Management, Labor Standards, Civil Rights and Equal Opportunity, and other assurances as set forth under the certifications.

SECTION 3. AUTHORIZES and DIRECTS the City Manager, on behalf of the City of Morgantown, West Virginia, to file an Application for financial assistance with the U.S. Department of Housing and Urban Development (HUD) which has indicated its willingness to accept, review, score, and award grants up to \$7 million under the Pathways to Removing Obstacles to Housing (PRO Housing) Round 2 competitive grant application process; and, further authorizes and directs the City Manager to act as the authorized representative of the City of Morgantown to sign any and all documents in regard to this federal competitive grant program.

SECTION 4. AUTHORIZES and DIRECTS the City Manager, on behalf of the City of Morgantown, West Virginia, to provide assurances and/or certifications as required by the Department of Housing and Urban Development (HUD) and any other supplemental information or revised data which HUD may request in review of the City’s Application.

ADOPTED BY RESOLUTION THIS 1st DAY OF OCTOBER, 2024 BY THE COMMON COUNCIL OF THE CITY OF MORGANTOWN, MONONGALIA COUNTY, WEST VIRGINIA.

IN WITNESS WHEREOF, I, M. Joe Abu-Ghannam, 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 1st day of October, 2024.

M. Joe Abu-Ghannam, Mayor

Christine Wade, City Clerk



**MORGANTOWN
ENGINEERING &
PUBLIC WORKS**

P: 304-284-7412
Fax: 304-284-7409
Morgantownwv.gov
389 Spruce St.
Morgantown, WV 26505

Memorandum

To: A. Kim Haws, City Manager
From: Meagan Deeley, Deputy Director of Engineering and Public Works
Date: September 25, 2024
Re: Results from Bid Call 2025-02 North St. Improvements.

Bids for the annual paving project were opened at 2:30 pm, on September 25, 2024. The results are as follows:

CONTRACTOR	BID AMOUNT
1. Anderson Excavating	\$560,915.00
2. Parrotta Paving	\$469,310.00
3. Mountaineer Contractors	\$550,871.10
4. Lakecrest Construction	\$489,909.00
5. Wolfe Landscape Plus	\$530,279.40
6. Bear Contracting	\$545,845.00

Engineering has reviewed the submitted bids for completeness and adherence to the Bid Call requirements.

Based on the above results we recommend awarding the contract to Parrotta Paving. They have a long history of providing quality work for the city. We are currently working with them on the 1st St and Hall St. Project.

Ordinance No. 2024-____

**AN ORDINANCE AUTHORIZING AND REGULATING
PRIVATE OUTDOOR DESIGNATED AREAS
IN THE CITY OF MORGANTOWN**

WHEREAS, the West Virginia legislature has enacted 2023 Senate Bill 534 which included provisions authorizing municipalities to establish Private Outdoor Designated Areas, as defined by *W. Va. Code* §§ 8-12-26 and 60-7-8g, where customers of West Virginia Alcohol and Beverage Control Administration Class A license holders can carry their drinks with them outside of the bar, restaurant, or other establishment where it was purchased and socialize and visit other businesses within the area; and

WHEREAS, the West Virginia legislature has since enacted 2024 House Bill 5295, which makes certain amendments to Private Outdoor Designated Areas, including removal of the requirement that participating bars and restaurants enter a joint and several liability agreement and expansion of the licensees who may participate to any holder of a Class A, Class B, or Class S2 license issued by the West Virginia Alcohol Beverage Control Administration; and

WHEREAS, the City of Morgantown has established Private Outdoor Designated Areas to incorporate the provisions of state law and has operated these areas since May 2024; and

WHEREAS, the City desires to update its Private Outdoor Designated Area (“PODA”) provisions to specify procedures for operating fairs and festivals within the PODA, including by authorizing administratively-granted PODA permits for fairs and festivals and by designating certain special event locations within the PODA where the PODA can be partially suspended during events;

NOW, THEREFORE, The City of Morgantown hereby ordains that Article 953 of the City Code entitled “Private Outdoor Designated Areas,” is amended as follows (new matter underlined; deleted matter ~~stricken~~):

Sec. 953.01. Purpose and Intent.

Pursuant to the provisions of West Virginia Code sections 8-12-26 and 60-7-8g, one or more private outdoor designated areas may be created within the City.

Sec. 953.02. Definitions.

Commissioner means the West Virginia Alcohol Beverage Control Commissioner.

PODA Permit means the permit issued by the City to qualified applicants allowing them to participate in the Private Outdoor Designated Area and to apply for an S4 license from the Commissioner.

Private Outdoor Designated Area means public property that has become a legally demarcated area established by a municipal ordinance as set forth in W. Va. Code § 8-12-26 for the consumption of liquor, wine, nonintoxicating beer, and nonintoxicating craft beer.

Special Event Location(s) means a location within a Private Outdoor Designated Area in which the Private Outdoor Designated Area may be suspended for the purpose of holding a special event or events that do not participate in the Private Outdoor Designated Area.

Qualified Permit Holder means the holder of a Class A or Class S2 license that elects to operate within a private outdoor designated area and that has been issued a Class S4 license pursuant to W. Va. Code §§ 60-7-1 et seq.

Sec. 953.03. Private Outdoor Designated Areas.

(a) The following area(s) is/are established as Private Outdoor Designated Areas (PODAs) in accordance with applicable state law and the provisions of this Article:

(1) Downtown/Wharf District Private Outdoor Designated Area (“PODA”).

(A) Boundary. The PODA consists of the area depicted and described in Table 953.03.1, and generally bounded on the North by the Northern boundary of the Willey Street public right of way; on the East by the Eastern boundary of the Spruce Street public right of way; on the South by the Southern boundary of the Foundry Street public right of way; and on the West by the Western boundary of the Chestnut Street public right of way between Willey Street and Walnut Street and by the Monongahela River between Walnut Street and Deckers Creek, extending South from that point between the Monongahela River on the West and Don Knotts Boulevard on the East to the Southern boundary of Tax Parcel ID 09 37A000300000000 on the South, inclusive of all buildings or structures directly adjoining the public right of way boundaries and the City of Morgantown rail trail property, except any building or structure on the Western side of Chestnut Street between Willey Street and Walnut Street, any building or structure on the Eastern side of Don Knotts Boulevard between Deckers Creek and the Southern terminus of the PODA, and excluding Parcel ID 11 26024900000000. In the event of apparent conflict between the description in this subsection and the property show in Table 953.03.1, the table provides the legal demarcation of the PODA.

(i) Within the Boundary of the Downtown/Wharf District Private Outdoor Designated Area, there shall be two Special Event Locations, in the location(s) depicted on Table 953.03.1 and described as follows:

- High Street: The public right of way on High Street between Walnut Street and Moreland Street, including Courthouse Square but excluding pedestrian sidewalks and any private property.

- Hazel Ruby McQuain Riverfront Park: The city property including Ruby Amphitheater, Walnut Street Landing, and Depot Plaza and extending from Walnut Street to Deckers Creek.

(B) Map. A map of the PODA, including the street addresses of all included structures, is Table 953.03.1 of this Article.

(C) Zoning. The zoning classification for all properties within the PODA is B-4 Downtown Business District, and consumption of liquor, wine, nonintoxicating beer, or nonintoxicating craft beer is consistent with the zoning ordinances applicable to this area.

(D) Personnel. The PODA is regularly patrolled by one police officer, one deputy fire marshal, and one City Ambassador. In addition, Public Works employees regularly collect waste or debris left in public areas in the PODA and operate a street sweeper in the area.

(E) Sanitation. Republic Services is the solid waste hauler for the Downtown PODA, with collection services daily in the downtown area, weekly in the Wharf District, and with dumpster service available to all commercial customers, along with several dumpsters available at City properties. Regular waste collection includes 73 public trash receptacles within the PODA. Participating businesses within the PODA will make available adequate restroom facilities, permanent or portable, to serve their members and guests during all hours the area is open, consistent with W. Va. Code § 60-7-8g(c)(7). All businesses operating within the PODA must comply with all requirements of the Monongalia County Health Department.

(F) Operating Times. The PODA will operate Monday through Friday from 4 p.m. to 10 p.m. and Saturday and Sunday from 10 a.m. to 10 p.m. The City Manager is authorized to limit or expand the operating hours when appropriate to address events, public safety, or other business or community needs, but all expansions or limitations must be made in writing and delivered to the City Clerk to be kept with the official records of the City, and the City will make reasonable efforts to advise the public of any such changes by taking measures such as posting information on its website and/or posting signs in public areas noting the change.

Sec. 953.04. Permit Required for Participating Licensees.

(a) Any restaurant, bar, or other business, person, or entity with a valid Class A or Class S2 license issued by the Commissioner under may apply for a PODA Permit to participate in the Private Outdoor Designated Area by submitting an application on forms supplied by the City.

- (b) Applicants for a PODA Permit must meet the following minimum requirements:
- (1) Located in a Private Outdoor Designated Area;

- (2) Submit a floor plan showing the license area for the operator;
- (3) Possess a valid City business license;
- (4) Possess a valid Class A or Class S2 license from the Commissioner;
- (5) Agree to use cups and/or other indicators such as wristbands to identify permitted PODA patrons, which may include purchasing authorized merchandise from the City or its affiliate;
- (6) Identify all areas from which you propose to serve drinks that may be consumed in the PODA, and the entrances and exits to your ~~Class A~~ license area;
- (7) Identify the location of all tables, chairs, or other items you propose to place in any public right of way or on any City property in connection with PODA operations and, upon request, provide dimensions of the area and location of nearby facilities such as curbs and fire hydrants, as well as a plan to place and remove the items during and after PODA operating hours.

(c) Applications, except applications for permits for a fair and festival licensee, will be reviewed by a committee composed as follows: one representative of Main Street Morgantown, designated by Main Street Morgantown, Inc.; one member of City Council, designated by City Council; two representatives of businesses that serve alcohol and are located within the PODA, appointed by City Council; two representatives of businesses that do not serve alcohol and are located within the PODA, appointed by City Council; and one employee of the City, designated by the City Manager. Each member of the committee shall serve a two-year term beginning January 1 and ending December 31 of the following year; provided that the initial term of each member shall begin on the date of appointment and end on December 31, 2024. Members shall continue in office after expiration of their term until a new member is appointed except in the event of their resignation, death, or removal. Members may be removed by City Council for failure to vote on two or more consecutive applications for PODA permit. The committee shall determine whether to grant or deny applications in its reasonable discretion by majority vote of the members then serving. In determining whether to grant or deny an application, the committee may review the application materials and other materials relevant to participation in the PODA including records of the West Virginia Alcohol Beverage Control Administration and/or criminal citations, if available to the committee. Applications for a permit for a fair and festival licensee will be reviewed by the City Manager, or designee, who will grant or deny the applications in their reasonable discretion. In determining whether to grant or deny an application, the City Manager or designee may review the application materials and other materials relevant to participation in the PODA including records of the West Virginia Alcohol Beverage Control Administration and/or criminal citations, if available.

Sec. 953.05. Signs.

At minimum, every point where a pedestrian may exit the PODA by way of a public sidewalk shall have one sign placed designating the end of the PODA. The sign must be mounted in such a way and be made of a material that will ensure it is clearly visible to patrons of the PODA.

Sec. 953.06. Rules.

(a) The rules in this section, and all other provisions of this Article, establish requirements for the purpose of ensuring compliance with all state and municipal laws, and public health and safety within a private outdoor designated area. All persons entering and/or participating in a private outdoor designated area shall comply with applicable laws.

(b) Liquor, wine, nonintoxicating beer, and nonintoxicating craft beer that is taken outside of a licensed premises into the private outdoor designated area shall be served in non-glass containers, not greater than 18 fluid ounces, approved by the City and the Commissioner in accordance with W. Va. Code § 60-7-8g.

(c) Notwithstanding any other provision of this Code to the contrary, a person may possess an opened container of liquor, wine, nonintoxicating beer, or nonintoxicating craft beer within a private outdoor designated area during the operating hours of the area when (1) the open container was purchased from a Qualified Permit Holder duly licensed to operate in the private outdoor designated area; and (2) the beverage is in a container authorized by this ordinance, except that this provision does not authorize possession or consumption of any liquor, wine, nonintoxicating beer, or nonintoxicating craft beer while operating or traveling in a motor vehicle.

(d) No liquor, wine, nonintoxicating beer, or nonintoxicating craft beer may be taken outside of the private outdoor designated area.

(e) All cups, containers, and other trash or litter must be disposed of in trash, recycling, or compost receptacles available within the private outdoor designated area.

(f) Businesses in the private outdoor designated area may choose to allow or prohibit alcohol consumption in their business. Liquor, wine, nonintoxicating beer, or nonintoxicating craft beer may only be brought into structures or businesses that have indicated by a posted sign that they are participating in the private outdoor designated area, whether or not they hold a Class A license from the Commissioner.

(g) Establishment of a Private Outdoor Designated Area does not authorize any establishment to create or maintain an Outdoor Dining area on the public right-of-way except with a permit issued pursuant to Article 906 of this Code.

(h) The City Manager is authorized to adopt any and all regulations necessary and convenient in implementing this Article, and to issue authoritative interpretations of any questions or inquiries regarding application of this Article to a particular situation. Any such regulations or interpretations shall become effective upon being filed in writing with the City Clerk, who shall maintain such records along with the other public records of the City.

(i) The City Manager may, at any time, suspend the operation of a private outdoor designated area, or portion thereof, when determined necessary in the interest of public safety or convenience.

(j) Within Special Event Locations, the City Manager or designee may suspend operation of the PODA in accordance with these rules.

(1) Announce the date(s) and time(s) that the PODA will be partially suspended in the Special Event Location(s), and identify the Special Event Location(s) by posting on the City website used to publish PODA information, provide the WVABCA a copy of any suspension notice, and other means determined helpful to notify the public;

(2) During the suspension, place at least two additional signs at the Special Event Location(s) affected by the suspension notifying the public that they are leaving the PODA and entering a Special Event Location and that PODA beverages may not be brought into the Special Event Location, and beverages purchased at the Special Event Location may not be brought into the PODA. The person or entity holding the special event must also make its patrons aware that PODA beverages may not be brought into the Special Event Location, and that alcoholic beverages, including nonintoxicating beer, wine, and liquor purchased at the Special Event Location may not be carried outside of the Special Event Location.

This ordinance shall become effective upon adoption.

FIRST READING: _____

Mayor

SECOND READING: _____

ADOPTED: _____

City Clerk

FILED: _____

Ordinance No. 2024-__

AN ORDINANCE ANNEXING PROPERTY OF MILAN PUSKAR HEALTH RIGHT, INC. INTO THE CORPORATE BOUNDARIES OF THE CITY OF MORGANTOWN

WHEREAS, West Virginia Code section 8-6-4 permits a municipality to order annexation of additional territory by ordinance without a vote if a majority of freeholders and qualified voters petition for such annexation; and

WHEREAS, all freeholders and qualified voters in the territory subject of the attached “Petition for Annexation,” which is incorporated into this Ordinance by reference, have petitioned for annexation; and

WHEREAS, the City has enumerated and verified the total number of eligible petitioners and is satisfied that the petition is sufficient in every respect and that the territory to be annexed is contiguous to the current municipal boundaries;

NOW, THEREFORE, the City of Morgantown hereby ordains as follows:

- (1) That the territory described in the Petition for Annexation, being Parcels 41.1 and 8.20 of Map 4, Clinton District, in Monongalia County, as more fully described in the Petition for Annexation, shall be annexed into the City of Morgantown;
- (2) That the City Clerk is directed to enter upon the journal of the City the finding that the Petition for Annexation is sufficient in every respect and forward a certificate to that effect to the County Commission of Monongalia County, West Virginia, pursuant to *W. Va. Code* § 8-6-4(g), notifying the Commission that it shall enter an order as described in *W. Va. Code* § 8-6-3 describing the annexation of the additional territory to the corporate limits of the City of Morgantown.

This ordinance is effective upon adoption; provided that the annexation of the territory to the corporate limits of the City of Morgantown shall take effect on the date to be designated in an Order of the Monongalia County Commission entering the annexation in the official records of Monongalia County, which will be designated to coincide with the beginning of a fiscal quarter.

FIRST READING:

Mayor

ADOPTED:

FILED:

City Clerk

RECORDED:

PETITION FOR ANNEXATION

The undersigned, being qualified voters within the area of proposed annexation, and being the sole freeholder within the area of proposed annexation, hereby petition the City Council of the City of Morgantown, West Virginia, to annex the territory described in this Petition and shown and described on the Land Books of Monongalia County, and more particularly described in that certain deed dated January 25, 2022, by and between Professional Training, LLC, as Grantor, and Milan Puskar Health Right, Inc., as Grantee, and recorded in the office of the Clerk of the Monongalia County Commission at Deed Book 1762, page 136, pursuant to West Virginia Code Chapter 8, Article 6, Section 4.

<u>Owner</u>	<u>District</u>	<u>Tax Map No.</u>	<u>Parcel No.</u>	<u>Signature</u>
Milan Puskar Health Right, Inc.	Clinton	4	41.1	
Milan Puskar Health Right, Inc.	Clinton	4	8.20	

Milan Puskar Health Right, Inc.
A West Virginia corporation

Bruce M. Clements
By: *Bruce M. Clements*
Its: *Board President*

**ORDINANCE
OF THE CITY OF MORGANTOWN**

AN ORDINANCE AUTHORIZING AND APPROVING THE CONVEYANCE OF PROPERTY BY THE CITY OF MORGANTOWN (THE "CITY") TO THE MORGANTOWN BUILDING COMMISSION (THE "BUILDING COMMISSION") IN CONNECTION WITH THE DESIGN, ACQUISITION, CONSTRUCTION, FURNISHING, AND EQUIPPING OF IMPROVEMENTS TO CERTAIN RECREATIONAL FACILITIES OF THE CITY LOCATED AT MARILLA PARK, POTENTIALLY INCLUDING, BUT NOT LIMITED TO, THE CONSTRUCTION OF TENNIS COURTS, A SHELTER, PARKING FACILITIES, IMPROVEMENTS TO MARILLA CENTER, A BIKE/SKATE PARK, RESTROOM AND SHELTER FACILITIES, RECREATIONAL FIELD GREEN SPACE, PICKLEBALL COURTS AND A BASKETBALL COURT TOGETHER WITH ALL APPURTENANT FACILITIES (THE "PROJECT"); AUTHORIZING THE CITY TO UNDERTAKE THE DESIGN, ACQUISITION, CONSTRUCTION AND EQUIPPING OF THE PROJECT; AUTHORIZING AND APPROVING THE ISSUANCE BY THE BUILDING COMMISSION OF ITS LEASE REVENUE BONDS, IN ONE OR MORE SERIES, IN AN AGGREGATE PRINCIPAL AMOUNT NOT MORE THAN \$11,000,000 (THE "BONDS"), TO FINANCE ALL OR A PORTION OF THE COSTS OF THE PROJECT, THE FUNDING OF A DEBT SERVICE RESERVE FUND FOR THE BONDS, IF REQUIRED, AND THE PAYMENT OF COSTS OF ISSUANCE OF THE BONDS AND RELATED COSTS; AUTHORIZING THE LEASING OF THE PROPERTY ASSOCIATED WITH THE PROJECT TOGETHER WITH ALL BUILDINGS, IMPROVEMENTS, FIXTURES, EQUIPMENT, RIGHTS OF WAY AND APPURTENANCES ASSOCIATED THEREWITH BY THE CITY FROM THE BUILDING COMMISSION PURSUANT TO A LEASE AGREEMENT TO BE EXECUTED AND DELIVERED BY THE MAYOR AND CITY MANAGER OF THE CITY; AUTHORIZING THE EXECUTION AND DELIVERY BY THE MAYOR AND CITY MANAGER OF THE CITY OF A BOND PURCHASE AGREEMENT BETWEEN THE BUILDING COMMISSION AND THE PURCHASERS OF THE BONDS, WITH THE ACKNOWLEDGEMENT AND AGREEMENT OF THE CITY; AUTHORIZING THE DISTRIBUTION OF A PRELIMINARY OFFICIAL STATEMENT, IF NECESSARY, AND THE EXECUTION, DELIVERY AND DISTRIBUTION OF AN OFFICIAL STATEMENT; AUTHORIZING, IF DEEMED ADVISABLE, THE PURCHASE OF A BOND INSURANCE POLICY WITH RESPECT TO THE BONDS; AND AUTHORIZING OTHER NECESSARY ACTIONS IN CONNECTION WITH THE FOREGOING.

WHEREAS, The City of Morgantown (the "City") has, pursuant to an ordinance enacted August 2, 1988, created and established the Morgantown Building Commission (the "Building Commission"), a public corporation and municipal building commission, pursuant to the authority granted to it in Chapter 8, Article 33, of the West Virginia Code of 1931, as amended (the "Enabling Act");

WHEREAS, the City desires to authorize the design, acquisition, construction, furnishing and equipping of improvements to certain of the City’s recreational facilities operated and maintained by the Board of Park and Recreation Commissioners of Morgantown, West Virginia (the “BOPARC”), located at Marilla Park, which may include but not be limited to the construction of tennis courts, a shelter, parking facilities, improvements to Marilla Center, a bike/skate park, restroom and shelter facilities, recreational field green space, pickleball courts and a basketball court together with all appurtenant facilities (collectively, the “Project”) (the foregoing real estate together with the improvements thereon, including without limitation any renovations, improvements, furnishings or equipment resulting from the Project, and together with all easements and rights of way in connection therewith are collectively referred to herein as the “Property”), which Property will be conveyed by the City to the Building Commission, prior to the issuance of the Bonds hereinafter authorized and defined, and which Property thereafter will be leased by the Building Commission to the City;

WHEREAS, the City has requested and the Building Commission has agreed to issue its Lease Revenue Bonds, in one or more series, in an aggregate principal amount of not more than \$11,000,000 (the “Bonds”) for the purposes of financing all or a portion of (i) the costs of the Project, (ii) to fund a debt service reserve fund for the Bonds, if required, and (iii) the costs of issuance of the Bonds and related costs, including the premium for a bond insurance policy, if necessary;

WHEREAS, the Bonds will be issued pursuant to a Bond Indenture and Security Agreement (the “Indenture”) between the Building Commission and the trustee named therein (the “Trustee”);

WHEREAS, the City desires to lease the Property from the Building Commission in accordance with the terms and provisions of a Lease Agreement between the Building Commission, as Lessor, and the City, as Lessee (the “Lease”), to be dated as of or prior to the date of the issuance of the Bonds or such other date as may be set forth in a Supplemental Resolution to be adopted by the City (the “Supplemental Resolution”), as further described herein;

WHEREAS, the rentals to be paid by the City under the Lease, to the extent the same is not terminated by the City, have been determined by the Building Commission to be at least sufficient to pay the principal of and the premium, if any, and interest on the Bonds and all payments provided for in the Indenture;

WHEREAS, the City desires to execute a Bond Purchase Agreement (the “Bond Purchase Agreement”) between the Building Commission and the purchaser or purchasers of the bonds as designated in the Supplemental Resolution (the “Purchaser” whether one or more), which execution shall evidence the City’s acknowledgement and agreement, the proposed form of which shall be as approved by the Supplemental Resolution;

WHEREAS, the principal of and the premium, if any, and interest on the Bonds will be secured by, among other things, a Credit Line Deed of Trust, Fixture Filing and Security Agreement (the “Deed of Trust”), to be dated on or prior to the date of the issuance of the Bonds, and to be executed and delivered by the Building Commission in favor of the Trustee granting liens on the Property;

WHEREAS, the Bonds may be either privately placed with one or more banking institutions (the “Private Placement”) or sold to an investment banker/underwriter to be marketed for sale to the public (the “Public Offering”), with the final determinations to be made pursuant to the Supplemental Resolution or a Certificate of Determinations to be executed by the Chairman of the Building Commission (the “Certificate of Determinations”);

WHEREAS, in the event of a Public Offering with respect to the Bonds, there will be prepared with respect to such series Bonds a Preliminary Official Statement (the “Preliminary Official Statement”), which would be presented for approval by the Supplemental Resolution or the Certificate of Determinations, and a final Official Statement (the “Official Statement”);

WHEREAS, if required by Rule 15c2-12 of the Securities and Exchange Commission (the “Rule”), or otherwise determined appropriate or necessary under the circumstances, the City will enter into a Continuing Disclosure Agreement with respect to the Bonds, by and between the City and the continuing disclosure agent named therein (the “Continuing Disclosure Agreement”) pursuant to the terms of which the City will agree to provide ongoing periodic disclosure of financial and operating data of the City and to disclose the occurrence of certain material events therein in order to assist the investment banker/underwriter for such series of Bonds in their compliance with the Rule and facilitate the sharing of information with the beneficial owners of the Bonds;

WHEREAS, the proceeds of the Bonds will be used to finance costs of the Project, the funding of a debt service reserve fund for the Bonds, if required, and the costs of issuing the Bonds and related costs, including the premium for a bond insurance policy, if necessary, and the balance of such costs of the Project, if any, not paid with proceeds of the Bonds will be paid with other funds of the City lawfully available for such purpose; and

WHEREAS, the City has determined that (i) there is an urgent need by the City for the Project to be financed in whole or in part with the proceeds of the Bonds and to be leased to the City as described herein, and (ii) that the financing structure described herein is the most efficient method to finance the proposed Project.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF MORGANTOWN, WEST VIRGINIA THAT:

1. The City is authorized to convey the Property to the Building Commission for the purpose of facilitating the Project and the Building Commission is authorized to grant liens and security interests in and to the Property pursuant to the Deed of Trust and other appropriate documents as may be determined by Steptoe & Johnson PLLC, as bond counsel to the Building Commission for the issuance of the Bonds (“Bond Counsel”), and the Purchaser.

2. The Building Commission is authorized and requested to issue the Bonds, in one or more series, in an aggregate principal amount not more than \$11,000,000 pursuant to the terms of the Indenture, for the purposes of financing all or a portion of (i) the costs of the Project, (ii) to fund a debt service reserve fund for the Bonds, if required, and (iii) to pay costs of issuance of the Bonds and related costs, including the premium a bond insurance policy, if necessary. If deemed advisable, the Building Commission is authorized and requested to determine on behalf of the City whether the purchase of an insurance policy securing payment of the Bonds would be advantageous to the City or the terms of the financing represented by the Bonds. The Chairman,

Secretary and other proper officers of the Building Commission (the “Authorized Representatives”) are authorized to negotiate with and secure, with proceeds of the Bonds or otherwise, such insurance policies, from one or more institutions, the claims-paying ability of which are then assigned one of the two highest rating categories by a nationally recognized credit rating agency. The Authorized Representatives are authorized to execute and deliver any instruments or documents necessary in connection with the purchase of any such insurance policies, including those making provision for the repayment of amounts advanced by the institutions issuing such insurance policy. The Authorized Representatives and the Mayor, City Manager and other officers of the City are further authorized to pursue and obtain on behalf of the Building Commission and the City a rating or ratings on the City and the Bonds from any rating agency deemed to be advantageous by the underwriter or placement agent for the Bonds, to pay the costs of obtaining such ratings from proceeds of the Bonds and to execute and deliver such documents as may be necessary in connection therewith.

3. The City is authorized to undertake all activities in connection with the Project, including but not limited to, engaging such architects, engineers and other design, construction and site consultants as may be necessary and paying the fees and costs thereof, acquiring all necessary real and personal property including but not limited to the Property, undertaking all demolition, site remediation and site preparation that may be necessary in connection with the Property, entering into all construction contracts that may be necessary in connection therewith and performing under such construction contracts, requisitioning the proceeds of the Bonds for the purpose of paying costs of the Project and costs of issuance of the Bonds and disbursing proceeds of the Bonds and other funds of the City for the purpose of paying costs necessary in connection with the acquisition of the Property, all demolition, site remediation and site preparation necessary in connection with the Project, the undertaking of the Project, costs of issuance of the Bonds, funding a debt service reserve fund for the Bonds, if required, and related costs and otherwise undertaking all activities that may be necessary in connection with the foregoing.

4. The City is authorized to enter into the Lease with the Building Commission to lease the Property, as designed, acquired, constructed, furnished and equipped pursuant to the Project, from the Building Commission for an amount of rent equal to the scheduled payments of principal of, premium, if any, interest on and other costs associated with the Bonds which shall be payable by the Building Commission with respect to the Bonds and which Lease with the Building Commission will require the City to perform certain other duties and obligations and to pay certain costs and expenses related to such Property and the financing thereof as to be more specifically set out in said Lease as additional consideration for said Lease. The form of the Lease for the Bonds shall be as approved by the Supplemental Resolution. The Mayor, the City Manager, and the City Clerk are hereby authorized and directed to execute and deliver the Lease for the Bonds with such changes, insertions and omissions as may be required to reflect the terms of sale of the Bonds and as may be approved by the Mayor, the City Manager, and the City Clerk executing the Lease. The execution of the Lease by the Mayor, the City Manager, and the City Clerk shall be conclusive evidence of such approval.

5. The City is authorized to execute the Bond Purchase Agreement, which shall evidence its acknowledgement and agreement thereof. The form of the Bond Purchase Agreement for the Bonds shall be as approved by the Supplemental Resolution. The Mayor and the City Manager are hereby authorized and directed to execute and deliver the Bond Purchase Agreement for the Bonds with such changes, insertions and omissions as may be required to reflect

the terms of sale of the Bonds and as may be approved by the Mayor and the City Manager executing the Bond Purchase Agreement. The execution of the Bond Purchase Agreement by the Mayor and the City Manager shall be conclusive evidence of their acknowledgement and agreement.

6. The form of the Continuing Disclosure Agreement shall be as approved by the Supplemental Resolution. The Mayor and the City Manager are hereby authorized and directed to execute and deliver the Continuing Disclosure Agreement with such changes, insertions and omissions as may be required to reflect the terms of sale of the Bonds and as may be approved by the Mayor and the City Manager executing the Continuing Disclosure Agreement. The execution of the Continuing Disclosure Agreement by the Mayor and the City Manager shall be conclusive evidence of such approval.

7. In the event of a Public Offering, the form of the Preliminary Official Statement for the Bonds shall be as approved by the Supplemental Resolution and the investment banker/underwriter for the series of Bonds to be publicly offered shall be authorized to utilize the same in the marketing and sale of such Bonds. The Official Statement, substantially in the form of the Preliminary Official Statement, with such changes and insertions as may be authorized by the Rule, shall be approved and the investment banker/underwriter for the Bonds shall be authorized to utilize the same in the marketing and sale of the Bonds. The execution of the Official Statement by the Mayor and City Manager shall be conclusive evidence of such approval.

8. If the Bonds are subject to the Rule or the same is otherwise determined appropriate or desirable in the circumstances, then the Mayor and the City Manager and other officers of the City are hereby authorized and directed to execute and deliver on behalf of the City such agreements, certificates and other documents, including without limitation a Rule 15c2-12 Certificate in connection with the issuance of the Bonds, in such form as may be approved by the Mayor and City Manager, the execution of the subject documents by the Mayor and City Manager to be conclusive evidence of such approval. The City Clerk is hereby authorized and directed to attest any documents relating to the Bonds that the City Clerk reasonably determines should be so attested and to affix the seal of the City thereon. All prior acts taken by the Mayor and the City Manager and other officers, employees and agents of the City in connection therewith are hereby ratified and affirmed in every respect.

9. The Mayor, the City Manager, the City Clerk, and other officers of the City are hereby authorized and directed to take such other actions as may be reasonably necessary to consummate the foregoing transactions.

10. All ordinances, orders, resolutions or parts thereof in conflict with the provisions of this Ordinance, are, to the extent of such conflict, hereby repealed.

11. This Ordinance shall become effective following the public hearing hereon.

12. Upon adoption hereof, an abstract of this Ordinance, determined by the City to contain sufficient information as to give notice of the contents hereof, shall be published once a week for two successive weeks within a period of fourteen consecutive days, with at least six full days intervening between each publication, in *The Dominion Post*, a newspaper published and of general circulation in the City, together with a notice stating that this Ordinance has been adopted on first reading, and that the City contemplates the leasing of the Property from the Building

Commission and the issuance of the Bonds by the Building Commission, and that any person interested may appear before the City upon a date certain, not less than ten days subsequent to the date of the first publication of the said abstract and notice, and present protests, and that a certified copy of the Ordinance is on file in the office of the City Clerk of the City for review by interested parties during regular office hours. At such hearing, all objections and suggestions shall be heard, and the Council of the City shall take such action as it shall deem proper in the premises.

[Remainder of Page Intentionally Left Blank]

ORDAINED by The City of Morgantown, West Virginia, on this the ____ day of _____, 2024.

Adopted on First Reading: _____, 2024

Placed Into Effect on Second Reading Following Public Hearing: _____, 2024

THE CITY OF MORGANTOWN

By _____
Its Mayor

By _____
Its City Manager

CERTIFICATION

The undersigned, being the duly appointed and qualified City Clerk of The City of Morgantown does hereby certify that the foregoing Ordinance was duly enacted by The City of Morgantown at regular meetings duly held, pursuant to proper notice thereof, on _____, 2024, and _____, 2024, quorums being present and acting throughout, and which Ordinance has not been amended, modified, rescinded, repealed, annulled, revoked or otherwise altered as witness my hand and the seal of The City of Morgantown this ___ day of _____, 2024.

THE CITY OF MORGANTOWN

By _____
Its City Clerk

Ordinance No. 2024-_____

AN ORDINANCE AMENDING ARTICLE 925 OF THE CITY CODE TO REVISE THE RATES, FEES AND CHARGES FOR THE SERVICE AREA SERVED BY THE CHEAT LAKE WASTEWATER TREATMENT PLANT.

The City of Morgantown hereby ordains as follows:

Section 1. Findings and Purpose.

The Morgantown Utility Board (“MUB”) a board established by City Council of the City of Morgantown, operates a combined water, sewer, and stormwater utility in the City of Morgantown, West Virginia and environs under the provisions of *West Virginia Code* §8-20-1 *et seq.* Because MUB serves more than 4,500 water and sewer customers on a combined basis and has annual gross revenues of more than \$3,000,000.00, changes in the rates, fees and charges and approval for construction projects are not subject to the jurisdiction of the Public Service Commission of West Virginia (“PSC”). Instead, as a result of legislation enacted in 2015, and amended in 2017 and 2020, the City Council is the governing body with authority over the approval of such rates fees and charges and construction projects. See, *West Virginia Code* §8-20-10 and §24-1-1(j).

West Virginia Code §8-20-10(a)(2) provides that a municipality operating a combined system has the plenary power and authority to charge users for the use and service of the combined system and to establish required deposits, rates, fees, or charges for such service. Deposits, rates, fees or charges, whether separate or combined, shall be sufficient at all times to pay the cost of repair, maintenance and operation of the combined system, provide an adequate reserve fund, an adequate depreciation fund and pay the principal and interest upon all revenue bonds and shall be established, revised and maintained by ordinance. The rates, fees or charges shall be changed, from time to time, as necessary, consistent with the provisions of this article.

MUB has designed and proposed a project to improve and expand the Cheat Lake Wastewater Treatment Plant and associated parts of the combined utility system (the “Project”), as further defined in Ordinance No. 2024-27(the “Project Ordinance”) and to increase rates for customers in the Cheat Lake service territory, as defined in the Project Ordinance and further defined herein, to finance the costs of such improvements together with the operation and maintenance of those improvements.

City Council finds and concludes that the proposed rates to be established by this Ordinance are the reasonable charges to users for the service provided based on its determination, and the representation by MUB, that the proposed rates are necessary to pay the costs of MUB’s proposed improvements to the Cheat Lake Wastewater Treatment Plant and associated facilities, and to adequately fund the maintenance and operation thereof, based on a cash flow analysis together with proposed rates and a comparison of the rates for customers at various levels of usage under both current and proposed rates for all classes of service, all of which have been provided

by MUB to the City Council in connection with its proposal of the rate changes set forth in this ordinance.

Section 2. Authorization of Acquisition.

By adoption of this Ordinance, City Council authorizes acquisition, or, as appropriate, ratifies the prior acquisition, of the real property to be acquired and/or improved in connection with the Project, as defined in the Project Ordinance, subject to the provisions of the Codified Ordinances of the City of Morgantown and the rules and regulations of City Council; authorizes on behalf of the City of Morgantown the acquisition of all real estate and/or assets needed for the Project for use in connection with the combined utility system operated by MUB and subject to all rules and regulations associated therewith; and authorizes establishment of sewer rates for the customers of the Cheat Lake service territory as described in this Ordinance.

Section 3. Adoption of Amendment to Article 925 of the City Code.

Article 925 of the City Code, entitled “Sewer Rates” is hereby amended as follows (new matter underlined; deleted matter ~~stricken~~):

Sec. 925.03. - Rate schedules.

The following schedules of rates, fees, charges, delayed payment penalty charges, service connection charges, reconnection charges and opening or transferring account charges are hereby fixed and determined as the rates, fees, charges, delayed payment penalty charges, service connection charges, reconnection charges and opening or transferring account charges to be charged to consumers of the sewer works system serving the City throughout the entire territory served.

SCHEDULE NO. 2

(a) *Applicability.* Applicable to territory served by Cheat Lake Wastewater Treatment Plant, as shown on 925.03.02, for bills rendered on or after November 29, 2024. ~~Effective for bills rendered on or after August 25, 2021.~~

(b) *Availability of service.* Available for sanitary sewer service.

(c) *Rates.*

(1) Based on the metered amount of water supplied

Gallons Used	Rate Per 1,000 Gallons
First 2,000 per month or 4,000 bi-monthly	<u>\$21.70</u> 10.85 per 1,000 gallons
Next 8,000 per month or 16,000 bi-monthly	<u>\$19.84</u> 9.92 per 1,000 gallons
Next 20,000 per month or 40,000 bi-monthly	<u>\$18.60</u> 9.30 per 1,000 gallons
Next 30,000 per month or 60,000 bi-monthly	<u>\$17.36</u> 8.68 per 1,000 gallons
Next 940,000 per month or 1,880,000 bi-monthly	<u>\$14.88</u> 7.44 per 1,000 gallons

Next 1,000,000 per month or 2,000,000 bi-monthly	\$ 13.64 <u>6.82</u> per 1,000 gallons
--	---

(2) *Minimum charge.*

Per month	\$ 21.70 <u>43.40</u>
Bi-monthly	\$ 43.40 <u>86.80</u>

(d) *Tap fee.* A fee of \$700.00 will be charged for new customers connecting to the sewerage system.

(e) *Delayed Payment Penalty.* The rates set forth in this section are above-tariff is net. On all current usage billings not paid in full when due, ten percent will be added to the net current amount unpaid. This delayed payment penalty is not interest and is only to be collected once for each month where it is appropriate.

(f) *Reconnection charge.* A fee of \$15.00 during Utility Board regular working hours and an additional fee of \$25.00 after hours shall be charged whenever the service is disconnected for violation of rules, nonpayment of bills, or fraudulent use of water. No such charge shall be assessed if the customer has paid a water reconnection charge for the same connection.

(h) *Leak adjustment.* \$1.404 per 1,000 gallons is to be used when the bill reflects unusual consumption which can be attributed to eligible water leakage on the customer's side of the meter. This rate shall be applied to all such unusual consumption above the customer's historical average usage.

(i) *Returned check charge.* A service charge of \$20.00 will be imposed upon any customer whose check for payment of charges is returned by the bank due to insufficient funds.

Section 4. Repeal, Savings, Severability.

Any section of this Code repealed or modified by a subsequent ordinance will continue in force until the effective date of the repealing ordinance.

The repeal or modification of any part of this Code does not affect any existing right acquired, or liability or obligation incurred, under the code sections amended or repealed unless the modifying ordinance expressly so provides. Any repealed or modified part of this Code will remain in force for the purpose of sustaining any proper legal proceedings and prosecutions related to the enforcement of such right or liability brought prior to the repeal or modification.

The repeal of any repealing ordinance, clause, or provision does not revive any former ordinance, clause, or provision unless expressly provided by ordinance.

If any provision of this Ordinance, or the application of this Ordinance to any person or circumstance, is held invalid by a court of competent jurisdiction or other entity or agency having jurisdiction to make such determination, the remainder of this Ordinance and the application to other persons or circumstances remain in effect.

Section 5. Effective date; application. This ordinance shall be effective as of November 29, 2024. This Ordinance does not affect rights, duties, or liabilities that matured, penalties that were incurred, and proceedings that were begun, before its effective date. The law remains in force for the purpose of sustaining any proper action or prosecution for the enforcement of the right, penalty, forfeiture or liability.

Section 6. Notice of Public Hearing.

The City Clerk shall cause to be published a notice of proposed adoption of this Ordinance as a Class I-0 legal advertisement in a qualified newspaper of general circulation in the City of Morgantown, and said notice shall state that this Ordinance has been introduced, the title of the proposed ordinance, the places where a copy of this ordinance may be inspected by the public, and that any person interested may appear before the Morgantown City Council at a public hearing on October 15, 2024, which date is not less than five (5) days after the date of the publication of the notice, and present any comment or protest thereto, following which hearing, Council shall take such action as it shall deem proper. Copies of this Ordinance shall be available to the public for inspection at the office of the City Clerk, City of Morgantown, Morgantown, West Virginia and the Morgantown Utility Board.

FIRST READING: _____

Mayor

SECOND READING: _____

ADOPTED: _____

City Clerk

FILED: _____



P: 304-284-7412
Morgantownwv.gov
389 Spruce St.
Morgantown, WV 26505

**Proposed Budget Revisions
Fiscal Year Ended June 30, 2025**

Capital Escrow Fund – Revision #1

**Financial Support for the
Monongalia County Development Authority
Richwood Redevelopment Project**

&

Airport Terminal Building Repair

Jonathan Furgison, CPA
Finance Director
Tel: 304-284-7407
Email: jfurgison@morgantownwv.gov

Proposed Capital Escrow Fund Budget Revision #1

Overview: The proposed Capital Escrow Fund Budget Revision #1 serves two main purposes. First, it aims to support the City’s financial contribution to the Monongalia County Development Authority’s Richwood Redevelopment Project, as detailed in Resolution 2024-22. Second, it allocates the necessary funds for repairing the window and foundation at the Airport Terminal building, which have been damaged due to prolonged water leakage around a large window.

Proposed Budget Adjustments:

1. Financial Support of the Monongalia County Development Authority’s Richwood Redevelopment Project:

- **Increase in Budgeted Revenues:**
 - **Amount:** \$500,000.00
 - **Source:** Contributions from Other Funds - General Fund
 - **Details:** This increase reflects the transfer of funds from the General Fund to the Capital Escrow Fund to support the redevelopment project.

- **Increase in Budgeted Expenditures:**
 - **Amount:** \$500,000.00
 - **Purpose:** Transfers – Other Contributions (Monongalia County Development Authority)
 - **Details:** This increase in budget accounts for the City’s financial commitment to the Monongalia County Development Authority Richwood Redevelopment Project.

Conclusion

This budget revision underscores the City of Morgantown’s dedication to fostering economic development and revitalization through strategic financial investments into the community. By reallocating resources and increasing contributions to the Capital Escrow Fund, the City is taking proactive steps to support the Monongalia County Development Authority Richwood Redevelopment Project, ensuring a positive impact on the community’s growth and prosperity.

2. Airport Terminal Building Capital Repair:

- **Increase in Budgeted Revenue:**

- **Amount:** \$50,000.00
- **Source:** Additional interest income earned
- **Details:** Additional interest generated by optimizing our investment strategy. The available cash in the Capital Escrow Fund Checking account will be invested in a new Capital Escrow Money Market account with United Bank. This strategic move is expected to yield higher interest rates while maintaining the security of the principal, in full compliance with the City's existing short-term investment policy.

The anticipated increase in interest income from the new Money Market account will provide the necessary revenue to cover the repair costs without impacting the City's budget allocations for other projects. This approach ensures fiscal responsibility and maximizes the return on our available funds.

- **Increase in Budgeted Expenditures:**

- **Amount:** \$50,000.00
- **Purpose:** Airport – Capital Outlay (significant capital repairs due to water damage)
- **Details:** The necessity for these repairs stems from the identification of significant water damage that has compromised the structural integrity of the Airport Terminal building. Addressing these issues promptly is essential to ensure the safety and functionality of the facility, thereby supporting the continued operation and service quality of the Morgantown Municipal Airport.

Conclusion

The proposed revision not only addresses an urgent capital repair but also demonstrates a prudent financial strategy that enhances the City's investment returns. By taking advantage of higher interest rates, we can fund essential repairs while safeguarding our financial resources. This initiative reflects our commitment to maintaining the City's assets and ensuring the efficient use of public funds.

RESOLUTION

WHEREAS, City Administration has presented to Morgantown City Council a 2024-2025 budget revision for the Morgantown Capital Escrow Fund (Revision 01) and has requested that City Council review and approve the same;

WHEREAS, the budget revision in question, a copy of which is 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 revision.

NOW, THEREFORE, BE IT RESOLVED by the City of Morgantown this _____ day of _____, 2024, that the 2024-2025 Budget Revision for the Morgantown Capital Escrow Fund Budget (Revision 01) hereto attached is approved.

Mayor

City Clerk

RESOLUTION

WHEREAS, City Administration has presented to Morgantown City Council a 2024-2025 budget revision for the Morgantown Capital Escrow Fund (Revision 01) and has requested that City Council review and approve the same;

WHEREAS, the budget revision in question, a copy of which is 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 revision.

NOW, THEREFORE, BE IT RESOLVED by the City of Morgantown this _____ day of _____, 2024, that the 2024-2025 Budget Revision for the Morgantown Capital Escrow Fund Budget (Revision 01) hereto attached is approved.

Mayor

City Clerk

Ordinance No. 2024-_____

**AN ORDINANCE OF THE CITY OF MORGANTOWN
AMENDING THE CITY CHARTER
TO AUTHORIZE THREE MEMBERS OF CITY COUNCIL
TO CALL A SPECIAL MEETING OF COUNCIL**

The City of Morgantown hereby ordains as follows:

Section 1. Findings and Purpose.

The City Council of The City of Morgantown finds and concludes that the City Charter, at Section 2.11, specifies that special meetings of City Council may be called by four members of the Council; and the City Council further finds and concludes that it desires to authorize the calling of special meetings of City Council by three members of the City Council by amending such section of the City Charter.

Section 2. Adoption of Amendment to Section 2.11 of the City Charter.

The succeeding provisions of the City Charter set out herein are hereby amended as follows (new matter underlined; deleted matter ~~stricken~~):

Sec. 2.11. – Procedure.

(a) Meetings. The Council shall meet regularly twice every month at such time and place as the Council may prescribe by rule. Special meetings may be held on the call of the Mayor or of ~~four~~ three or more members and, whenever practicable, upon no less than forty-eight hours notice to each member. All meetings shall be public; however, the Council may recess for the purpose of discussing, in a closed executive session, any matter which is permitted by the State Code to be discussed in a closed or executive session; provided that the general subject matter for consideration is expressed in the motion calling for such session and that final action thereon shall not be taken by the Council until the matter is placed on the public agenda.

Section 3. Repeal, Savings, Severability.

Any section of this Code repealed or modified by a subsequent ordinance will continue in force until the effective date of the repealing ordinance.

The repeal or modification of any part of this Code does not affect any existing right acquired, or liability or obligation incurred, under the code sections amended or repealed unless the modifying ordinance expressly so provides. Any repealed or modified part of this Code will remain in force for the purpose of sustaining any proper legal proceedings and prosecutions related to the enforcement of such right or liability brought prior to the repeal or modification.

The repeal of any repealing ordinance, clause, or provision does not revive any former ordinance, clause, or provision unless expressly provided by ordinance.

If any provision of this Ordinance, or the application of this Ordinance to any person or circumstance, is held invalid by a court of competent jurisdiction or other entity or agency having jurisdiction to make such determination, the remainder of this Ordinance and the application to other persons or circumstances remain in effect.

Section 4. Effective date; application. This ordinance shall be effective as of December 1, 2024; subject to completion of any procedures specified by law for such ordinance to become effective. This Ordinance does not affect rights, duties, or liabilities that matured, penalties that were incurred, and proceedings that were begun, before its effective date. The law remains in force for the purpose of sustaining any proper action or prosecution for the enforcement of the right, penalty, forfeiture or liability.

Section 5. Recording of ordinance. The City Clerk is directed to obtain all signatures required by the form of Ordinance adopted and maintain an executed original ordinance with the official records of the City of Morgantown, to be maintained, preserved, and accessed in accordance with the laws of the State of West Virginia and the City of Morgantown, and to take the following additional actions: Cause a copy of the amendment or amendments, ordinance, and transcript of the proceedings to be certified to the Clerk of the House of Delegates, as keeper of the rolls, and to be recorded in the office of the clerk of the county commission. The same shall be preserved by such Clerk of the House of Delegates as an authentic public record. The amendment or amendments shall take effect on the effective date specified in the notice as stated in this Ordinance. After the effective date, all courts shall take judicial notice of such amendment or amendments.

Section 6. Notice of Public Hearing (Class II-0).

The City Clerk shall cause the proposed amendment or amendments, together with a notice of the date, time and place fixed for the hearing thereon, which shall be November 6, 2024, at City Hall Council Chambers, 389 Spruce Street, Morgantown, West Virginia, to be published as a Class II-0 legal advertisement in a qualified newspaper of general circulation in the City of Morgantown, consistent with applicable law.

FIRST READING: _____

Mayor

SECOND READING: _____

ADOPTED: _____

City Clerk

FILED: _____

**AN ORDINANCE OF THE CITY OF MORGANTOWN
AMENDING THE CITY CHARTER
TO AMEND CANDIDATE WITHDRAWAL DEADLINES**

The City of Morgantown hereby ordains as follows:

Section 1. Findings and Purpose.

The City Council of The City of Morgantown finds and concludes that the City Charter, at Section 7.02(e), provides that candidates for election to the City Council may withdraw their candidacy in accordance with the requirements of general statutory law; that the filing period for City Council candidates currently concludes on the second Monday in February while the withdrawal date pursuant to general law would occur sometime in January – before the nominations are closed; and that accordingly no candidate who is nominated for office may effectively withdraw their candidacy after nomination. The City Council further finds and concludes that the Charter should be amended to provide candidates who are nominated with an opportunity to withdraw their candidacy while also providing a reasonable notice of such withdrawal ahead of the election so that other candidates may seek office.

Section 2. Adoption of Amendment to Section 7.02(e) of the City Charter.

The succeeding provisions of the City Charter set out herein are hereby amended as follows (new matter underlined; deleted matter ~~stricken~~):

Sec. 7.02. – Nominations.

(e) Withdrawal of Candidacy. Any candidate wishing to withdraw ~~their his or her~~ candidacy shall notify the election official ~~City Clerk~~ in writing of the same by delivering to the election official a signed writing stating the candidate’s intention to withdraw from the election, delivered to the election official in person at their public office or deposited in the United States mail, postage prepaid, no later than the date 30 calendar days before the date of the election. In determining the timeliness of such filing, the date of the filing shall be included and the date of the election shall be excluded. ~~in accordance with the requirements of general statutory law.~~

Section 3. Repeal, Savings, Severability.

Any section of this Code repealed or modified by a subsequent ordinance will continue in force until the effective date of the repealing ordinance.

The repeal or modification of any part of this Code does not affect any existing right acquired, or liability or obligation incurred, under the code sections amended or repealed unless the modifying ordinance expressly so provides. Any repealed or modified part of this Code will remain in force for the purpose of sustaining any proper legal proceedings and prosecutions related to the enforcement of such right or liability brought prior to the repeal or modification.

The repeal of any repealing ordinance, clause, or provision does not revive any former ordinance, clause, or provision unless expressly provided by ordinance.

If any provision of this Ordinance, or the application of this Ordinance to any person or circumstance, is held invalid by a court of competent jurisdiction or other entity or agency having jurisdiction to make such determination, the remainder of this Ordinance and the application to other persons or circumstances remain in effect.

Section 4. Effective date; application. This ordinance shall be effective as of December 1, 2024; subject to completion of any procedures specified by law for such ordinance to become effective. This Ordinance does not affect rights, duties, or liabilities that matured, penalties that were incurred, and proceedings that were begun, before its effective date. The law remains in force for the purpose of sustaining any proper action or prosecution for the enforcement of the right, penalty, forfeiture or liability.

Section 5. Recording of ordinance. The City Clerk is directed to obtain all signatures required by the form of Ordinance adopted and maintain an executed original ordinance with the official records of the City of Morgantown, to be maintained, preserved, and accessed in accordance with the laws of the State of West Virginia and the City of Morgantown, and to take the following additional actions: Cause a copy of the amendment or amendments, ordinance, and transcript of the proceedings to be certified to the Clerk of the House of Delegates, as keeper of the rolls, and to be recorded in the office of the clerk of the county commission. The same shall be preserved by such Clerk of the House of Delegates as an authentic public record. The amendment or amendments shall take effect on the effective date specified in the notice as stated in this Ordinance. After the effective date, all courts shall take judicial notice of such amendment or amendments.

Section 6. Notice of Public Hearing (Class II-0).

The City Clerk shall cause the proposed amendment or amendments, together with a notice of the date, time and place fixed for the hearing thereon, which shall be November 6, 2024, at City Hall Council Chambers, 389 Spruce Street, Morgantown, West Virginia, to be published as a Class II-0 legal advertisement in a qualified newspaper of general circulation in the City of Morgantown, consistent with applicable law.

FIRST READING: _____

Mayor

SECOND READING: _____

ADOPTED: _____

City Clerk

FILED: _____

Ordinance No. 2024-_____

**AN ORDINANCE OF THE CITY OF MORGANTOWN
AMENDING THE CITY CHARTER TO
PROVIDE THAT THE CITY CLERK PERFORMS OFFICIAL DUTIES IN A
NONPARTISAN MANNER**

The City of Morgantown hereby ordains as follows:

Section 1. Findings and Purpose.

The City Council of The City of Morgantown finds and concludes that the City Charter, at Section 2.08, specifies the duties of the office of City Clerk, including the duties to prepare, provide, and retain official records of the City Council and of the City, and, among other duties, to provide accurate and official public records and information to the members of the public. The City Council further finds and concludes that it is in the interest of the public and of the City to specify that, in the performance of such duties to the public, the office of the City Clerk will operate in a neutral and nonpartisan manner so that the City Charter reflects the role of the City Clerk as keeper of official records which should be accurate and available to all persons without regard to any partisan purpose.

Section 2. Adoption of Amendment to Section 2.08 of the City Charter.

The succeeding provisions of the City Charter set out herein are hereby amended as follows (new matter underlined; deleted matter ~~stricken~~):

Sec. 2.08. – City Clerk.

The City shall appoint an individual to serve as City Clerk at the will and pleasure of the Council. Except as otherwise provided in this Charter and subject to the supervision of the City Manager, the Clerk shall have the power, and it shall be his or her duty to:

(1) Give notice of and attend all meetings of Council, keep the journal of its proceedings, authenticate by his or her signature and record in full in a book kept for the purpose all ordinances and resolutions of the Council, prepare and keep up to date an index of all such ordinances and resolutions, and keep all such records available for public inspection.

(2) Make and certify copies of any ordinance, resolution or order of this Council whenever required to do so, and affix the corporate seal of the City to any paper required to be sealed and to any certified copy of any paper, order or proceeding which he or she may make.

(3) Prepare and cause to be served all notices required to be given to any person, firm or corporation, and after the proper service and return of any notice, to file and preserve the same.

(4) Have custody of and keep available for public inspection the permanent records of the City and file and properly index all records of such City officers and departments as the City Manager may direct.

(5) Perform such other duties as may be required by him or her by this Charter, by general law, or by City ordinance or order of the City Manager not inconsistent with this Charter or with general law.

(6) Perform all duties prescribed by this Charter or by other applicable law in a neutral, nonpartisan manner.

Section 3. Repeal, Savings, Severability.

Any section of this Code repealed or modified by a subsequent ordinance will continue in force until the effective date of the repealing ordinance.

The repeal or modification of any part of this Code does not affect any existing right acquired, or liability or obligation incurred, under the code sections amended or repealed unless the modifying ordinance expressly so provides. Any repealed or modified part of this Code will remain in force for the purpose of sustaining any proper legal proceedings and prosecutions related to the enforcement of such right or liability brought prior to the repeal or modification.

The repeal of any repealing ordinance, clause, or provision does not revive any former ordinance, clause, or provision unless expressly provided by ordinance.

If any provision of this Ordinance, or the application of this Ordinance to any person or circumstance, is held invalid by a court of competent jurisdiction or other entity or agency having jurisdiction to make such determination, the remainder of this Ordinance and the application to other persons or circumstances remain in effect.

Section 4. Effective date; application. This ordinance shall be effective as of December 1, 2024; subject to completion of any procedures specified by law for such ordinance to become effective. This Ordinance does not affect rights, duties, or liabilities that matured, penalties that were incurred, and proceedings that were begun, before its effective date. The law remains in force for the purpose of sustaining any proper action or prosecution for the enforcement of the right, penalty, forfeiture or liability.

Section 5. Recording of ordinance. The City Clerk is directed to obtain all signatures required by the form of Ordinance adopted and maintain an executed original ordinance with the official records of the City of Morgantown, to be maintained, preserved, and accessed in accordance with the laws of the State of West Virginia and the City of Morgantown, and to take the following additional actions: Cause a copy of the amendment or amendments, ordinance, and transcript of the proceedings to be certified to the Clerk of the House of Delegates, as keeper of the rolls, and to be recorded in the office of the clerk of the county commission. The same shall be preserved by such Clerk of the House of Delegates as an authentic public record. The amendment or amendments shall take effect on the effective date specified in the notice as stated in this Ordinance. After the effective date, all courts shall take judicial notice of such amendment or amendments.

Section 6. Notice of Public Hearing (Class II-0).

The City Clerk shall cause the proposed amendment or amendments, together with a notice of the date, time and place fixed for the hearing thereon, which shall be November 6, 2024, at City Hall Council Chambers, 389 Spruce Street, Morgantown, West Virginia, to be published as a Class II-0 legal advertisement in a qualified newspaper of general circulation in the City of Morgantown, consistent with applicable law.

FIRST READING: _____

Mayor

SECOND READING: _____

City Clerk

ADOPTED: _____

FILED: _____

Ordinance No. 2024-_____

**AN ORDINANCE OF THE CITY OF MORGANTOWN
AMENDING THE CITY CHARTER
TO MODIFY REPORTING REQUIREMENTS OF
BOARDS AND COMMISSIONS**

The City of Morgantown hereby ordains as follows:

Section 1. Findings and Purpose.

The City Council of The City of Morgantown finds and concludes that the City Charter, at Section 4.02, authorizes Council to create, alter, or abolish, boards, authorities, and commissions, and it requires every ordinance creating these agencies to provide “for periodic reports, at least semi-annually, or as otherwise required by law, to the Manager, or to the Council and to the Manager, indicating such board’s financial condition and such other reports and information as the Council may require.” The City Council further finds and concludes that the reporting requirements should be modified to better advise City boards, commissions, and authorities on the information to be included in reporting to the City Council and to alter the timing of reports to provide for annual reporting.

Section 2. Adoption of Amendment to Section 4.02 of the City Charter.

The succeeding provisions of the City Charter set out herein are hereby amended as follows (new matter underlined; deleted matter ~~stricken~~):

Sec. 4.02. – Boards, authorities and commissions.

The Council may by ordinance create, alter, or abolish such agencies, in the form of boards, authorities or commissions, as it may deem necessary in order to perform any Municipal functions, and to confer powers, authority and duties upon them, consistent with State law. The members thereof shall be appointed by Council.

Such boards, authorities or commissions shall not be under the direction or supervision of the City Manager, but every ~~ordinance creating~~ such board, authority or commission shall ~~provide for~~ submit periodic reports annually, no later than the 30th day of June each year, at least semi-annually, or as otherwise required by law, to the Manager, or to the Council and to the Manager by electronic delivery, indicating the entity’s such board’s activities during the preceding year and its financial condition, and such other reports and information as the Council may require.

Section 3. Repeal, Savings, Severability.

Any section of this Code repealed or modified by a subsequent ordinance will continue in force until the effective date of the repealing ordinance.

The repeal or modification of any part of this Code does not affect any existing right acquired, or liability or obligation incurred, under the code sections amended or repealed unless the modifying ordinance expressly so provides. Any repealed or modified part of this Code will remain in force for the purpose of sustaining any proper legal proceedings and prosecutions related to the enforcement of such right or liability brought prior to the repeal or modification.

The repeal of any repealing ordinance, clause, or provision does not revive any former ordinance, clause, or provision unless expressly provided by ordinance.

If any provision of this Ordinance, or the application of this Ordinance to any person or circumstance, is held invalid by a court of competent jurisdiction or other entity or agency having jurisdiction to make such determination, the remainder of this Ordinance and the application to other persons or circumstances remain in effect.

Section 4. Effective date; application. This ordinance shall be effective as of December 1, 2024; subject to completion of any procedures specified by law for such ordinance to become effective. This Ordinance does not affect rights, duties, or liabilities that matured, penalties that were incurred, and proceedings that were begun, before its effective date. The law remains in force for the purpose of sustaining any proper action or prosecution for the enforcement of the right, penalty, forfeiture or liability.

Section 5. Recording of ordinance. The City Clerk is directed to obtain all signatures required by the form of Ordinance adopted and maintain an executed original ordinance with the official records of the City of Morgantown, to be maintained, preserved, and accessed in accordance with the laws of the State of West Virginia and the City of Morgantown, and to take the following additional actions: Cause a copy of the amendment or amendments, ordinance, and transcript of the proceedings to be certified to the Clerk of the House of Delegates, as keeper of the rolls, and to be recorded in the office of the clerk of the county commission. The same shall be preserved by such Clerk of the House of Delegates as an authentic public record. The amendment or amendments shall take effect on the effective date specified in the notice as stated in this Ordinance. After the effective date, all courts shall take judicial notice of such amendment or amendments.

Section 6. Notice of Public Hearing (Class II-0).

The City Clerk shall cause the proposed amendment or amendments, together with a notice of the date, time and place fixed for the hearing thereon, which shall be November 6, 2024, at City Hall Council Chambers, 389 Spruce Street, Morgantown, West Virginia, to be published as a Class II-0 legal advertisement in a qualified newspaper of general circulation in the City of Morgantown, consistent with applicable law.

FIRST READING: _____

Mayor

SECOND READING: _____

ADOPTED: _____

FILED: _____

City Clerk

Ordinance No. 2024-_____

**AN ORDINANCE OF THE CITY OF MORGANTOWN
AMENDING THE CITY CHARTER
TO MODIFY CITY MANAGER RESIDENCY REQUIREMENTS**

The City of Morgantown hereby ordains as follows:

Section 1. Findings and Purpose.

The City Council of The City of Morgantown finds and concludes that the City Charter, at Section 3.01, provides for appointment of a city manager, provides that the manager will be selected on the basis of executive and administrative qualifications, and includes a requirement that the manager reside in the City while in office.

The City Council further finds and concludes that it is important for the manager to be a part of the community by being an active participant and regular presence in public life, and that City Council believes that purpose can best be met, while also retaining the best-qualified person based on executive and administrative qualifications, by modifying the residency requirement to allow for its waiver by City Council based upon a determination that the manager's residence provides the necessary connection with the regular activities of the City.

The City Council further finds and concludes that the City Charter previously contained a city residency requirement for the City Clerk, which requirement was removed by amendment September 21, 2004.

Section 2. Adoption of Amendment to Section 3.01 of the City Charter.

The succeeding provisions of the City Charter set out herein are hereby amended as follows (new matter underlined; deleted matter ~~stricken~~):

Sec. 3.01. – Appointment; qualifications; compensation.

The Council shall appoint a City Manager for an indefinite term and fix their ~~his~~ compensation. The Manager shall be appointed solely on the basis of their ~~his~~ executive and administrative qualifications. ~~He~~ The manager need not be a resident of the City or State at the time of ~~his~~ appointment but ~~must~~ may reside ~~in~~ outside the City while in office only with the approval of Council.

Section 3. Repeal, Savings, Severability.

Any section of this Code repealed or modified by a subsequent ordinance will continue in force until the effective date of the repealing ordinance.

The repeal or modification of any part of this Code does not affect any existing right acquired, or liability or obligation incurred, under the code sections amended or repealed unless the modifying ordinance expressly so provides. Any repealed or modified part of this Code will

remain in force for the purpose of sustaining any proper legal proceedings and prosecutions related to the enforcement of such right or liability brought prior to the repeal or modification.

The repeal of any repealing ordinance, clause, or provision does not revive any former ordinance, clause, or provision unless expressly provided by ordinance.

If any provision of this Ordinance, or the application of this Ordinance to any person or circumstance, is held invalid by a court of competent jurisdiction or other entity or agency having jurisdiction to make such determination, the remainder of this Ordinance and the application to other persons or circumstances remain in effect.

Section 4. Effective date; application. This ordinance shall be effective as of December 1, 2024; subject to completion of any procedures specified by law for such ordinance to become effective. This Ordinance does not affect rights, duties, or liabilities that matured, penalties that were incurred, and proceedings that were begun, before its effective date. The law remains in force for the purpose of sustaining any proper action or prosecution for the enforcement of the right, penalty, forfeiture or liability.

Section 5. Recording of ordinance. The City Clerk is directed to obtain all signatures required by the form of Ordinance adopted and maintain an executed original ordinance with the official records of the City of Morgantown, to be maintained, preserved, and accessed in accordance with the laws of the State of West Virginia and the City of Morgantown, and to take the following additional actions: Cause a copy of the amendment or amendments, ordinance, and transcript of the proceedings to be certified to the Clerk of the House of Delegates, as keeper of the rolls, and to be recorded in the office of the clerk of the county commission. The same shall be preserved by such Clerk of the House of Delegates as an authentic public record. The amendment or amendments shall take effect on the effective date specified in the notice as stated in this Ordinance. After the effective date, all courts shall take judicial notice of such amendment or amendments.

Section 6. Notice of Public Hearing (Class II-0).

The City Clerk shall cause the proposed amendment or amendments, together with a notice of the date, time and place fixed for the hearing thereon, which shall be November 6, 2024, at City Hall Council Chambers, 389 Spruce Street, Morgantown, West Virginia, to be published as a Class II-0 legal advertisement in a qualified newspaper of general circulation in the City of Morgantown, consistent with applicable law.

FIRST READING: _____

Mayor

SECOND READING: _____

ADOPTED: _____

City Clerk

FILED: _____

Ordinance No. 2024-_____

**AN ORDINANCE OF THE CITY OF MORGANTOWN
AMENDING THE CITY CHARTER
TO REQUIRE ELECTIONS BE HELD ON THE MAY PRIMARY ELECTION DATE**

The City of Morgantown hereby ordains as follows:

Section 1. Findings and Purpose.

The City Council of The City of Morgantown finds and concludes that the voters of the City are authorized to consider such amendment of the Charter at a regular municipal election, or at a special election called for the purpose of considering such amendment, pursuant to Articles 4 and 5 of Chapter 8 of the West Virginia Code.

The City Council finds and concludes that the City Charter requires that the regular municipal election be held on the last Tuesday in April of each odd-numbered year

Section 2. Scheduling of Special Election to Consider Amendment to Articles II and VII of the City Charter.

(1) A special election will be conducted on Tuesday, April 29, 2025, at which the qualified voters of the City will consider whether to amend Articles II and VII of the City Charter as provided herein;

(2) The form of ballot for such election shall be as follows:

**AMENDING THE MORGANTOWN CITY CHARTER TO PROVIDE FOR ELECTIONS ON
THE MAY PRIMARY ELECTION DATE**

() Yes. The Charter should be amended as set forth below (new matter underlined, deleted material stricken).

() No. The Charter should not be amended.

Sec. 2.01. – Composition, eligibility, election and terms.

(c) Election and Terms. The regular election of Councilmembers shall be held on the last Tuesday in April, in each odd-numbered year, beginning with the first odd-numbered year following the effective date of this Charter in the manner provided in Article VII. ~~The candidate in each ward who receives the greatest number of votes cast by the qualified voters of the City at large, shall be declared elected. At the regular election conducted April 27, 2021, or such other date on which the regular 2021 election of Councilmembers is conducted, the candidate elected from each even numbered ward shall serve a four year term, and the candidate selected from each odd numbered ward shall serve a two year term, beginning on July first following the~~

~~election. At each election thereafter, each Councilmember shall serve for a term of four years, beginning on July first following the election.~~

Elections held in April 2025 will elect members of Council to 3-year terms beginning July 1, 2025 and ending June 30, 2028, and the elections held in 2027 will elect members of Council to 3-year terms beginning July 1, 2027 and ending June 30, 2030. Beginning in May of 2028, all elections will be held on the date of the statewide May primary election in each even-numbered year and, subject to agreement with the County Clerk, administered by the County Clerk, and members will be elected to staggered four-year terms with four members selected in 2028 and each four years thereafter and three members selected in 2030 and each four years thereafter.

Sec. 7.01. – City Elections.

(a) Regular Elections. The regular City election shall be held on the last Tuesday in April in each odd-numbered year through the 2027 election. Thereafter, the regular City election shall be held on the date of the statewide May primary election in each even-numbered year.

Sec. 7.02. – Nominations.

(b) Filing of Petition and Certificate. Any person who is eligible to hold the office of City Councilmember shall be entitled to file with the election official designated by ordinance ~~City Clerk~~ a nominating petition and a certificate of announcement declaring candidacy for such office, which shall be assembled and filed with the election official ~~City Clerk~~ as one instrument. The certificate shall be in a form as provided by the West Virginia Secretary of State's office for municipal elections, or, if such form is not available, in a form prescribed by the election official and consistent with applicable legal requirements. The filing period shall begin on the first Monday in January of the year in which the election is to take place and shall end on the second Monday in February thereafter.

(c) Procedure After Filing. Within ten days after the filing of a nominating petition, the election official ~~City Clerk~~ shall notify the candidate and the person who filed the petition whether or not it satisfies the requirements prescribed by this Charter. If a petition is found insufficient, the election official ~~City Clerk~~ shall return it immediately to the person who filed it with a statement certifying wherein it is found insufficient. Within the regular time for filing petitions, such a petition may be amended and filed again as a new petition or a different petition may be filed for the same candidate. The election official ~~City Clerk~~ shall keep on file all petitions found sufficient and certificates of announcement of candidacy at least until the expiration of the term for which the candidates are nominated in those petitions and certificates were filed; provided that, if the election official is not the City Clerk, the City Clerk shall keep copies, or may keep the originals if delivered by the election official, of such documents for the period prescribed.

(d) Form of Petition. A nominating petition for the office of member of Council shall be substantially in the following form:

[TABLES]

NOMINATING PETITION

We, the undersigned qualified voters of the City of Morgantown, hereby nominate _____ (candidate name), whose residence is _____, for councilmember at large for the ward _____ to be voted for at the election to be held on the _____ (date to be supplied by election official); and we individually certify that we are qualified voters of the city and of the _____ ward and that we have not signed a nominating petition for any other candidate for that office.

Name:

Street Address:

Date of Signature:

(Spaces for signatures and required data)

CERTIFICATE OF CIRCULATOR

The undersigned is the circulator of this petition paper, which contains signatures. Each signature affixed thereto was made in my presence and is, I believe, the genuine signature of the person whose name it purports to be.

Signature of Circulator:

Name of Circulator:

Street Address of Circulator:

Date of Signature:

ACCEPTANCE OF NOMINATION

I hereby accept the nomination for member of the city council and agree to serve if elected.

Signature of Nominee:

Name of Nominee:

Date of Signature:

(e) Withdrawal of Candidacy. Any candidate wishing to withdraw their his or her candidacy shall notify the election official City Clerk in writing of the same by delivering to the election official a signed writing stating the candidate's intention to withdraw from the election, delivered to the election official in person at their public office or deposited in the United States mail, postage prepaid, no later than the date 30 calendar days before the date of the election. In determining the timeliness of such filing, the date of the filing shall be included and the date of the election shall be excluded. in accordance with the requirements of general statutory law.

(f) Write-in Candidates. A write-in candidate's certificate of announcement of candidacy shall be filed with the election official City Clerk no later than the fourteenth day before the election, under normal circumstances. In those cases where a lone candidate for a ward Councilmember position dies, or is disqualified or removed from the ballot by a court, the deadline shall be the

fifth day before the election, or the day following the occurrence of the vacancy, whichever is later.

Sec. 7.04. – Determination of election results.

(c) Except as otherwise provided in this Charter, or by ordinance of City Council, the provisions of general law with respect to the method and time for the filing of certificates of candidacy, nominating candidates, conducting regular and special Municipal elections, and determining and certifying the results of such elections, so far as applicable, shall apply to elections held under this Charter.

Section 3. Repeal, Savings, Severability.

Any section of this Code repealed or modified by a subsequent ordinance will continue in force until the effective date of the repealing ordinance.

The repeal or modification of any part of this Code does not affect any existing right acquired, or liability or obligation incurred, under the code sections amended or repealed unless the modifying ordinance expressly so provides. Any repealed or modified part of this Code will remain in force for the purpose of sustaining any proper legal proceedings and prosecutions related to the enforcement of such right or liability brought prior to the repeal or modification.

The repeal of any repealing ordinance, clause, or provision does not revive any former ordinance, clause, or provision unless expressly provided by ordinance.

If any provision of this Ordinance, or the application of this Ordinance to any person or circumstance, is held invalid by a court of competent jurisdiction or other entity or agency having jurisdiction to make such determination, the remainder of this Ordinance and the application to other persons or circumstances remain in effect.

Section 4. Effective date; application. This ordinance shall be effective upon adoption. If approved by the voters, the amendments to the Charter set forth in the Ordinance shall become effective immediately upon the certification of the election results or upon the completion of any other precondition established by applicable law. This Ordinance does not affect rights, duties, or liabilities that matured, penalties that were incurred, and proceedings that were begun, before its effective date. The law remains in force for the purpose of sustaining any proper action or prosecution for the enforcement of the right, penalty, forfeiture or liability.

Section 5. Recording of ordinance. The City Clerk is directed to obtain all signatures required by the form of Ordinance adopted and maintain an executed original ordinance with the official records of the City of Morgantown, to be maintained, preserved, and accessed in accordance with the laws of the State of West Virginia and the City of Morgantown, and to take the following additional actions: As of the first date, if any, the amendments to the City Charter provided by the Ordinance become effective, the City Clerk shall cause one copy of the amendment or amendments, together with a certified copy of the declaration of election results attached thereto,

to be certified forthwith by the City Clerk to the Clerk of the House of Delegates, as keeper of the rolls, and another to the clerk of the county commission for recording in the office of such clerk of the county commission. The same shall be preserved by said Clerk of the House of Delegates as an authentic public record. After the effective date of an amendment or amendments so filed, all courts shall take judicial notice of such amendment or amendments.

Section 6. Notice of Public Hearing (Class II-0).

The City Clerk shall cause to be published a notice of the election to consider the amendments to the City Charter described by this Ordinance as a Class II-0 legal advertisement in a qualified newspaper of general circulation in the City of Morgantown, with the first publication occurring at least thirty (30) days before the date of the election, and said notice shall state that the date and hours of the election, shall set out the proposed amendment or amendments at length or state that copies may be obtained by any qualified voter or any freeholder of the City from the City Clerk, at the offices of the City Clerk at 389 Spruce Street, Morgantown, WV, upon request. Copies of this Ordinance shall be available to the public for inspection at the office of the City Clerk, City of Morgantown, Morgantown, West Virginia.

FIRST READING: _____

Mayor

SECOND READING: _____

City Clerk

ADOPTED: _____

FILED: _____

Morgantown Ward and Boundary Commission

2024 Final Report and Recommendation to Morgantown City Council

Johnathon W. Trumble, Chair

1141 Charles Ave., Morgantown, WV 26505

Email: trumble117@gmail.com

Mobile: (304) 554-9741

Honorable Mayor and Members of Council,

Background:

The Morgantown Ward and Boundary Commission is hereby filing its report as required by City Charter 7.05 (c):

"(c) Report. On or before September 30th of each even-numbered year, the Commission shall file with the City Clerk a report containing a recommended plan and a map for adjustment of ward boundaries, or recommending that no adjustment be made, all in accordance with the specifications set forth in subsection (d)."

Recommendation:

By vote of FOUR yeas, ZERO nays, and ONE absent, this Commission recommends adjustments as outlined in the accompanying proposed map compiled by City of Morgantown Geospatial Services Manager, Marvin Davis.

Justification:

Having observed significant fluctuations in registered voter and population estimate data, and subsequent imbalance of ward composition, in March 2024 this Commission determined that it is appropriate to adjust the City of Morgantown's ward boundaries. Under the direction of the Commission, Mr. Davis imported updated voter rolls and 2020 Census population data, as required by our establishing code, into GIS mapping software. The GIS tools provided the Commission with individual "sandbox" environment maps and 8 computer-generated map variations. This software enabled the Commission to quickly visualize possible map adjustments and discuss issues we needed to consider including recalculated statistics and locations of neighborhoods, physical, and logical separators. The Commission feels that this enabled us to review our respective ward boundaries and determine new boundaries efficiently. We appreciate the City's effort to provide us with these tools and Mr. Davis's expertise for this purpose. Additionally, the ArcGIS platform enabled us to solicit preliminary public feedback in August 2024. Some feedback was incorporated into our final map and is included in our full report.

The statistics of the existing wards with the latest voter registration counts and 2020 US Decennial Census populations are in the table below.

Ward	Registered Voters (2022)	Ideal Voters per Ward	Deviation (Voters)	Population (2020)	Ideal Population per Ward	Deviation (Population)
First	2,182	1,916	+266 (+13.9%)	3,192	4,441	-1,249 (-28.1%)
Second	1,579	1,916	-337 (-17.6%)	4,271	4,441	-170 (-3.8%)

Third	1,552	1,916	-364 (-19.0%)	5,588	4,441	+1,147 (+25.8%)
Fourth	1,317	1,916	-599 (-31.3%)	4,718	4,441	+277 (+6.2%)
Fifth	2,106	1,916	+190 (+9.9%)	5,416	4,441	+975 (+22.0%)
Sixth	2,415	1,916	+499 (+26.0%)	3,416	4,441	-1,025 (-23.1%)
Seventh	2,259	1,916	+343 (+17.9%)	4,482	4,441	+41 (+0.9%)

As has been the case in years past, the Commission determined it impractical to equally balance both voter and population metrics. Due to this constraint, the Commission again made the decision to give preference to registered voter counts when making ward boundary adjustments. This decision was reinforced by a letter received from City Council providing guidance to the same. Final counts were given a 10% margin from ideal, as has also been the case historically. The Commission’s detailed criteria and materials used during the evaluation process are provided in the full report.

The statistics of the proposed ward boundaries following adjustment by the Commission, with the latest voter registration counts and 2020 US Decennial Census populations, are in the table below.

Ward	Ideal Voters per Ward	Proposed Voters per Ward	Proposed Voters Deviation (Percent)	Proposed Population (Deviation Pct.)
First	1,916	1,850	-66 (-3.4%)	2,615 (-39.5%)
Second	1,916	1,903	-13 (-0.7%)	2,149 (-50.3%)
Third	1,916	2,018	+102 (+5.3%)	7,163 (+65.7%)
Fourth	1,916	1,921	+5 (+0.3%)	7,221 (+67.0%)
Fifth	1,916	1,846	-70 (-3.7%)	3,485 (-19.4%)
Sixth	1,916	1,947	+31 (+1.6%)	3,102 (-28.2%)
Seventh	1,916	1,925	+9 (+0.5%)	4,585 (+6.1%)

Data Received:

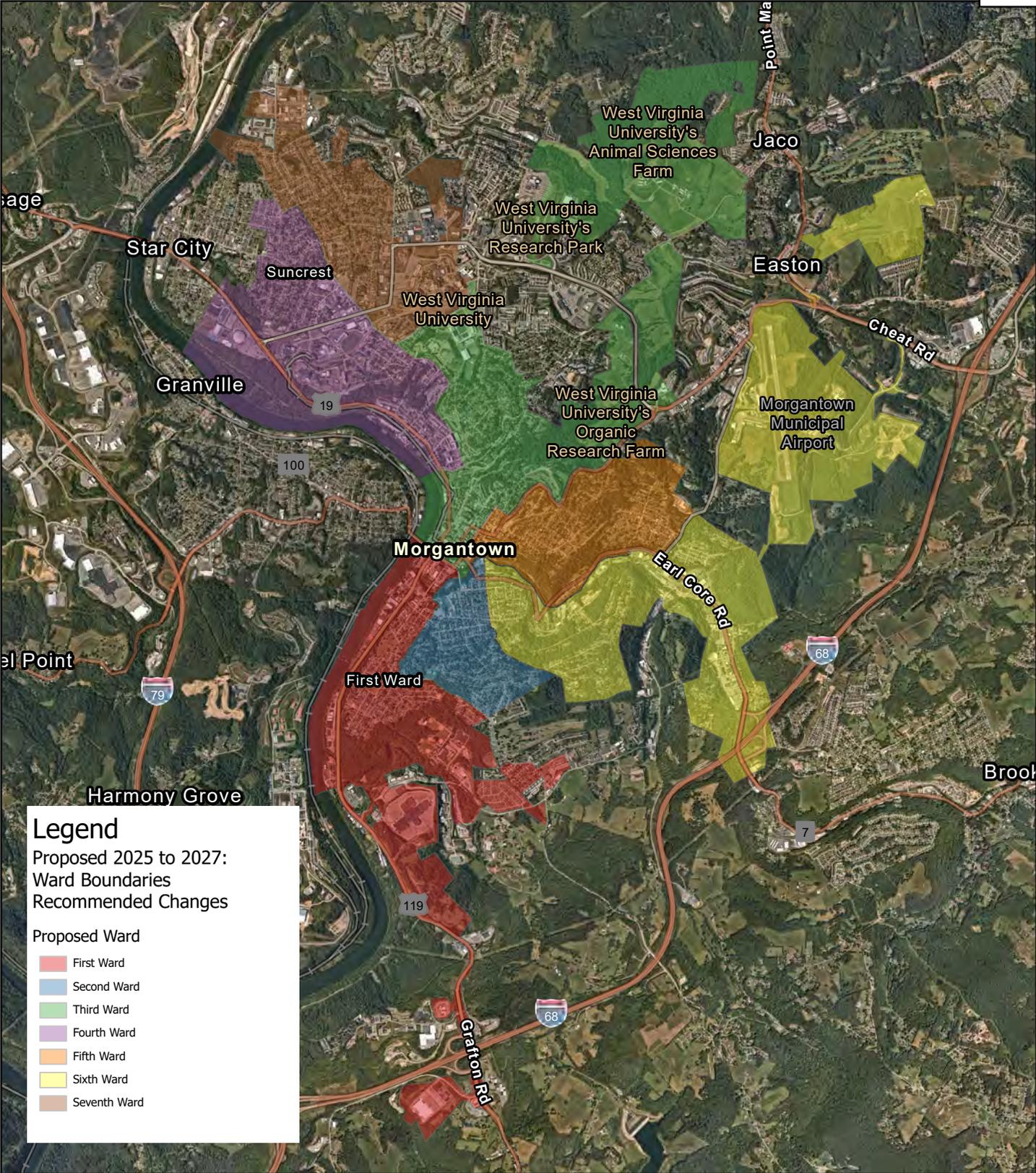
Please refer to the appended report from Marvin Davis detailing the process, data received, and final recommendation.

Link to full analysis and report: <https://arcg.is/yGPPH0>

Respectfully,



Johnathon W. Trumble, Chair
Morgantown Ward and Boundary Commission



Legend
 Proposed 2025 to 2027:
 Ward Boundaries
 Recommended Changes

Proposed Ward

- First Ward
- Second Ward
- Third Ward
- Fourth Ward
- Fifth Ward
- Sixth Ward
- Seventh Ward



Ward & Boundary Commission Recommended Changes

Map Created By: Veronica Balcer, Geospatial Technician. Credits: WVU Facilities, Esri, TomTom, Garmin, SafeGraph, GeoTechnologies, Inc, METI/ NASA, USGS, EPA, NPS, USDA, USFWS, Copyright nearmap 2015

2024

N

0 0.5 1 Mi

0 0.5 1 Km

Coordinate System: NAD 1983 StatePlane West Virginia North FIPS 4701 Feet

2025 City Council Meetings

REGULAR	COMMITTEE OF THE WHOLE
January 7, 2025	January 28, 2025
January 21, 2025	
February 4, 2025	February 25, 2025
February 18, 2025	
March 4, 2025	March 25, 2025
March 18, 2025	
April 1, 2025	NONE Municipal Election
April 15, 2025	
May 6, 2025	May 27, 2025
May 20, 2025	
June 3, 2025	NONE
June 17, 2025	
July 1, 2025	July 29, 2025
July 15, 2025	
August 5, 2025	August 26, 2025
August 19, 2025	
September 2, 2025	September 30, 2025
September 16, 2025	
October 7, 2025	October 28, 2025
October 21, 2025	
November 4, 2025	November 25, 2025
November 18, 2025	
December 2, 2025	NONE
December 16, 2025	

August 4-8, 2025 WVML Conference