



MORGANTOWN
CITY CLERK

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

AGENDA
CITY COUNCIL REGULAR MEETING
Mon County Commission Chambers, 243 High Street, 2nd Floor, Morgantown, WV 26505
Tuesday, October 03, 2023 at 7:00 PM

1. **CALL TO ORDER:**
2. **ROLL CALL:**
3. **PLEDGE:**
4. **APPROVAL OF MINUTES:**
 - A.** September 19, 2023, Special Meeting Minutes
 - B.** September 19, 2023, Regular Meeting Minutes
 - C.** September 26, 2023, Special Meeting Minutes
 - D.** September 26, 2023, Committee of the Whole Meeting Minutes
5. **CORRESPONDENCE:**
 - A.** Fire Prevention Month - Fire Marshal Andrew Dotson
 - B.** Arbor Day Proclamation
 - C.** Indigenous Peoples Day Proclamation
 - D.** Transgender Awareness Month Proclamation
 - E.** Municipal Government Week Proclamation
 - F.** Domestic Violence Awareness Month Proclamation
 - G.** Community Planning Month Proclamation
6. **PUBLIC HEARINGS:**
7. **UNFINISHED BUSINESS:**
 - A.** 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 **(First Reading)** of **An Ordinance Amending Article 1301 of the Morgantown Planning and Zoning Code pertaining to the Comprehensive Plan for the Physical Development of the City of Morgantown; to Delete References to the 2013 Comprehensive Plan; and, to Adopt the 2023 Comprehensive Plan (Morgantown 2033)**

B. Consideration of **APPROVAL** to **Amend the Police Civil Service Commission Rules & Regulations**

C. Consideration of **APPROVAL** of **Hazel Ruby McQuain Park Capital Construction Project**

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

13. **REPORT FROM CITY CLERK:**

14. **REPORT FROM CITY ATTORNEY:**

15. **REPORT FROM COUNCIL MEMBERS:**

16. **EXECUTIVE SESSION:**

17. **ADJOURNMENT:**

For accommodations please call or text 304-288-7072

City of Morgantown

SPECIAL MEETING September 19, 2023

Special Meeting September 19, 2023: The Special Meeting of the Common Council of the City of Morgantown was held in Monongalia County Commission Chambers on Tuesday, September 19, 2023, at 6:03 p.m.

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

EXECUTIVE SESSION: Pursuant to West Virginia Code Section 6-9a-4(b)(2)(a) to discuss matters in considering new appointments for Board and Commissions. Motion by Deputy Mayor Abu-Ghannam, second by Councilor Trumble, to go into executive session. Motion carried by acclamation. Present: City Council. Time: 6:04 p.m.

Sameera Abu-Ghannam – Woodburn Commission
Jereme Scribner – Ward Boundary Commission
Megan Gregory – Human Rights Commission

Adjournment:

There being no further business, motion by Deputy Mayor Abu-Ghannam, second by Councilor Trumble, to adjourn the meeting. Time: 7:11 p.m.

City Clerk

Mayor

City of Morgantown

SPECIAL MEETING September 26, 2023

Special Meeting September 26, 2023: The Special Meeting of the Common Council of the City of Morgantown was held in Monongalia County Commission Chambers on Tuesday, September 26, 2023, at 6:03 p.m.

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

EXECUTIVE SESSION: Pursuant to West Virginia Code Section 6-9a-4(b)(2)(a) to discuss matters in considering new appointments for Board and Commissions. Motion by Councilor Trumble, second by Deputy Mayor Abu-Ghannam, to go into executive session. Motion carried by acclamation. Present: City Council. Time: 6:04 p.m.

Bronson Herr – Health & Wellness Commission & Human Rights Commission
Katie See (7th Ward) – Planning Commission
Cindy O’Brien (2nd Ward) – Ward Boundary Commission

Adjournment:

There being no further business, motion by Councilor Trumble, second by Councilor Butcher, to adjourn the meeting. Time: 6:57 p.m.

City Clerk

Mayor

MINUTES
COMMITTEE OF THE WHOLE MEETING
September 26, 2023

The Committee of the Whole Meeting, September 26, 2023: The Committee of the Whole Meeting of the Common Council of the City of Morgantown was held in Monongalia County Commission Chambers, on Tuesday, September 26, 2023, at 7:00 p.m.

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

The meeting was called to order by Deputy Mayor Abu-Ghannam.

PRESENTATIONS:

A. Morgantown Youth Council Update

Savannah Carpenter, Senior at Morgantown High School, Troy Andis, Senior at Morgantown High School, and Elliana McKinley, Junior at Morgantown High School updated council with all the upcoming events at MHS.

B. Hazel Ruby McQuain Amphitheater Summer Update – Cultural Arts Director Vincent Kitch

Vincent gave a brief overview of the Summer Concert Series.

C. Comprehensive Plan Update (Morgantown 2033) – Development Services Director Rickie Yeager

Development Services Director Rickie Yeager presented an amendment to the Comprehensive Plan (Morgantown 2033). Project Manager Ron Sessoms with Rhodeside & Harwell, along with Founder of Rhodeside & Harwell Deana Rhodeside and Eden Marek were present to speak about the Morgantown 2033 Comprehensive Plan.

D. “Donations for Citations” – Parking Authority Director Dana McKenzie

Parking Authority Director Dana McKenzie gave a brief overview on how the “Donations for Citations” works.

E. Green Team – City Climates Action Plan – Jim Kotcon

Chair Morgantown Green Team Jim Kotcon gave a brief overview on the City Climate Action Plan.

F. Mountaineer Country CVB 2023 Mid-year Update – Executive Director Susan Riddle

Executive Director Susan Riddle gave a Mid-year update.

City of Morgantown

PUBLIC PORTION:

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

There being no one wishing to speak, Deputy Mayor Abu-Ghannam closed the Public Portion.

ITEMS FOR DISCUSSION:

- A. An Ordinance amending Article 1301 of the Morgantown Planning and Zoning Code pertaining to the Comprehensive Plan for the Physical Development of the City of Morgantown; to Delete References to the 2013 Comprehensive Plan; and, to Adopt the 2023 Comprehensive Plan (Morgantown 2033)

Director of Development Services Rickie Yeager explained. After discussion, this item was moved to the October 3, 2023, Regular Meeting Agenda.

ADJOURNMENT: There being no further business, motion by acclamation to adjourn the meeting. Time: 8:50 p.m.

City Clerk

Mayor



MORGANTOWN
OFFICE OF THE MAYOR

304-284-7439
Morgantownwv.gov
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Morgantown, WV 26505

PROCLAMATION

- Whereas,** in 1872, J. Sterling Morton proposed to the Nebraska Board of Agriculture that a special day be set aside for the planting of trees; and
- Whereas,** this holiday, called Arbor Day, was first observed with the planting of more than a million trees in Nebraska; and
- Whereas,** the legislature of the State of West Virginia has adopted an Act Designating Arbor Day and by that Act has designated the second Friday of every April as the State Arbor Day; and
- Whereas,** the City of Morgantown will celebrate Arbor Day on October 14, 2023, to take advantage of the fall weather which is an excellent time to plant trees. The shorter days and mild temperatures are less stressful and ensures a greater survival rate on newly planted trees; and
- Whereas,** it is the purpose of the designation of this day throughout the Nation to encourage the planting of shade and forest trees, to encourage the protection of our forests from the scourge of devastating insects, diseases and fires that destroy the beauty and usefulness of our woodlands, parks, and street trees as well as their wildlife; and
- Whereas,** trees can reduce the erosion of our precious topsoil by wind and water, cut heating and cooling costs, moderate the temperature, clean the air, produce oxygen, and provide habitat for wildlife; and
- Whereas,** trees are a renewable resource giving us paper, wood for our homes, fuel for our fires and countless other wood products; and
- Whereas,** trees in the City of Morgantown increase property values, enhance the economic vitality of business areas, and beautify our community; and
- Whereas,** Saturday, October 14, 2023, the City of Morgantown will be celebrating Arbor Day and their 26th year as a Tree City USA.

Now, therefore, I, Jenny Selin, Mayor of the City of Morgantown, do hereby proclaim
Saturday, October 14, 2023, as

Arbor Day

in the City of Morgantown, West Virginia, and urge all citizens to celebrate Arbor Day and to support efforts to protect and enhance our trees throughout the city; and

Furthermore, I urge all citizens to plant trees to gladden the heart and promote the well-being of this and future generations.

Seal:



Jenny Selin, Mayor
October 3, 2023



MORGANTOWN
OFFICE OF THE MAYOR

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PROCLAMATION

- Whereas,* the City of Morgantown, West Virginia officially adopted a 2020 strategic plan for diversity, equity, and inclusion, and has formally embraced the goal of being an inclusive community that welcomes diversity and supports social justice; and
- Whereas,* Indigenous people, also referred to collectively in the U.S. as Native Americans or American Indians and Alaska Natives, have lived upon this land since time immemorial as evidenced by oral history and archaeological evidence throughout our State, in Morgantown, and in Ohio, where Hopewell Ceremonial Earthworks is a UNESCO World Heritage Site as of September 2023; and
- Whereas,* the Haudenosaunee (Iroquois) nations, the Shawnee, Lenape (Delaware), and other historic tribes regard this area as being within their ancestral lands and there are descendants of Indigenous peoples living here today and more than 570 federally recognized Native Nations in the U.S. and nearly ten-million Native people nationwide; and
- Whereas,* innumerable U.S. place names come from Indigenous languages, notably, Monongahela, an Algonquin term meaning "river of falling banks", and hundreds of Indigenous languages are still spoken throughout the Americas, including nearly 200 in the U.S., with Indigenous language terms found throughout the Americas English vocabulary; and
- Whereas,* for centuries, Indigenous peoples have provided friendship, guidance, economic trade, political alliance, and protection to others. Native American men and women have an enduring, distinguished record of serving the U.S. Military at a rate five times greater than the national average; and
- Whereas,* over the centuries Native Americans have generously provided food to starving Pilgrims, Revolutionary Army troops at Valley Forge, the Lewis and Clark expedition, and countless others, thus aiding in the survival of non-Natives and eventual formation of the United States. An estimated 60% of the world's current food supply originated with Indigenous North America and today's Native Nations, farmers, and laborers contribute to feeding the overall population; and
- Whereas,* societal progress has been accomplished through the contributions of Indigenous peoples, including the foundation of the country's democratic, representational form of government, inspired by the original centuries-old Haudenosaunee (Iroquois) Confederacy, which acknowledged women's sovereign rights to political power, and to purchase, own, and sell property; and
- Whereas,* Indigenous Peoples Day was first proposed in 1977 by a delegation of Native nations to the U.N.-sponsored "International Conference on Discrimination against Indigenous Populations in the Americas"; and
- Whereas,* throughout the U.S. more than 200 cities and 30 states honor Indigenous Peoples Day and in so doing, help promote a healthy, inclusive, respectful path forward; and
- Whereas,* the City of Morgantown recognizes Indigenous Peoples history, perseverance, societal presence, past and ongoing contributions with a day that celebrates and honors Indigenous people, reflecting their experiences and holding in esteem their ancient roots, cultural history, and continuous contributions; and
- Whereas,* WVU's Native American Studies Program is hosting "This Land Was Already Loved," free public programming on October 9th and 10th, 2023, with esteemed leaders from the Shawnee Tribe, Eastern Shawnee Tribe, Delaware Nation, Delaware Tribe of Indians, Cherokee Nation, and the Haudenosaunee Confederacy, each discussing their nations' ancestral connections to West Virginia and history from Indigenous perspectives; and
- Whereas,* the City of Morgantown wishes to help preserve and promote the history and culture of Indigenous people by officially observing Indigenous Peoples' Day, continuing to promote respect for all people, acknowledging that diversity enriches and strengthens this community.

Now, therefore I, Jenny Selin, Mayor of the City of Morgantown, West Virginia, on behalf of City Council do hereby declare the second Monday of October as

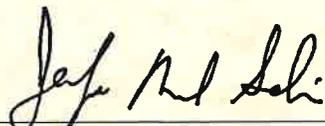
Indigenous Peoples Day

and encourage continued recognition, appreciation, and celebration of Indigenous People through goodwill, respect, and friendship. The City of Morgantown strongly encourages individual residents, schools, businesses, public and private organizations, and other community partners to join with communities across America in promoting the wellbeing of Indigenous people, pledging to become more informed, educated, and engaged.

WITNESS my hand and the seal of the City of Morgantown this 3rd day of October 2023.

Seal:




Jenny Selin, Mayor



MORGANTOWN
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PROCLAMATION

- Whereas,** each year on November 20th, the world observes Transgender Day of Remembrance as a day of mourning to honor the memories of the lives who were lost in acts of anti-transgender violence first observed in 1999 as a means of remembering Rita Hester who was brutally murdered in Boston one year earlier on November 28th, 1998, a crime that remains unsolved to this day; and
- Whereas,** the City of Morgantown also marks November as Transgender Awareness Month to raise awareness of issues impacting transgender people, and take this opportunity to honor the transgender community; and
- Whereas,** the City of Morgantown continues to make historic progress in establishing programs and policies that support the transgender, nonbinary, and gender non-conforming communities and create greater equity for their participation and involvement in society; and
- Whereas,** the City of Morgantown continually reaffirms that we are a city of all people – one where our transgender, nonbinary, and gender non-conforming communities are fully accepted and embraces; these annual remembrances remind us to live openly in an authentic and accurate representation of who we are, and to be able to live free of violence, harassment, and discrimination; and
- Whereas,** the City of Morgantown joins to support the goals of this observance to raise awareness of acts of violence committee against transgender individuals and further develop a strong network of action to stop all incidents rooted in hatred, bias, and fear, and that help us move forward as a society with confidence through programs and policies that foster greater compassion and understanding within a positive and constructive context; and
- Whereas,** the City of Morgantown remains dedicated to these ideals which preserve a core value of our democracy and one that we will always vigorously defend and uphold, and we will commemorate this month as we continue to take action to protest the transgender, nonbinary, and gender non-conforming communities and continue the ongoing fight for full LGBTQ+ rights and equality.

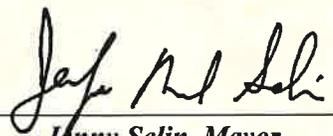
Now therefore, I, Jenny Selin, Mayor of the City of Morgantown, West Virginia, on behalf of the City Council do hereby proclaim the 1st day of November 2023 as

Transgender Awareness Month

and join with people across the globe in a special recognition of the worldwide observance of November 20th, 2023, as Transgender Day of Remembrance in the City of Morgantown

Seal:





Jenny Selin, Mayor
 October 3, 2023



MORGANTOWN
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PROCLAMATION

Whereas, Governor Justice has proclaimed October 16-20, 2023, 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 totally 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, Jenny Selin, Mayor of the City of Morgantown, West Virginia, do hereby proclaim the week of October 16-20, 2023, as:

Municipal Government Week

Seal:



Jenny Selin, Mayor
October 3, 2023



MORGANTOWN
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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.

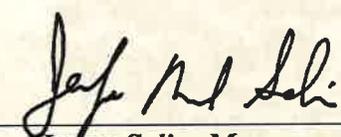
Now therefore, I, Jenny Selin, Mayor of the City of Morgantown, West Virginia, in recognition of the important work done by the Rape and Domestic Violence Information Center serving Monongalia, Preston, and Taylor Counties as well as all other domestic violence programs, the City of Morgantown does hereby proclaim the month of October to be

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:





Jenny Selin, Mayor
October 3, 2023



MORGANTOWN
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PROCLAMATION

- Whereas,** change is constant and affects all cities, towns, suburbs, counties, boroughs, townships, rural areas, and other places; and
- Whereas,** community planning and plans can help manage this change in a way that provides better choices for how people work and live; and
- Whereas,** community planning provides an opportunity for all residents to be meaningfully involved in making choices that determine the future of their community; and
- Whereas,** the full benefit of planning requires public officials and citizens who understand, support, and demand excellence in planning and plan implementation; and
- Whereas,** the month of October is designated as National Community Planning Month throughout the United States of America and its territories, and
- Whereas,** American Planning Association endorses National Community Planning Month as an opportunity to highlight how planning is essential to recovery and how planners can lead communities to equitable, resilient, and long-lasting recovery; and
- Whereas,** the celebration of National Community Planning Month gives us the opportunity to publicly recognize the participation and dedication of the members of planning commissions and other citizen planners who have contributed their time and expertise to the improvement of the City of Morgantown; and
- Whereas,** we recognize the many valuable contributions made by professional community and regional planners in the community and extend our heartfelt thanks for the continued commitment to public service by these professionals.

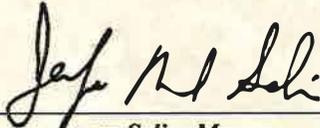
Now, therefore, I, Jenny Selin, Mayor of the City of Morgantown, and on behalf of City Council, do hereby designate the month of October 2023, as

Community Planning Month

in the City of Morgantown, West Virginia, in conjunction with the celebration of National Community Planning Month.

Seal:





Jenny Selin, Mayor
October 3, 2023

Ordinance No. 2023-____

AN ORDINANCE AMENDING ARTICLE 1301 OF THE MORGANTOWN PLANNING AND ZONING CODE PERTAINING TO THE COMPREHENSIVE PLAN FOR THE PHYSICAL DEVELOPMENT OF THE CITY OF MORGANTOWN; TO DELETE REFERENCES TO THE 2013 COMPREHENSIVE PLAN; AND, TO ADOPT THE 2023 COMPREHENSIVE PLAN (MORGANTOWN 2023).

WHEREAS, West Virginia State Code Chapter 8A, Article 3 provides for municipalities to prepare and adopt comprehensive plans to promote the health, safety, morals, order, convenience, prosperity, and general welfare of the inhabitants, as well as efficiency and economy in the process of development;

WHEREAS, thinking both locally and regionally, the City of Morgantown undertook a collaborative process to develop the Comprehensive Plan Update – Morgantown 2033 to coordinate land use and transportation planning, with Monongalia County’s Comprehensive Plan, and Morgantown-Monongalia County Metropolitan Planning Organization’s Long Range Transportation Plan; and

WHEREAS, the Morgantown Planning Commission has caused to be prepared a Comprehensive Plan Update and has duly recommended said plan to City Council for consideration and action thereon.

NOW, THEREFORE, the City of Morgantown hereby ordains that Article 1301 of the Morgantown Planning and Zoning Code is amended as follows (deleted matter ~~stricken~~; new matter underlined):

ARTICLE 1301
Comprehensive Plan

1301.01 TITLE.

This article shall be known and may be cited as, the “Comprehensive Plan”.

1301.02 PURPOSE OF ARTICLE.

The purpose of this article is to establish a single unified code consisting of all plans, reports and regulations and supplemental details as contained and specifically referred to in the reports of the Planning Commission as described in Section 1301.03, that deals with the subject

of planning and zoning, as a comprehensive guide for the future growth and development of the City.

1301.03 PLAN COMPOSED OF REPORTS ADOPTED BY REFERENCE.

The Comprehensive Plan consists of:

- (a) A report entitled "~~The City of Morgantown Comprehensive Plan, 2013 Morgantown 2033.~~", ~~dated April 25, 2013.~~
- (b) The above report is hereby adopted as the "Comprehensive Plan Ordinance of Morgantown, West Virginia, 2013 2023", by reference and made a part hereof as if fully set forth in this article in accordance with West Virginia Code 8-11-3 and 8A-3-8.

~~1301.04 INCORPORATION OF OTHER ORDINANCES. USE OF COMPREHENSIVE PLAN.~~

~~The Comprehensive Plan will be used as a guide for City Council to accomplish a coordinated and compatible development of land and improvements within the City, in accordance with present and future needs and resources, and consistent with the purposes of comprehensive planning described in West Virginia Code Chapter 8A, Article 3. The Comprehensive Plan may be amended from time to time consistent with the procedures established in West Virginia Code 8A-3-11.~~

~~All ordinances which have heretofore or may be hereafter enacted concerning the subjects of the Comprehensive Plan as described in West Virginia Code 8A-3-4 and 8A-3-5 shall also be deemed to be parts of the "Comprehensive Plan of Morgantown, West Virginia, 2013".~~

~~1301.05 CONFORMITY TO PLAN.~~

~~The layout, the location, relocation, extension or widening of thoroughfares; the general design of neighborhoods and their street patterns; the use of land; and the location of sites for schools, parks, recreation and other public uses, shopping centers and community facilities and other recommendations shall conform to the principles, policies and provisions of the Comprehensive Plan.~~

~~1301.06 CONSIDERATION OF PLAN PRIOR TO CONSTRUCTION OF PUBLIC INSTALLATIONS.~~

~~Council and all municipal boards, commissions and all other agencies of the City shall be guided by and give consideration to the general policy and pattern of development set out in the Comprehensive Plan prior to the authorization, construction, alteration and abandonment of any public installation, required or necessitated in the interest of the physical development of the City.~~

~~1301.07 AMENDMENTS.~~

~~_____ The Planning Commission shall from time to time consider and review proposals with respect to changes and amendments in the Comprehensive Plan and upon conclusion of such consideration, including a public hearing thereon, shall certify to Council their report on such matters. Amendments shall be in accordance with West Virginia Code.~~

1301.08 5 WHERE COPIES KEPT ON FILE.

The Office of the City Clerk shall, upon adoption, file the Comprehensive Plan in the Office of the Clerk of Monongalia County in accordance with West Virginia State Code 8A-3-9. Two copies of the Comprehensive Plan as set forth in Section 1301.03 shall be kept on file in the offices of the City Planning Commission and City Clerk and be available for public inspection during the regular office hours.

1301.09 6 COOPERATION OF OTHER BODIES IN EFFECTUATION OF PLAN.

The Planning Commission is hereby directed to solicit the cooperation of the legislative and administrative bodies of the County, the State and agencies of the Federal Government in the effectuation of the Comprehensive Plan as it applies in the official jurisdictional area of the Commission and in the unofficial planning area outside of this City, as shown in the Plan.

This ordinance shall be effective upon date of adoption.

FIRST READING:

Mayor

ADOPTED:

FILED:

RECORDED:

City Clerk



MORGANTOWN PLANNING COMMISSION

September 21, 2023

6:30 p.m.

Monongalia County Commission Chambers | 243 High Street – 2nd FL

STAFF REPORT

President:

Peter DeMasters, 6th Ward

Vice-President:

Bill Petros, 4th Ward

Planning Commissioners:

Vacant, 1st Ward

Tim Stranko, 2nd Ward

William Blosser, 3rd Ward

Vacant, 5th Ward

Danielle Trumble, City Council

Vacant, 7th Ward

Vacant, City Admin.

CASE NO: Morgantown Comprehensive Plan Update – Morgantown 2033

REQUEST:

Staff requests that the Planning Commission approve the Comprehensive Plan Update – Morgantown 2033 and recommend the plan to Morgantown City Council for consideration and adoption in accordance with West Virginia State Code §8A-3-7.

BACKGROUND and ANALYSIS:

Every ten years, the Planning Commission shall prepare a comprehensive plan for the development of land in the community and shall recommend that said plan be adopted by the appropriate governing body (Morgantown City Council) in accordance with West Virginia State Code §8A-3-7. In 2021, the City hired the urban design and planning firm of Rhodeside and Harwell (RHI) to assist staff in this endeavor. The plan presented for consideration is the culmination of a two-year planning process that included input from residents and various stakeholder groups. The plan was also developed in collaboration with the Monongalia County Planning Commission and Morgantown- Monongalia Metropolitan Planning Commission all of which were updating their own respective planning documents (County Comprehensive Plan and Metropolitan Long-Range Transportation Plan).

The plan is organized into seven elements. They include Regional Vision, Land Management, Transportation, Environment, Neighborhood and Housing, Community Facilities and Services and Economic Development. Together the seven plan elements address all the required components in a Comprehensive Plan Update per West Virginia State Code §8A-3-4. They include, but are not limited to Environmental Sustainability and Resiliency, Land Use, Housing, Transportation, Community Services and Facilities, Recreation, Economic Development, Community Design and Character, Financing, Historic Preservation, Preferred Development/Focus Areas, Community Renewal and/or Redevelopment, and Equity.

RHI will make a presentation to the Planning Commission regarding the Comprehensive Plan Update on September 21st at the public meeting. It will highlight the vision, summary from Public Meeting #2, plan updates and implementation priorities.

As of September 18, 2023, staff had received one comment via email (morgantown2033@morgantownwv.gov) regarding the Comprehensive Plan Update. Said communication is attached to this staff report.

Notice of the public hearing for the Comprehensive Plan Update was given in accordance with West Virginia State Code §8A-3-6 (b). An electronic copy of the plan was made available on the City’s website and hard copies were available for review in the Development Services Department and Morgantown Public Library.

Development Services

Rickie Yeager, AICP
Director

Planning Division

389 Spruce Street
Morgantown, WV 26505
304.284.7431



MORGANTOWN PLANNING COMMISSION

September 21, 2023
6:30 p.m.

Monongalia County Commission Chambers | 243 High Street – 2nd FL

President:

Peter DeMasters, 6th Ward

Vice-President:

Bill Petros, 4th Ward

Planning Commissioners:

Vacant, 1st Ward

Tim Stranko, 2nd Ward

William Blosser, 3rd Ward

Vacant, 5th Ward

Danielle Trumble, City Council

Vacant, 7th Ward

Vacant, City Admin.

STAFF RECOMMENDATION:

Staff recommends that the Comprehensive Plan Update – Morgantown 2033 be approved by the Planning Commission and forwarded to Morgantown City Council for consideration and adoption.

Staff would like to thank the Planning Commission, Project Steering Committee and everyone who participated in the planning process, as well as the team from RHI for bringing this plan update to fruition. Your participation and input were greatly appreciated.

Development Services

Rickie Yeager, AICP
Director

Planning Division

389 Spruce Street
Morgantown, WV 26505
304.284.7431

Comprehensive Plan Update – Morgantown 2033Comments received by Staff as of September 19, 2023

From Matthew Jacobsmeier (matthew.jacobsmeier.business@gmail.com) via email (morgantown2033@morgantownwv.gov) on Sunday, September 17, 2023

Hello,

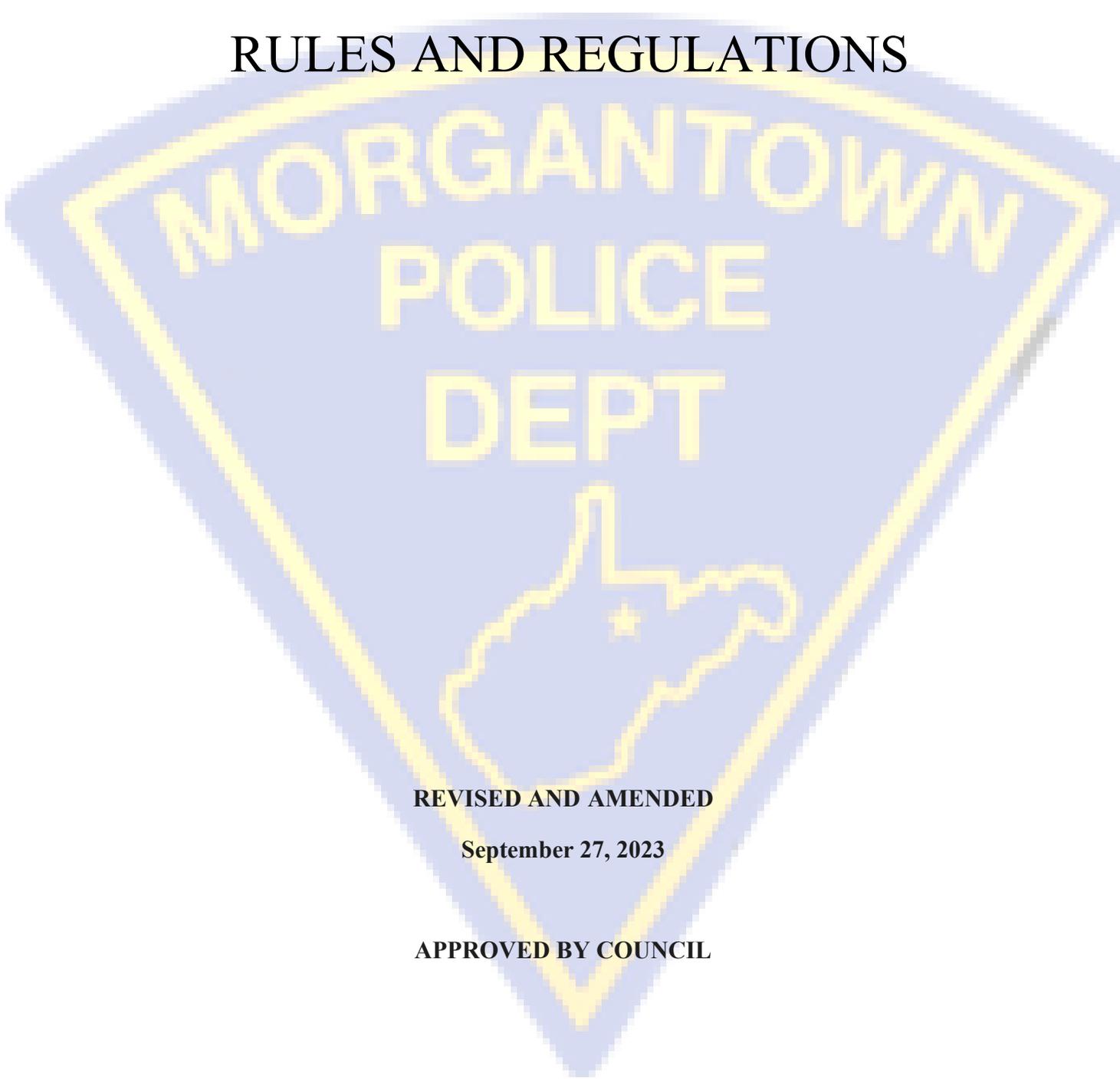
I took a look at the 2033 Master Plan, and on the whole, I think it does a great job of identifying key issues and potential solutions. I feel, however, that the city should look into additional measures for dealing with problem landlords beyond those listed in the plan. This city has several prominent problem landlords who have a significant negative impact on the city's communities. I am not convinced that simply increasing fines is going to deter them for engaging in behavior detrimental to their tenants' lives and to Morgantown communities or encourage responsible management of rental properties. The city should examine establishing a process for revoking rental permits from landlords who egregiously and/or repeatedly violate code and should research the experience of cities that have attempted to prohibit such landlords from purchasing additional rental properties. I am aware that implementing such policies is complicated and difficult and may have negative consequences for some renters, and I also know that tenants are not angels, but problem landlords are, well, a really big problem in Morgantown.

I also believe that there should be more active code enforcement that does not rely on citizen complaints, particularly when it comes to rental properties. As an example, [REDACTED] has erected several large billboards and many smaller (but still large) signs around the city that clearly violate the city's sign ordinances in that they are clearly not "On-premise real estate signs indicating for sale, for lease, etc." Rather, they are general advertisements for Smith Rentals' business that refer to properties available on other premises. There are dozens of these signs around the city, and relying on complaints to get them taken down will not bring [REDACTED] into line with code. Signs so obviously in violation of code should be identified by code enforcement officers in an active way; the signs have a very negative impact on the appearance of the neighborhoods in which they are posted. This is, of course, only one example of a case in which more active code enforcement would be good for the city.

Thanks to everyone who has worked on the 2033 Master Plan. I hope that the city is able to address the important issues the plan raises, especially the truck traffic.

*Sincerely,
Matt Jacobsmeier*

**CITY OF MORGANTOWN, WEST VIRGINIA
POLICE CIVIL SERVICE COMMISSION
RULES AND REGULATIONS**



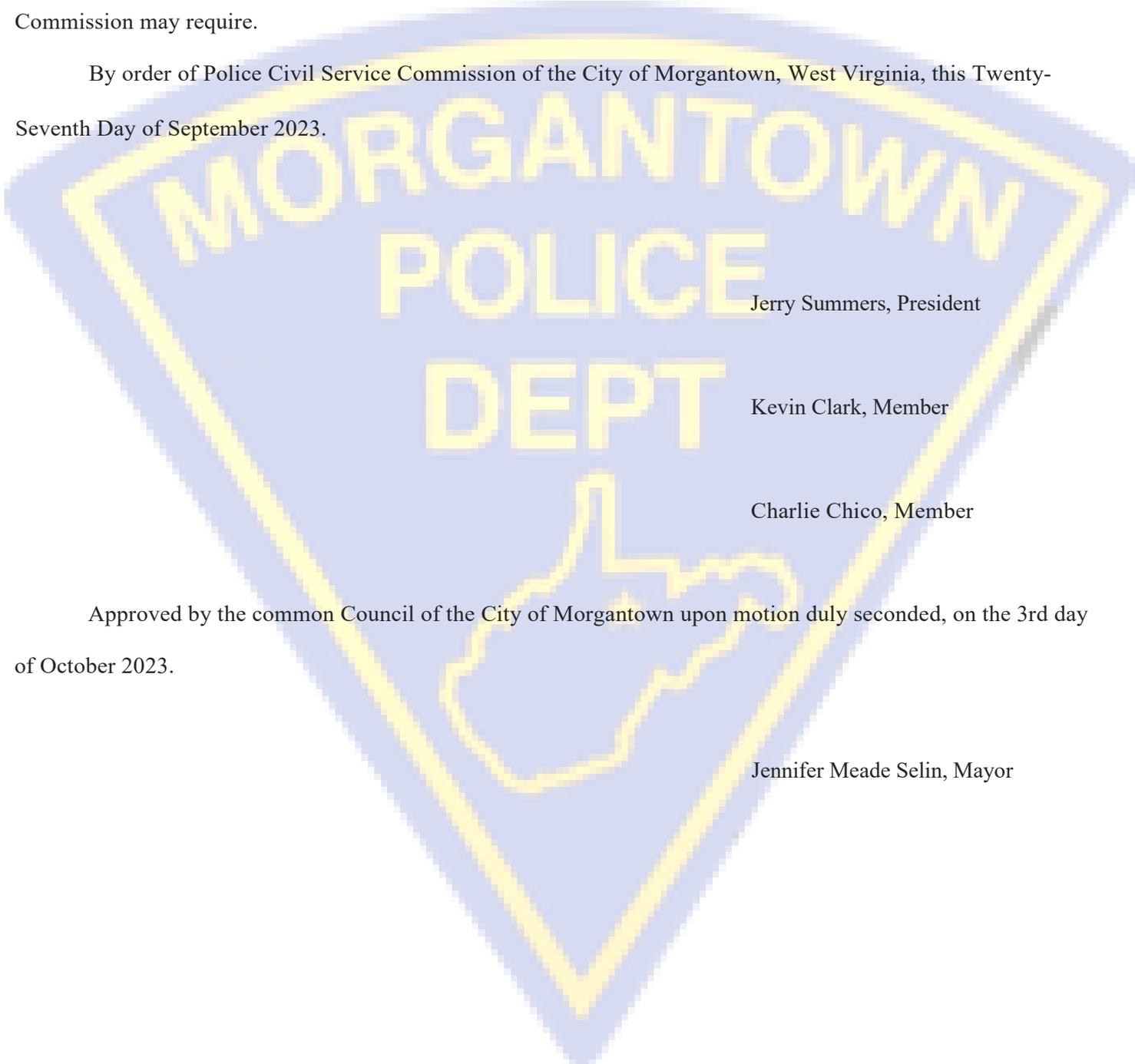
REVISED AND AMENDED

September 27, 2023

APPROVED BY COUNCIL

By virtue of the authority vested in it by law, the Police Civil Service Commission of the City of Morgantown, West Virginia, has approved and published these rules and regulations for the administration of the Commission, effective on and after the Third Day of October, 2023, the Commission reserving the right to alter, amend or revoke any of the said rules and regulations and to make additional ones from time to time as circumstances or good of the Commission may require.

By order of Police Civil Service Commission of the City of Morgantown, West Virginia, this Twenty-Seventh Day of September 2023.



Jerry Summers, President

Kevin Clark, Member

Charlie Chico, Member

Approved by the common Council of the City of Morgantown upon motion duly seconded, on the 3rd day of October 2023.

Jennifer Meade Selin, Mayor

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**RULES AND REGULATIONS OF THE POLICE CIVIL SERVICE COMMISSION
OF THE CITY OF MORGANTOWN, WEST VIRGINIA
AS ADOPTED**

RULE I

ORGANIZATION AND DUTIES

Section 1. At the first regular meeting held in June of each year, the Commission shall elect one of its members as president. It shall be the duty of the Commission to adopt, amend, and enforce a code of rules for examinations for positions in the police service of the City of Morgantown and for the appointments and promotions therein, and it may amend the same from time to time or may temporarily suspend any of the provisions of the rules upon giving due notification and publication of such amendment or temporary suspension in the manner provided by law. It shall supervise all examinations held under these rules to ascertain the fitness and merit of candidates for the service of the City of Morgantown Police Department and for promotions therein, in respect to ability, character and industry, shall estimate and determine the relative excellence or standing of the persons examined and shall certify the same as provided by general law. It shall conduct such hearings as necessary in accordance with provisions of the general law, in all instances wherein charges have been brought or removal, reduction in rank, or suspension of a member of the Police Department is in question.

Section 2. It shall be the duty of the City Clerk to keep for the Commission an accurate record of its proceedings. The Commission shall make recommendations to the Mayor, the Chief of Police, and the City Council as it may deem best in the interest of the service.

Section 3. The City of Morgantown shall provide and pay for the printing of all rules and regulations adopted by the Civil Service Commission.

Section 4. It is hereby declared to be the intention of the Police Civil Service Commission that the sections, paragraphs, sentences, clauses and phrases of these rules and regulations are severable; and if any phrases, clauses, sentences, paragraphs or sections shall be declared unconstitutional or invalid by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections since the same would have been enacted by the Commission without the incorporation in these rules and regulations of any unconstitutional or invalid phrases, clauses, sentences, paragraphs or sections.

RULE II QUORUM

Section 1. Two members of the Commission shall constitute a quorum provided that all three members have been notified of the meeting for the transactions of business. At least two members of the Commission must supervise the written and oral examinations, promotions, and the written examinations for appointments, and determine those to be certified for appointment or promotion. In the event there is a tie vote, when there are only two members present, the tie vote automatically tables said motion until all three members are present.



RULE III APPLICATION FOR EXAMINATION

Section 1. The Commission shall require persons applying for admission to any examination, provided for by the Civil Service Act or by the Rules of the Commission herein prescribed, to file with the Commission prior to the proposed examination, a written application which the applicant shall sign in their own handwriting under oath or affirmation.

Section 2. The Commission may refuse to examine or, after examination, to certify as eligible, applicants found to lack any of the established preliminary requirements for the examination for which they apply; or who are unfit for the performance of the duties of the position to which they seek appointment; or who are addicted to the use of drugs or the excessive intoxicating beverages; or who have been guilty of a crime or a misdemeanor involving moral turpitude or disgraceful conduct; or who have been convicted of a felony; or who have been dismissed from the public service for delinquency or misconduct; or who have practiced or attempted to practice any deception or fraud in their applications; or whose character, in the opinion of the commission, is unsatisfactory. Any of the foregoing disqualifications shall be sufficient cause for removal of any appointee from the service pursuant to laws and regulations provided, if ascertained within five years after appointment.

Section 3. Any person who has or hereafter may resign under charges, or who has been or may hereafter be dismissed upon charges, shall not be admitted to examination for any position in the police service.

Section 4. No application for any position shall remain on file for more than two years from the date of application.

Section 5. Any applicant who fails to appear for an examination will not be refunded the examination fee.

RULE IV**QUALIFICATIONS FOR POSITIONS AS PROBATIONARY POLICE OFFICERS**

Section 1. All applicants for examinations for the position of probationary police officer shall, in addition to the general requirements of Rule III, comply with the following qualifications prior to submission of an application:

- A.** Must be 18 years of age and not more than 40 years of age at date of their application;
- B.** Required to be a United States Citizen. WV Code 8-14-12(2);
- C.** Required to have been honorably discharged, or discharged under honorable conditions, if he/she has previous military service;
- D.** Required to submit documentary proof of birth and military service, if applicable;
- E.** Must possess a valid operator's license from any state in the Union at the time of filing of the application and must possess a valid West Virginia operator's license within 30 days of employment;
- F.** Must have a high school diploma or equivalent;
- G.** Must meet the residency requirements as outlined on page 12.

Section 2. Each applicant shall be furnished with this Rule IV at the time he/she is given an application.

RULE V

SELECTION PROCESS FOR POSITION AS PROBATIONARY POLICE OFFICER

Section 1. The following selection process shall be used by the Commission to determine those candidates who are to be placed on the eligible list for appointment as probationary police officers. The Commission shall govern the examination process; however, several of the examination processes shall be conducted by the Chief of Police under the supervision of the Commission. At the conclusion of the examination process, a summary of all information and findings developed by the Chief of Police shall be presented to the Commission. Public notice of the date, time, and place of every competitive examination together with information as to the kind of position to be filled, shall be given at least one week prior to such competitive examination by posting on the City of Morgantown website. Public notice may also be given by other methods.

Section 2. The Competitive Examination used to establish and rank a list of eligible candidates for appointment, in accordance with W. Va. Code 8-14-13, shall be as follows:

Written Examination: Applicants for appointment must pass, with a grade of 70% or higher set by the Commission, the general adaptability test for police officers, which examination shall be practical in character and shall relate to such matters and include such inquiries as will fairly test the merit and fitness of the persons examined to discharge the duties of employment sought by them. The Commission shall conduct the written examination. No person other than the applicants taking the examination and the members of the Commission shall be in the examination room. The press may be present before and after the testing.

Physical Agility Test: The Commission, at its discretion, may require all applicants who successfully pass the written examination to undergo a physical agility test conducted by the Police Department under the general supervision of the Commission. All applicants must successfully complete the entry-level training standards established by West Virginia Legislative Rule Title 149 Series 2 "Law Enforcement Training and Certification Standards".

Oral Examination: All applicants for appointment who successfully pass the written examination test must also submit to oral examination to be given by the Commissioners for grading the applicants on the qualities of honesty, alertness, appearance, physique, social adaptability, training, experience, and general moral background. The results of the oral examination will not disqualify a candidate from placement on the eligible list for appointment, but they shall be available to the appointing officer for review in making appointments of new officers.

Polygraph Examination: The Commission, in its discretion, may require applicants who have successfully passed the foregoing examination tests to submit to a polygraph examination to determine the applicant's level of integrity, moral attitudes and related background. The examination shall be limited to those matters which pertain to the applicant's capability of fulfilling the duties and responsibilities of a police officer. The examiner shall be an accredited polygraph examiner approved by the Commission, with a list of questions to be asked of each applicant approved by the Commission. The results of the polygraph examination shall be kept confidential, under the supervision of the Commission, but subject to the requirements of this section including the requirement to make such information available to the appointing officer for consideration.

Background Investigation: Applicants for appointment who successfully pass the written and polygraph examination will have a background examination conducted by the Morgantown Police Department. This investigation will also include drug testing.

During the background process, each applicant must submit their fingerprints to the West Virginia State Police and the Federal Bureau of Investigation.

After completion of the Competitive Examination, the Commission shall post, in a public place at its office, the eligible list, containing the names and grades of those who have passed such competitive examinations for positions in the paid police department, and shall indicate thereon such appointments as may be made from said list. The notice of appointments that may be made from the list shall only include positions the City Manager has approved to be filled, or the list shall indicate that the appointments that may be made will be subject to the availability of positions as determined by the appointing officer. The Commission, shall, certify to the City Manager a list of eligible individuals for appointment in accordance with W. Va. Code 8-14-15.

Section 3. Appointments from the list of eligible candidates, if any, will be made by the City Manager pursuant to W. Va. Code 8-14-15 and will be subject to the following requirements.

- A. **Psychological Examination:** The Commission will require applicants for appointment to successfully pass standard psychological examinations selected and approved by the Commission.
- B. **Medical Examination:** Applicants for appointment who are offered appointment by the City Manager will undergo a medical examination in accordance with W. Va. Code 8-14-13, with the medical board selected by and cost paid by the City. No appointment will be final until medical certification consistent with W. Va. Code 8-14-13 is confirmed by the City Manager.
- C. **Law Enforcement Certification:** All applicants selected for final employment as a probationary police officer shall complete all requirements of the State of West Virginia to become, and remain, certified as a law enforcement officer. This requirement does not apply to a newly appointed officer who is already a certified law enforcement officer.
- D. **Veteran Qualification for examinations required during probation period.** In accordance with W. Va. Code 8-14-15a, any person who has served on active duty in the Armed Forces of the United States, was honorably discharged from that service, and who has successfully completed the course of instruction required to qualify him or her for rating as a military police officer, law-enforcement specialist or other equivalent rating in his or her particular branch of the Armed Forces, may submit to the Civil Service Commission a photostatic copy of the certificate issued to him or her certifying successful completion of such course of instruction and a photostatic copy of his or her discharge from the Armed Forces. The Civil Service Commission shall allow, upon request of the veteran, that he or she be permitted to take any examinations required during the probationary period without first having to complete a training course for that subject: Provided, that if the veteran does not pass the examination or examinations, he or she may be subject to the same reexamination requirements of persons who have not applied under the provisions of this section. A veteran wishing to utilize the provisions of section (a) must have first met the requirements W. Va. Code sections 8-14-12 and § 8-14-13. The veteran must successfully pass all examinations and any other requirements of his or her probation period, to be eligible for absolute appointment

RULE VI

REINSTATEMENT

Section 1. An applicant for reinstatement under the provisions of Section 8-14-12 of the Civil Service Act shall file a regular application form and submit to a physical examination in exactly the same manner as any new applicant. Upon being properly certified by a board of two doctors of medicine, the doctor shall report such fact to the Chief of Police, who in turn shall immediately notify the President of the Commission, and such applicant shall be eligible for reinstatement at the discretion of the Commission and certified to the City Manager within thirty days next following the Medical Examiner's report, and he/she may then be appointed to the lowest rank in the Department next above the probationers.

Section 2. Each applicant for reinstatement shall also satisfactorily pass a background investigation and polygraph examination, which shall be conducted by the Police Department under the supervision of the Commission, before the Commission may determine that the applicant should be reinstated.

Section 3. No police officer of any grade/rank who has been discharged for cause by the Chief of Police and whose case has been reviewed by the Commission and the discharge sustained by the Commission and who has not appealed as provided by law, shall be eligible for reinstatement. No person shall be eligible for reinstatement unless the applicant resigned at a time when there were no charges of misconduct or other misfeasance pending against the applicant, in accordance with W. Va. Code 8-14-12(d). The Commission shall investigate whether any applicant for reinstatement meets the qualifications in this section, and the City Manager and Chief of Police shall cooperate with the Commission in such investigation.

Section 4. Any resignation tendered to the Chief of Police by any officer shall be fully stated and copies thereof mailed to each member of the Commission within twenty-four hours from the time received. A copy shall also, within the said time, be deposited with the Clerk of said Commission and placed in the Commission's file.

RULE VII

PROMOTIONS

Section 1. Testing will be required for any promotion of any grade or rank (excluding Chief & Deputy Chief) within the Morgantown Police Department. All applicants for examination(s) for promotions from a lower grade/rank to the next higher grade/rank shall be required to have completed two full years of continuous service in the next lower grade/rank immediately prior to the examination before they shall be eligible for promotion.

Section 2. Officers eligible for promotion will have a period of 14 calendar days beginning the day after the posting of the notice to apply for the examination. An applicant for promotion shall be graded on a points base scale. This is to be comprised of 70 points for written examination, remaining points for seniority. The seniority points for this part shall be computed by awarding to each competitor points based on their total days of service from their police department hire date to the date of the examination. For an officer who has been reinstated to service, only the total days of service beginning on the date of reinstatement will be counted toward calculation of seniority points. Service prior to reinstatement will not count toward seniority points. Points for seniority will be equal to the total number of days employed, divided by 365, using three decimal places. A spreadsheet will be created to use for each test taken.

Section 3. When there is the case of a tie breaker, the following will be used to determine who gets the promotion:

1. Written exam score. The candidate with the higher written exam score will be promoted. If there is a tie in the written exam score, the tiebreaker moves to Step 2.
2. Time in grade. The candidate with the greater time in grade – meaning continuous service in the next lower grade immediately prior to the examination – will be promoted. If there is a tie in the time in grade, the tiebreaker moves to Step 3.
3. Order of hiring, not by employee number. If there is a tie in time in grade, the employee hired first as a Morgantown Police Officer – as determined by the date of hire provided by the Human Resources Department – will be promoted.

Written Examination: This part shall consist of 100 questions as set by the Commission, based upon subjects designed to show the familiarity of competitors with the knowledge involved in the class or position to which they seek promotion.

Section 4. All candidates for promotion who have passed the competitive examination specified above, shall, before being appointed or promoted, undergo a medical examination which shall be conducted under the supervision of a board composed of two Doctors of Medicine appointed for such purpose by the appointing officer of the city. Such board must certify that an applicant is free from any bodily or mental defects, deformity or diseases which might incapacitate him from the performance of the duties of the position desired and is physically fit to perform such duties before said applicant shall be appointed or promoted to any position. Notwithstanding the first sentence of this paragraph, in the event the commission deems it expedient, the medical examination may be given prior to the competitive examination, and if the medical examination is not passed as aforesaid, the applicant shall not be admitted to the competitive examination, in accordance with W. Va. State Code 8-14-13.

Section 5. Seniority used will be the official test date scheduled by the Commission.

Section 6. Each applicant for promotion will be notified within a reasonable time of the results of his/her examination(s).

Section 7. The actual conduct of every written examination shall be under the responsible supervision of at least two members of the Commission. No person other than the members of the Police Department taking the examination, the members of the Commission, and the City Clerk and/or Deputy Clerk shall be in the examination room. The press may be present before and after the testing.

Section 8. Any applicant for appointment or promotion shall be automatically disqualified if he/she attempts, in any manner, to communicate with or influence the Commission or any members thereof with respect to any other applicant or any matter under their jurisdiction, except in a manner provided by law. Further, the Commission shall not receive or consider any such communication except such as it may invite in accordance with its rules and regulations, or such as is submitted in a manner provided by law.

Noncompetitive examination: Whenever there are urgent reasons for filling a vacancy in any position and there is no list of individuals eligible for appointment after a competitive examination, the City Manager may nominate an individual to the Commission for noncompetitive examination; and if such nominee shall be certified by the said commission as qualified, after such noncompetitive examination and a medical examination, the individual may be appointed provisionally, to fill such vacancy until a selection and appointment can be made after competitive examination, in the manner prescribed in W. Va. Code 8-14-15; but such provisional appointment shall not continue for a longer period than three months, nor shall successive provisional appointments be made to the same position, as provided by W. Va. Code 8-14-16. The noncompetitive examination shall be designed by the Commission to test whether the nominee is qualified to fill the provisional appointment.

RULE VIII

CODE OF ETHICS

Section 1. Any and all general orders issued by the Chief of Police shall be filed with the Commission, and may or may not thereafter be adopted by the Commission as a part of the Rules and Regulations.

"As a law enforcement officer, my fundamental duty is to serve mankind; to safeguard lives and property; to protect the innocent against deception, the weak against oppression or intimidation and the peaceful against violence or disorder; and to respect the constitutional rights of all men to liberty, equality and justice.

I will keep my private life unsullied as an example to all, maintain courageous calm in the face of danger, scorn, or ridicule; develop self-restraint; and be constantly mindful of the welfare of others. Honest in thought and deed in both my personal and official life, I will be exemplary in obeying the laws of the land and the regulations of my department. Whatever I see or hear of a confidential nature or that is confined to me in my official capacity will be kept secret unless revelation is necessary in the performance of my duty.

I will never act officiously or permit personal feeling, prejudices, animosities, or friendships to influence my decisions with no compromise for crime and with relentless prosecution of criminals, I will enforce the law courteously and appropriately without fear or favor, malice, or ill will, never employing unnecessary force or violence and never accepting gratuity.

I recognize the badge of my office as a symbol of public faith, and I accept it as a public trust to be held so long as I am true to the ethics of police service. I will constantly strive to achieve these objectives and ideals, dedicating myself before God to my chosen profession - "Law Enforcement."

RULE IX

PROCEDURES FOR HEARING BEFORE THE COMMISSION

Section 1. Definitions

Commission - shall mean the Police Civil Service Commission of the City of Morgantown, West Virginia.

Charged Officer - shall mean any member of the Department being subjected to disciplinary action by the Police Department by and through its proper officers and the City of Morgantown by and through its proper officers or either of them.

Department - shall mean the Morgantown Police Department, Morgantown, and Monongalia County, West Virginia.

General Orders - shall mean the general orders promulgated and adopted by the Department.

Rules and Regulations - shall mean the rules and regulations governing the conduct of the members of the Department promulgated by the Department.

Ordinances - shall mean ordinances of the City of Morgantown.

Statutes - shall mean the laws enacted by the Legislature of the State of West Virginia and the Legislature of the United States of America.

Removing Officer - shall be the person who is attempting to cause the removal, discharge, suspension, or reduction of any officer as stated in Chapter 8, Article 14, section 20 of Code.

Code - shall mean the Official Code of the State of West Virginia of 1931, as amended.

Section 2. Before any matter is heard by the Commission, the Charged Officer shall have exhausted his administrative remedies provided by the General Orders, Rules and Regulations, Ordinances, and the Charter of the City of Morgantown.

Section 3. The Removing Officer shall specify in writing served upon the Charged Officer at least three (3) days prior to any hearing conducted by the Removing Officer the particular Rules and Regulations, General Orders, Ordinances, Statutes and customs and usages of the Police Department, or any of them, alleged to have been violated by the Charged Officer, together with a short comprehensive statement of the conduct of the Charged Officer supporting the alleged violations of the aforesaid Rules and Regulations, General Orders, Ordinances, statutes or customs and usages or any of them.

Section 4. No charges other than those specifically set forth pursuant to paragraph 3 shall be considered by the Commission; provided, however, that the charges set forth pursuant to paragraph 3 may be amended in writing at any time prior to the first administrative hearing set forth in the General Orders and Ordinances provided such amendment be served upon the Charged Officer at least three (3) days prior to such hearing.

Section 5. After the exhausting of his administrative remedies, if the Charged Officer is desirous of appealing the decision rendered as a result of the administrative procedure, he/she shall give notice of

this intention to do so to the Commission in accordance with the provisions of Chapter 8, Article 14, section 20 of the Code and shall make a part of such notice an answer replying specifically to the charges alleged pursuant to Section 3 hereof. Such an appeal shall then be heard by the Commission in accordance with the provisions of Chapter 8, Article 14, section 20 of the Code upon the issues made by the provisions of this section and those of section 3.

Section 6. The Removing Officer shall have the burden of proof and shall open and close the hearing. The hearing shall be held with the same decorum as a hearing before a court of general jurisdiction in the State of West Virginia. Failure of counsel for either party to conduct himself/ herself with proper decorum shall result in the discretion of the Commission in a continuance of the hearing until such time as the offending counsel shall assure the Commission that he/she will conduct himself/herself in a proper and decorous manner as is befitting an officer of the court.

Section 7. Counsel for parties may present opening and closing statements and may submit written briefs. If briefs are submitted, a copy shall be furnished to opposing counsel and three (3) copies shall be furnished to the Commission.

Section 8. The Commission shall take notice of all General Orders, Rules and Regulations, Charter of the City of Morgantown, and State Statutes. Counsel for parties shall not be required to prove them or introduce them into evidence. Customs and usages of the Department not set forth in the General Orders or Rules and Regulations must be proved by the party asserting such custom and usage and the burden shall be upon such party to prove such custom and usage.

Section 9. If, after a hearing date shall have been set, the Charged Officer, either in person or by or through his/her attorney, shall fail to appear at said hearing, then the Charged Officer's appeal shall be dismissed by the Commission unless good cause be shown for such failure to appear in person or by counsel.

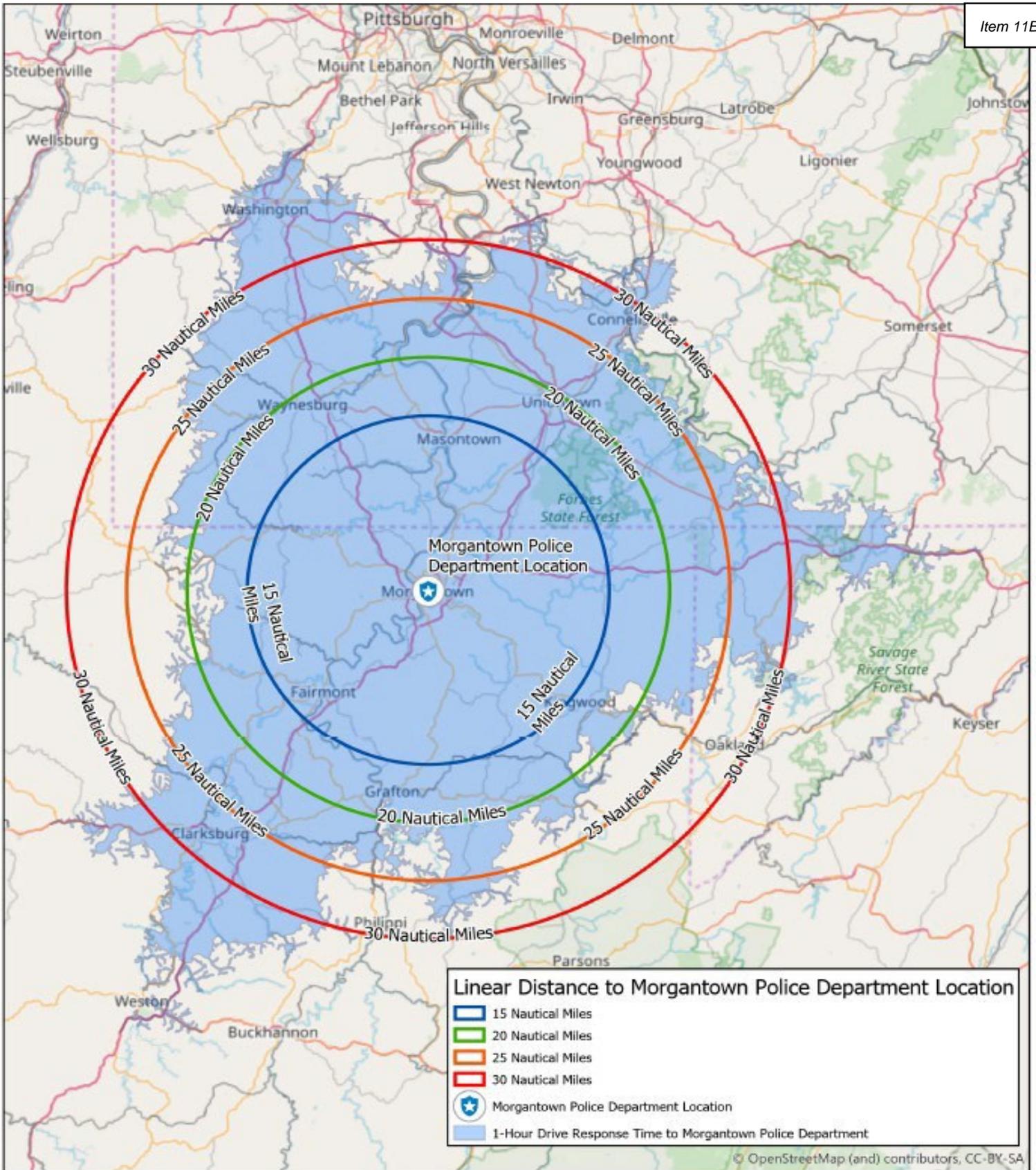
RESIDENCY REQUIREMENTS FOR MEMBERS OF THE MORGANTOWN POLICE DEPARTMENT

To assure that an adequate number of personnel is available at all times and that off-duty police officers will be available for call-back within a reasonable response time in emergency situations, the city finds it necessary to require that its police officers reside no further than a specified distance from their work place. Consequently, the following residency requirements shall apply:

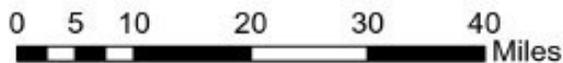
1. Any police officer employed by the City of Morgantown shall establish and maintain his/her permanent physical residence within a one-hour driving time – as shown on the attached map of the Morgantown Police Department, 300 Spruce Street, Morgantown, WV, and shall continue to maintain his/her permanent physical residence within the residency area for the entire period of his/her active employment with the Morgantown Police Department. The area within which residency is required is shown on the map attached hereto and declared to be a part of these rules.
2. Any police officer who does not reside within this area at the time of his/her appointment shall establish his/her physical residence within the specified area within ninety calendar days of the date he/she receives notice that he/she has been awarded permanent employment status with the Police Department. An extension of this period for a period not to exceed ninety calendar days may be granted by the Police Civil Service Commission upon receipt of a written request from a police officer requesting such an extension. Any such request will be considered by the Commission only upon presentation of sufficient evidence that strict enforcement of the requirement would present a substantial hardship to the police officer requesting the extension. In no case shall the Commission delay the enforcement of this rule beyond the ninety-day extension period.

Any and all disputes involving the enforcement of this rule shall be decided by the Commission.

3. The residency regulation effective date is February 4, 2020.



Morgantown Police Department Nautical Mile and Drive Time Analysis



PRE-EMPLOYMENT PHYSICAL AGILITY SCREENING

FOR West Virginia STATE AND LOCAL LAW ENFORCEMENT OFFICERS

The ADA provides that “an employer may give a physical agility test to determine physical qualifications necessary for certain jobs prior to making a job offer if it is simply an agility test and not a medical examination.” * Moreover, if an employer uses such a test, he must be prepared to demonstrate the job-relatedness of the test and that the test is consistent with business necessity.

The ADA Technical Assistance Manual, furthermore, clarifies that an agility test does not involve medical examinations or diagnoses by a physician. However, an employer can request the applicant’s physician to respond to a very restricted inquiry which describes the specific agility test and asks: “Can this person safely perform this test?”

In light of the above and the necessity in policing that physical capacity to learn and perform essential tasks must be demonstrated, the Commission devised a Pre-Employment Physical Agility Screening Test. The Commission did not devise a content-based test because they tend to have adverse impact and do not accurately predict actual candidate performance.

Based on the significant work of the Cooper Institute for Aerobics Research, the Commission proposed the battery of screening elements which are contained on the following page. The Commission recommends this process because its elements get to a candidate’s train ability and does not have adverse impact. Also, it is the Commission’s expectation that these elements can and will be administered locally and a determination of pass/fail made there as well. Failure in any one element is sufficient to exclude the person from proceeding any further in the selection process. The instruction titles “How to Prepare for the Tests” also follows below and should be element, retesting can be provided if it suits the employer.

Finally, prior to undergoing the test battery, the applicant must present signed, the attached “Doctor’s certification of Fitness to Perform Agility Test.” Failure to do so must mean exclusion from the testing process.

The Pre-Employment Physical Aigility Screening was updated on September 15, 2021.

*See Americans with Disabilities Act – A Technical Assistance Manual, U.S. EEOC, 1992, pp. IV-8/IV-9.

PHYSICAL AGILITY STANDARDS

FOR West Virginia STATE AND LOCAL LAW ENFORCEMENT OFFICERS

TEST WILL BE GIVEN THE SAME DAY AS THE WRITTEN TEST

West Virginia Legislative Rules 149-2-8.5 Physical Agility Standards, which determine an applicant officer's pass/fail screening for admission into the basic entry level training program.

The following are the new requirements set forth as of 4-17-2015:

1. Sit-ups: Twenty-Eight (28) bent-leg sit-ups completed in one (1) minute.
2. Push-ups: Eighteen (18) conventional push-ups completed in one (1) minute.
3. One and one-half mile run- Fourteen Minutes and thirty-six seconds (14:36) as the elapsed time to complete run.

The test battery which has been described herein should be performed locally only as a pass/fail screening device. Once a candidate passes the elements according to the scores stated on the Pre- Employment Physical Agility Test Battery, the remaining elements of the local selection process may be applied.

RELEVANCE OF TEST ITEMS TO ESSENTIAL TASKS

The three elements of the test battery are designed to establish physical capacity to produce recruit level training and perform the essential tasks of policing. They are not simulations but rather assessments of the candidate's capacity to learn and perform essential physical tasks.

HOW TO PREPARE FOR THE TESTS

The following guidelines are presented based on a twelve (12) week period preceding screening.

Preparing for the MUSCULAR ENDURANCE test:

The progressive routine is to do as many bent-leg sit-ups (hands behind the head with someone holding your feet) as possible in one minute. At least three (3) times per week do three (3) sets (three (3) groups) of the number of repetitions you did in one (1) minute.

Preparing for the ABSOLUTE STRENGTH test:

If you have access to weights, determine the maximum weight that you can bench press one time. Take 60% of that poundage. This will be your training weight. You should be able to do 8-10 repetitions of that training weight. Do three (3) sets of 8-10 repetitions adding 2 ½ -5 pounds every week.

If you do not have access to weights, then push-up exercise can be used.

Determine how many push-ups you can do in one minute. At least three (3) times per week do three (3) sets of the amount you can do in one minute.

Preparing for the CARDIOVASCULAR CAPACITY test:

Below is a gradual schedule that would enable you to perform a maximum effort for the 1.5-mile run. If you can advance the schedule on a weekly basis, then proceed to the next level. If you can do the distance in less time, then that is encouraged

WEEK	ACTIVITY	DISTANCE (Miles)	TIME (Minutes)	FREQUENCY (Per Week)
1	Walk	1	17-20	5
2	Walk	1.5	25-29	5
3	Walk	2	32-35	5
4	Walk	2	28-30	5
5	Walk/Jog	2	27	5
6	Walk/Jog	2	26	5
7	Walk/Jog	2	25	5
8	Walk/Jog	2	24	4
9	Jog	2	23	4
10	Jog	2	22	4
11	Jog	2	21	4
12	Jog	2	20	4

MEDICAL CERTIFICATE OF FITNESS

(To be signed by a registered medical practitioner)

TO BE SUBMITTED AT THE TIME OF TESTING.

I have reviewed the attached three elements of West Virginia Governor’s Committee on Crime, Delinquency, and Correction Physical Agility Test. I certify that I have carefully examined the candidate _____ (name) whose signature is given below. Based on the examination, I certify that the candidate is in good physical health and **can/cannot** (circle one) perform the elements of test safely.

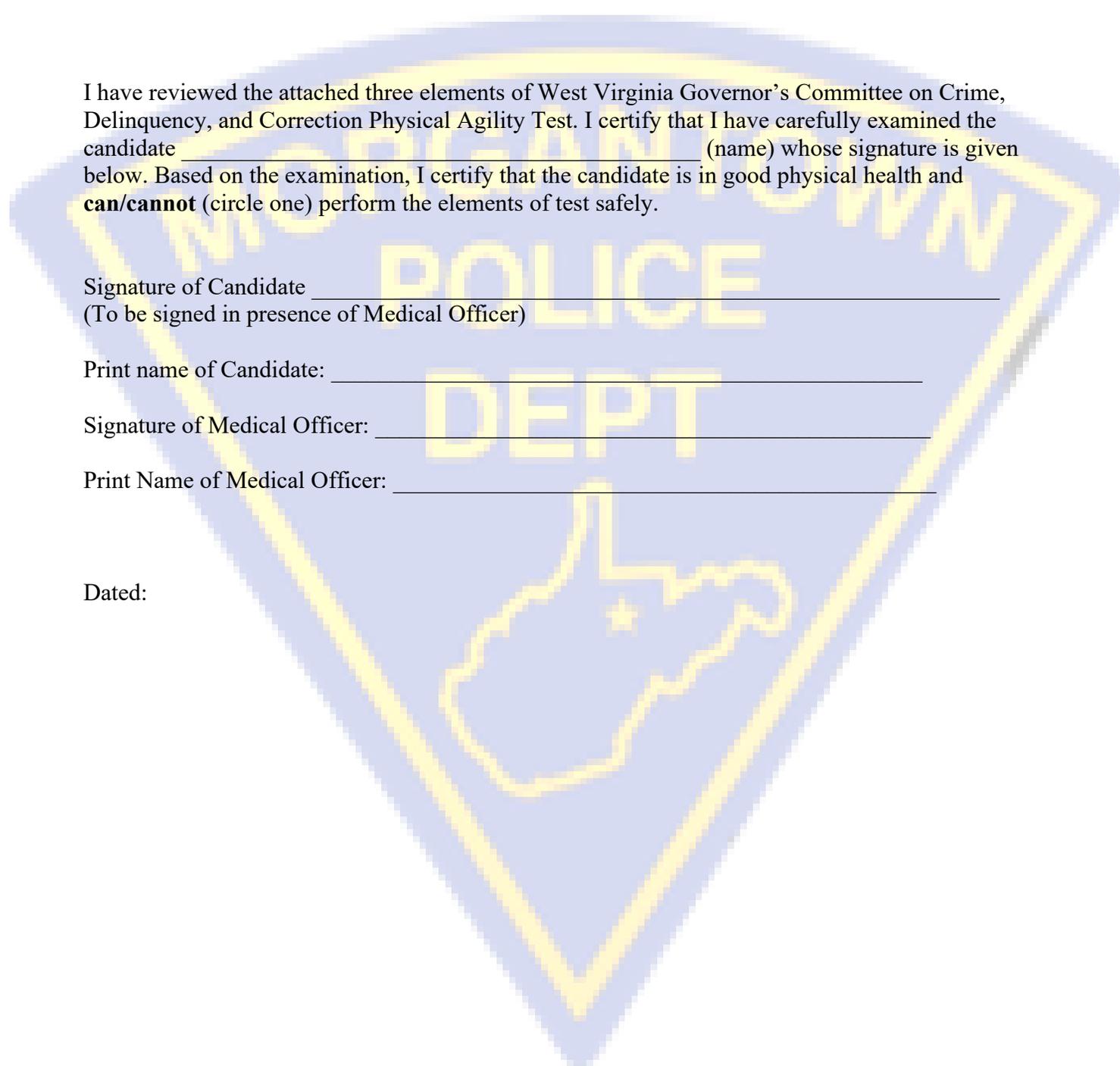
Signature of Candidate _____
(To be signed in presence of Medical Officer)

Print name of Candidate: _____

Signature of Medical Officer: _____

Print Name of Medical Officer: _____

Dated:





THE CITY OF
MORGANTOWN
WEST VIRGINIA

Arts & Cultural Development
389 Spruce Street
Morgantown, WV 26505
304.284.7472

MEMORANDUM

Date: September 27, 2023
To: Kim Haws – City Manager
Through: Emily Muzzarelli – Assistant City Manager
From: Vincent E. Kitch - Director *Vincent E. Kitch*
RE: Accessible viewing areas capital project at Hazel Ruby McQuain Park

Bids were opened at 2:00 pm on September 27, 2023, for a capital project to create two (2) accessible viewing areas at the Ruby Amphitheater.

This capital project will create greater accessible viewing positions in the seating areas of the Ruby Amphitheater. A preliminary concept is attached for your review. Actual design to be completed by winning bidder. This work is funded by a preexisting grant from the Hazel Ruby McQuain Charitable Trust.

The results are as follows:

CONTRACTOR	COST	
1. Commercial Builders	\$69,900	Base Bid
2. March Westin Co.	\$163,500	Base Bid
3. Wolfe Landscape Plus	\$125,460	Base Bid
4. Blue & Gold Development	\$139,478	Base Bid
5. Anderson Excavating LLC	\$71,871	Base Bid
6. Stone Mile	\$160,893	Base Bid

Engineering and Cultural Arts have reviewed the submitted bids for completeness and adherence to the Bid Call requirements and recommends award to Commercial Builders.

Existing Conditions



Proposed Improvement



Existing Conditions



Proposed Improvement

