



The City of Morgantown

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

Office of the City Clerk

AGENDA REGULAR MEETING

April 6, 2021
7:00 p.m.

To protect public health during the COVID-19 pandemic, personal attendance at the meeting is not permitted. This meeting will take place via WebEx at <https://cityofmorgantown.my.webex.com/meet/cityofmorgantown> using the meeting number 793 734 477. The meeting will be broadcast live on Morgantown 15 and live streamed via the City of Morgantown website at <https://morgantownwv.viebit.com/>. The public can also listen live by calling 415-655-0001 and using the access code 793 734 477. If members of the public wish to comment on a particular issue or public hearing, they should fill out the public comment sign-up form on our website, prior to the start of the meeting which can be found at: <http://bit.ly/MCC040621>. Additionally, the public can submit written comments via email to the City Clerk at cwade@morgantownwv.gov.

1. **CALL TO ORDER:**

2. **ROLL CALL:**

3. **PLEDGE:**

4. **APPROVAL OF MINUTES:** March 16, 2021, Special Meeting minutes; March 30, 2021, Special Meeting minutes; March 30, 2021, Committee of the Whole Meeting minutes.

5. **CORRESPONDENCE:**

- A. Fair Housing Month Proclamation
- B. Bernard Cross Proclamation

6. **PUBLIC HEARINGS:**

- A. **AN ORDINANCE PROVIDING FOR THE ZONING RECLASSIFICATION OF CERTAIN PARCELS OF REAL ESTATE IN THE SIXTH WARD OF THE CITY OF MORGANTOWN FROM R-1, SINGLE-FAMILY RESIDENTIAL DISTRICT TO B-2, 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**

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 SIXTH WARD OF THE CITY OF MORGANTOWN FROM R-1, SINGLE-FAMILY RESIDENTIAL DISTRICT TO B-2, 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 2/2/2021*) (*Second reading 4/6/2021*)

B. BOARDS & COMMISSIONS:

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

9. SPECIAL COMMITTEE REPORTS:

A. COMMUNITY POLICING & CITIZENS REVIEW BOARD – *Deputy Mayor Fetty, Chair; Mayor Dulaney, Vice-Chair*

B. SPECIAL COMMITTEE ON UNSHELTERED HOMELESSNESS – *Mayor Dulaney, Chair; Deputy Mayor Fetty, Vice-Chair; Members; Councilor Selin, and Councilor Harshbarger.*

10. CONSENT AGENDA: *Reminder: Matters on the Consent Agenda are voted on collectively without any debate. If any member objects, an item is removed and considered under New Business.*

11. NEW BUSINESS:

A. Consideration of APPROVAL of (FIRST READING) of AN ORDINANCE AMENDING ARTICLE 153 GOVERNING THE HUMAN RIGHTS COMMISSION TO PROHIBIT DISCRIMINATION BASED ON HAIR STYLE OR TEXTURE

B. Consideration of APPROVAL of (FIRST READING) of AN ORDINANCE AMENDING ARTICLE 909 GOVERNING ADOPTION AND MODIFICATION OF THE CITY OF MORGANTOWN STREET DESIGN AND CLASSIFICATION MANUAL

C. Consideration of APPROVAL of (FIRST READING) of AN ORDINANCE AMENDING ARTICLE 913 OF THE CITY CODE REGULATING CONSTRUCTION OF SIDEWALKS AND AMENDING DEVELOPMENT STANDARDS WITHIN THE PLANNING AND ZONING CODE RELATING TO THE CONSTRUCTION OF SIDEWALKS

D. Consideration of APPROVAL of (FIRST READING) of AN ORDINANCE PROVIDING FOR THE ZONING OF CERTAIN PARCELS OF REAL ESTATE TO BE ANNEXED INTO THE FIRST WARD OF THE CITY OF MORGANTOWN UPON FINAL ORDER FROM THE MONONGALIA COUNTY COMMISSION BY AMENDING ARTICLE 1331 OF THE PLANNING AND ZONING CODE OF THE CITY OF MORGANTOWN AS SHOWN ON THE EXHIBIT ATTACHED AND DECLARED TO BE A PART OF THIS ORDINANCE AS IF THE SAME WERE FULLY SET FORTH HEREIN

E. Consideration of APPROVAL of (FIRST READING) of AN ORDINANCE AMENDING THE FY 2020-2021 ANNUAL BUDGET OF THE CITY OF MORGANTOWN AS SHOWN IN THE REVISED BUDGET ATTACHED HERETO AND MADE A PART OF THIS ORDINANCE AS THE SAME APPLIES TO THE GENERAL FUND

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 West Virginia Code Section 6-9A-4(b)(12) to discuss potential or pending Litigation

B. Pursuant to West Virginia Code Section 6-9A-4(b)(9) to discuss development of property.

17. ADJOURNMENT:

***For accommodations, please contact us at 304-288-7072.**

City of Morgantown

SPECIAL MEETING March 16, 2021

The Special Meeting of the Common Council of the City of Morgantown was held via Webex on Tuesday, March 16, 2021, at 6:05 p.m. To protect public health during the COVID-19 pandemic, personal attendance at the meeting was not permitted. This meeting took place via WebEx at <https://cityofmorgantown.my.webex.com/meet/cityofmorgantown> using the meeting number 793 734 477, or by calling 415-655-0001 and using the access code 793 734 477.

PRESENT: Via Webex Mayor Ron Dulaney, Deputy Mayor Rachel Fetty, Council Members Bill Kawecki, Jenny Selin, Dave Harshbarger, and Barry Wendell. Third Ward is currently open at this time.

The meeting was called to order by Mayor Dulaney.

EXECUTIVE SESSION: Pursuant to West Virginia Code Section 6-9a-4(b)(2)(a) to discuss Personnel Matters in considering new appointments for Board and Commissions. Motion by Councilor Selin, second by Councilor Wendell, to go into executive session. Motion carried by acclamation. Present: City Council. Time: 6:06 p.m.

TRAFFIC COMMISSION

6:00 p.m. – Danielle Trumble – 5th Ward

BOPARC

6:20 p.m. – James Heiko

MORGANTOWN HOUSING ADVISORY COMMISISON

6:40 p.m. – Adelheid Schaupp – City Neighborhood Association Representative

ADJOURNMENT:

There being no further business, motion by Councilor Harshbarger, second by Councilor Kawecki, to adjourn the meeting. Time: 7:10 p.m.

City Clerk

Mayor

City of Morgantown

SPECIAL MEETING March 23, 2021

The Special Meeting of the Common Council of the City of Morgantown was held via Webex on Tuesday, March 23, 2021, at 7:02 p.m. To protect public health during the COVID-19 pandemic, personal attendance at the meeting was not permitted. This meeting took place via WebEx at <https://cityofmorgantown.my.webex.com/meet/cityofmorgantown> using the meeting number 793 734 477, or by calling 415-655-0001 and using the access code 793 734 477.

PRESENT: Via Webex Mayor Ron Dulaney, Deputy Mayor Rachel Fetty, Council Members Bill Kawecki, Jenny Selin, Dave Harshbarger, and Barry Wendell. Third Ward is currently open at this time.

The meeting was called to order by Mayor Dulaney.

NEW BUSINESS:

A. Interviews with candidates for vacant Third Ward council seat (It is anticipated that this matter may be discussed in executive session as permitted to WV State Code Section 6-9A-4(b)(2)(A).

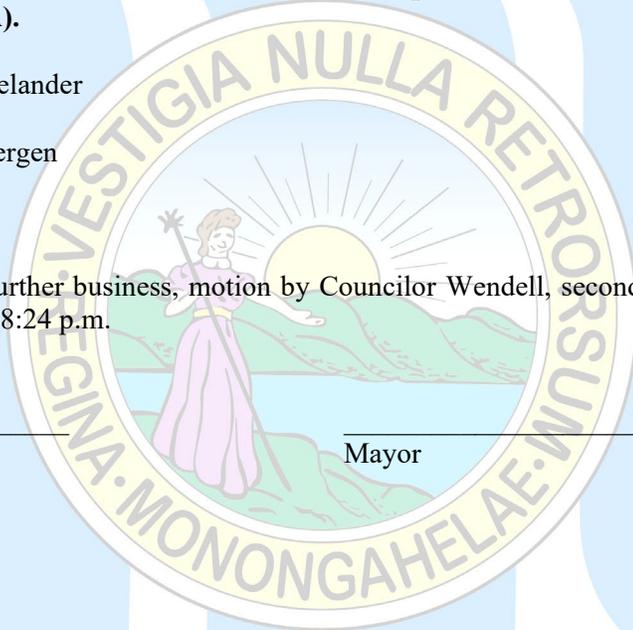
- Athena Frelander
- Paul Liller
- Deborah Bergen

ADJOURNMENT:

There being no further business, motion by Councilor Wendell, second by Deputy Mayor Fetty to adjourn the meeting. Time: 8:24 p.m.

City Clerk

Mayor



City of Morgantown

SPECIAL MEETING March 30, 2021

The Special Meeting of the Common Council of the City of Morgantown was held via Webex on Tuesday, March 16, 2021, at 6:02 p.m. To protect public health during the COVID-19 pandemic, personal attendance at the meeting was not permitted. This meeting took place via WebEx at <https://cityofmorgantown.my.webex.com/meet/cityofmorgantown> using the meeting number 793 734 477, or by calling 415-655-0001 and using the access code 793 734 477.

PRESENT: Via Webex Mayor Ron Dulaney, Deputy Mayor Rachel Fetty, Council Members Bill Kawecki, Jenny Selin, and Dave Harshbarger. Deb Bergen and Barry Wendell were absent.

The meeting was called to order by Mayor Dulaney.

EXECUTIVE SESSION: Pursuant to West Virginia Code Section 6-9a-4(b)(2)(a) to discuss Personnel Matters in considering new appointments for Board and Commissions. Motion by Councilor Harshbarger, second by Councilor Kawecki, to go into executive session. Motion carried by acclamation. Present: City Council. Time: 6:05 p.m.

BOPARC COMMISSION

6:00 p.m. – Sarah Mann

TRAFFIC COMMISSION

6:20 p.m. – Matt Cross – At Large Walking

HUMAN RIGHTS COMMISISON

6:40 p.m. – Bonnie Brown

ADJOURNMENT:

There being no further business, motion by Councilor Kawecki, second by Councilor Harshbarger to adjourn the meeting. Time: 7:17 p.m.

City Clerk

Mayor

City of Morgantown

MINUTES COMMITTEE OF THE WHOLE MEETING March 30, 2021

To protect public health during the COVID-19 pandemic, personal attendance at the meeting was not permitted. This meeting took place via WebEx at <https://cityofmorgantown.my.webex.com/meet/cityofmorgantown> using the meeting number 793 734 477. The meeting was broadcasted live on Morgantown 15 and live streamed via the City of Morgantown website at <https://morgantownwv.viebit.com/>. The public could also listen live by calling 415-655-0001 and using the access code 793 734 477. If members of the public wished to comment on a particular issue or public hearing, they should fill out the public comment sign-up form on our website, prior to the start of the meeting, which could be found at: <http://bit.ly/MCC033021>. Additionally, the public could submit written comments via email to the City Clerk at cwade@morgantownwv.gov.

The Committee of the Whole Meeting of the Common Council of the City of Morgantown was held by via Webex on Tuesday, March 30, 2021, at 7:25 p.m.

PRESENT: Via Webex City Manager Kim Haws, Assistant City Manager Emily Muzzarelli, City Attorney Ryan Simonton, Mayor Ron Dulaney, Jr., Deputy Mayor Rachel Fetty, and Council Members Bill Kawecki, Deb Bergen, Jenny Selin, Dave Harshbarger, and Barry Wendell.

The meeting was called to order by Deputy Mayor Fetty.

PRESENTATIONS:

1. Project Mountaineer – WV State Auditor John B. McCuskey and Transparency & Overnight Manager Skylar Wotring

WV State Auditor John B. McCuskey discussed the Audit Standard for the City of Morgantown. Transparency & Overnight Manager Skylar Wotring gave an overview of the annual report for the Checkbook Program.

PUBLIC PORTION:

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

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

ITEMS FOR DISCUSSION:

1. Ordinance Amending Article 153 Governing the Human Rights Commission to Prohibit Discrimination Based on Hair Style or Texture

After discussion, this item was moved to the April 6, 2021, Regular Meeting Agenda.

2. Ordinance Amending Article 909 Governing Adoption and Modification of the City of Morgantown Street Design and Classification Manual

After discussion, this item was moved to the April 6, 2021, Regular Meeting Agenda.

City of Morgantown

3. Ordinance Amending Article 913 of the City Code Regulating Construction of Sidewalks and Amending Development Standards within the Planning and Zoning Code relating to the Construction of Sidewalks

After discussion, this item was moved to the April 6, 2021, Regular Meeting Agenda.

4. Consideration of Planning Commission Recommendation for Zoning Classification Assignment for Property at 20 Scott Avenue – Ramada Inn Project

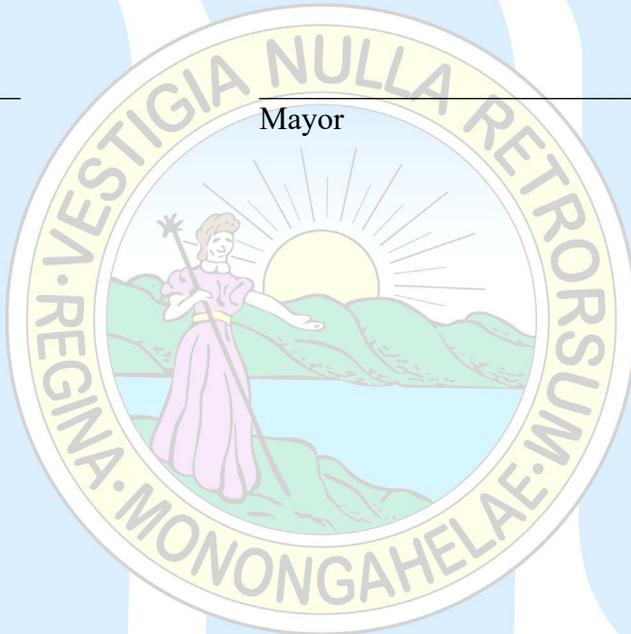
After discussion, this item was moved to the April 6, 2021, Regular Meeting Agenda.

ADJOURNMENT:

There being no further business, motion by Councilor Wendell, second by Councilor Kawecki, to adjourn the meeting. Time: 9:06 p.m.

City Clerk

Mayor





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Office of the Mayor

PROCLAMATION

- Whereas,*** under the Federal Fair Housing Law, Title VIII of the Civil Rights Act of 1968 no American should have the right to purchase or rent shelter of choice abridged because of race, color, religion, sex, handicap, familial status, national origin, sexual orientation, or gender identity; and
- Whereas,*** under the West Virginia State Fair Housing Law, Title 49-2-305, MCA, it is illegal to deny housing to any person because of race, sex, religion, color, age, physical or mental disability or national origin; and
- Whereas,*** it is the fundamental policy of this nation, our state, and our City to advance, safeguard, and defend the principles and guarantees of equality of opportunity for all; and
- Whereas,*** the places where people live have a direct impact on the quality of their health, education, and access to economic opportunities; and
- Whereas,*** discriminatory housing practices create racial and economic segregation in communities that can lead to disparate outcomes in overall quality of life; and
- Whereas,*** the City of Morgantown believes that understanding of and access to fair housing laws have made our community and our neighborhoods stronger and more vibrant; and
- Whereas,*** we are committed to programs what will help educate the public about the right to fair housing practices in the City of Morgantown; and
- Whereas,*** we are committed to promoting housing choices and fostering inclusive communities free from housing discrimination

Now therefore, I, Ron Dulaney, Jr., Mayor of the City of Morgantown, West Virginia, and behalf of City Council, want to thank the many people and organizations in our community who have opened the doors of housing opportunity to all citizens and proclaim the month of April 2021 to be

Fair Housing Month

Seal:

Ron Dulaney Jr., Mayor
April 6, 2021

AN ORDINANCE PROVIDING FOR THE ZONING RECLASSIFICATION OF CERTAIN PARCELS OF REAL ESTATE IN THE SIXTH WARD OF THE CITY OF MORGANTOWN FROM R-1, SINGLE-FAMILY RESIDENTIAL DISTRICT TO B-2, 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.

Properties included in this ordinance are identified as: Tax District 14, Tax Map 45; Parcels 5.2, 6, 7, and 7.4.

THE CITY OF MORGANTOWN HEREBY ORDAINS:

1. That the zoning designation for Tax District 14, Tax Map 45; Parcels 5.2, 6, 7, and 7.4.of the Monongalia County tax assessment as described herein and illustrated on the exhibit hereto attached and declared to be a part of this Ordinance to be read herewith as if the same were fully set forth herein is reclassified from R-1, Single Family Residential District to B-2, Service Business District.
2. That the 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:

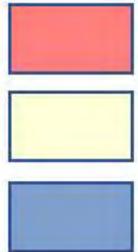
City Clerk



Monongalia Parcel Viewer



RZ20-05
Bruceton Farm
Service Inc.
Unit Block of
Brookhaven Road



B-2, District
R-1, District
Changing from R-1 to B-2

**AN ORDINANCE AMENDING ARTICLE 153 GOVERNING
THE HUMAN RIGHTS COMMISSION
TO PROHIBIT DISCRIMINATION BASED ON HAIR STYLE OR TEXTURE**

WHEREAS, on March 2, 2021, the City Council of The City of Morgantown adopted its Resolution affirming support for the CROWN Act, which is intended to create a respectful and open world for natural hair; and

WHEREAS, the resolution supporting the CROWN Act directed that the City Code be amended to provide specific protection for natural and protective hairstyles in connection with the City's prohibition on discrimination based on race; and

WHEREAS, there is currently pending before the West Virginia House of Delegates legislation adding protection for natural and protective hairstyles to the West Virginia Human Rights Act, codified at *W. Va. Code* § 5-11-1 *et seq.*; and

WHEREAS, this ordinance will add language from Senate Bill 108 and House Bill 4508 to the City Human Rights Commission authorizing ordinance with the intention to establish a consistent protection against discrimination based on natural and protective hairstyles;

NOW, THEREFORE, the City of Morgantown hereby ordains that Section 153.02 of the City Code is amended as follows:

Discriminate or discrimination means to exclude from, or fail or refuse to extend to, a person equal opportunities because of race, religion, color, national origin, ancestry, sex, age, blindness, disability, sexual orientation, gender identity, familial status or veteran status and includes to separate or segregate. For the purposes of this article, discrimination based on race includes, but is not limited to, discrimination based on hair textures and protective hairstyles historically associated with a particular race.

Race means a social construct grouping humans based on shared physical or social qualities into categories generally viewed as distinct, including but not limited to, hair texture and protective hairstyles.

Protective hairstyles means hairstyles historically associated with a particular race and includes, but is not limited to, hairstyles such as braids, locks, and twists.

This ordinance is effective upon adoption.

FIRST READING

Mayor

SECOND READING

City Clerk

ADOPTED

FILED

AN ORDINANCE AMENDING ARTICLE 909 GOVERNING ADOPTION AND MODIFICATION OF THE CITY OF MORGANTOWN STREET DESIGN AND CLASSIFICATION MANUAL

909.01 ADOPTION OF STANDARDS; APPEAL.

(a) The "City of Morgantown Street Design and Classification Manual" dated March 1, 1981, and the contents therein, is hereby adopted by reference. The City Engineer is authorized and directed to modify, revise, and update the City of Morgantown Street Design and Classification Manual (hereinafter, the "Manual") in accordance with this Section, in accordance with the following procedures:

(i) Each revision to the Manual shall be made in writing and shall be dated and signed by the City Engineer.

(ii) Before becoming effective, each revision to the Manual shall be provided to City Council in writing and made available to the public for comment. City Council and members of the public shall have at least 14 days from publication of the revision to offer comments before the revision becomes effective. Notice of the public comment period may be accomplished by publication of the revision and request for comment on the City website, or by holding a public hearing, or by any other measure or combination of measures reasonably designed to notify the public of the revision and receive input.

(iii) City Council may direct that the revision shall not be adopted, or may direct that an adopted revision be removed or modified. Any Council action taken under this subsection (a)(iii) shall be accomplished by adoption of a resolution. In the event that Council directs a revision not to be adopted, or to be removed or modified, the revision shall not be made thereafter unless authorized by a resolution of Council.

(iv) Each revision shall be retained by the City Engineer and catalogued to reflect the effective dates of each version of the Manual.

(v) The City Engineer shall keep a complete current Manual reflecting all revisions thereto, which shall be available to the public.

(b) Any person, firm or corporation desiring to have a street, roadway or alley right of way opened for public use has a right to appeal the minimum design recommended by the Engineering Department by submitting to the Engineering Department design criteria data prepared by a registered professional engineer of soil support values, traffic counts or vehicular load factors using accepted engineering procedures. After review of such additional data, the City Engineer shall again recommend the minimum design for the street desired to be opened. If the person, firm or corporation appealing is therefor dissatisfied with the City Engineer's recommended minimum design he shall submit a request to Council within thirty days of the City Engineer's second recommendation. Council shall promptly hold a public hearing, consider all the data and the City Engineer's recommendation and by resolution adopt that design in the City Street Design and Classification Manual that it finds appropriate.

(c) When a street is to be opened for development, the person opening the street may delay the placement of permanent pavement until the construction associated with the development is completed. The person making the request shall arrange to place in an escrow account, the amount necessary to cover the cost of placing the permanent pavement. The drainage, utility and

base requirements should be completed before development begins. The asphalt or concrete pavement, sidewalks and curb, should be placed lastly, using the escrow funds to pay for the construction.

(d) The "West Virginia Department of Highways Standard Specifications Roads and Bridges, adopted 1978," as it may be amended or superseded, is hereby adopted by reference as the specifications governing materials and methods of construction for all street work.

(e) The City Engineer shall classify the ~~make a recommendation to Council of the classification of specific~~ City streets according to the street classification definitions contained in the City Street Design and Classification Manual. Such classification list shall be reviewed by the City Engineer periodically and updated in accordance with procedures for updating the Manual. ~~recommendations for changes submitted to Council for approval.~~

This ordinance shall be effective upon adoption.

FIRST READING: _____

Mayor

SECOND READING: _____

ADOPTED: _____

City Clerk

FILED: _____

AN ORDINANCE AMENDING ARTICLE 913 OF THE CITY CODE REGULATING CONSTRUCTION OF SIDEWALKS AND AMENDING DEVELOPMENT STANDARDS WITHIN THE PLANNING AND ZONING CODE RELATING TO THE CONSTRUCTION OF SIDEWALKS

WHEREAS, West Virginia Code Chapter 8, Article 12, Section 5, paragraphs 1 through 5 authorize the City to construct sidewalks, to permit or require the construction of such sidewalks by the public and property owners, to regulate the construction of such sidewalks, to prescribe the maintenance thereof, and to require adjacent property owners to keep the sidewalks in good order; and

WHEREAS, the City provides general standards for the construction and maintenance of sidewalks within Article 913 of the City Code (the “Sidewalk Code”); and

WHEREAS, the City’s Planning and Zoning Code currently provides development standards for sidewalks in certain zoning districts, and these requirements exist in addition to the general provisions governing sidewalks within the Sidewalk Code; and

WHEREAS, City Code Section 913.16 requires construction of sidewalks when a building is constructed or a street is paved; and

WHEREAS, the Sidewalk Code and the Planning and Zoning Code both provide waiver provisions with different standards; and

WHEREAS, the purpose of both Codes to promote access to sidewalks and a safe walking environment within the City will be promoted by coordinating these provisions; and

WHEREAS, it appears prudent to revise both Codes to ensure clear, consistent, and efficient administration;

NOW, THEREFORE, the City of Morgantown hereby ordains that Articles 913, 1333, 1335, 1337, 1339, 1341, 1343, 1345, 1347, 1351, 1353, 1355, and 1361 of the City Code are amended as follows:

**ARTICLE 913
Sidewalks and Paths**

913.01 DEFINITIONS.

For purposes of this Article 913, the following terms have the meanings given:

Curb or *Curbline* means a constructed physical barrier within the public right-of-way designed to control stormwater and/or separate automobile traffic from other right-of-way

uses.

Path, Shared Use Path, or Mixed Use Path means any public right-of-way, whether or not adjoining a Street, improved or unimproved, that is designed for travel by pedestrians, bicycles, other nonmotorized transport, electric bicycles, electric scooters, or any one or combinations of these modes of transport.

Sidewalk means the surface between the curbline and the adjacent property line intended for pedestrian use.

Sidewalk pavement means that part of the sidewalk improved, or required to be improved, with pavement or other material, and may include less than the entire Sidewalk.

Street means the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel, and the term shall have the same meaning as in *City Code* § 301.40.

~~The term "sidewalk" includes all of the ground between the face of the curb of any public street or alley and the property line of the abutting property owner. The term "sidewalk pavement" means that part of the sidewalk paved or required to be paved, and may be only a portion of the full width of the sidewalk as defined above.~~

913.02 ~~WIDTH OF SIDEWALKS AND PATH DIMENSIONS.~~

~~The sidewalks, paths, and sidewalk pavement of the streets and alleys of the City shall have the dimensions required by the current Street Design and Classification Manual adopted pursuant to Article 909 of this Code. be of such width as Council may, upon recommendation of the City Engineer, establish by orders duly made; and, unless otherwise ordered by Council, the sidewalks on the opposite sides of any street or alley shall be of equal width.~~

913.03. DUTIES OF OWNERS AND OCCUPANTS.

(a) The owners and occupants of property adjoining a Sidewalk shall keep the sidewalk free of obstructions and debris, snow, and ice. The City Manager may issue a written order to any owner or occupant of a property to comply with this obligation. The order shall be delivered by posting at the property and by first-class mail to the property. The addressee of the order shall have 1 day from the date of posting of the notice to comply with the requirements of the order, or to appeal the order as provided in this Article. In all cases where there has been heretofore established, or where there is hereafter established, one or more sidewalks along any street or alley or part thereof within the City, it shall be the duty of the owners or occupants of any ground fronting or abutting on such sidewalks to pave and repave the same, whenever required by an order of Council to do so, and to keep such sidewalks in repair and to keep the same clean. The property owners shall be responsible for any such sidewalk being out of repair.

(b) The owners and occupants of property adjoining a Sidewalk shall maintain and repair

the Sidewalk to keep the Sidewalk in safe and adequate conditions for public uses.

(c) The City Engineer may order the owners or occupants of a property to repair the Sidewalk to comply with applicable standards governing sidewalks or sidewalk pavements within the City by issuing a written order. The order shall be delivered by posting at the property or by certified mail to the property, or both. The addressee of the order shall have 30 days from the date notice is posted at the property or received by certified mail to comply with the requirements of the order, or to appeal the order as provided in this Article.

(d) If the City orders owners or occupants to repair a sidewalk pursuant to this Article, and the City has adopted cost-sharing regulations pursuant to Section 913.08(c) of this Article, the City and owners or occupants shall share in the cost of repair as provided by the cost-sharing regulations.

(e) If the addressee of a written order issued under Section 913.03(a) or 913.03(c) fails to comply with the order within the time prescribed by the order, or, if appealed, within the time prescribed by any decision on the appeal which requires work, repair, or repaving, the City Engineer may cause the work or repairs to be made either by the City employees or by an independent contractor and assess the cost thereof as a lien against the property as provided in Section 913.09.

913.04 GRADING AND PAVING.

Sidewalks, paths, and sidewalk pavement shall be graded and paved, and repaved or repaired, in the manner and with the materials and according to the specifications in the current Street Design and Classification Manual adopted pursuant to Article 909 of this Code as provided in this article.

913.05 PLACING SIDEWALK PAVEMENT ABOVE OR BELOW CURB ELEVATION.

The paved portion of all sidewalks or the sidewalk pavement where there is a grass plot between it and the curb, may, at the direction of the City Engineer ~~with the approval of Council~~, be placed above or below the elevation of the curb in order to conform as nearly as practicable to the topography of the abutting land and street; provided, that the slope of such grass plot shall not be steeper than one and one-half horizontal to one vertical. Where the sidewalk pavement is placed above or below the elevation of the curb, the owner of the corner lot shall provide concrete steps from such sidewalk pavement to the curb, such steps to be of similar materials and workmanship as the sidewalk pavement and the design thereof to be approved by the City Engineer.

913.06 SIDEWALK AND PATH CONSTRUCTION SPECIFICATIONS.

All sidewalks, sidewalk pavement, and paths shall be constructed according to the specifications in the current Street Design and Classification Manual adopted pursuant to

Article 909 of this Code, including any specification particular to a certain classification of streets, of concrete pavement according to the following specifications:

~~—(a) Width and Location. Council shall be order prescribe the width of all concrete sidewalk pavements hereafter paved or repaved, taking into consideration the nature and class of traffic on such street and sidewalk. Such sidewalk pavements shall not be less than three feet in width in R1, R2 and R3 Zoning Districts and within the public right of way as designated by the City administration, so that the grass plot, if any, shall be between the sidewalk pavement and the curb line of the street. (Ord. 7-18-78.)~~

~~—(b) Subgrade. When the subgrade is composed of a fill it shall be laid in layers, not exceeding twelve inches, and the same shall be thoroughly wetted and tamped or rolled. The tops of all fills shall extend at least twelve inches beyond the sidewalk pavement, and in cases where there are no curbs the slope shall not be steeper than one and one half to one.~~

~~—(c) Drainage Course. The drainage course shall consist of coarse aggregate, as hereinafter defined, of a depth of not less than six inches, except where solid rock is encountered, and shall be thoroughly compacted by tamping or rolling.~~

~~—(d) Concrete. The concrete shall consist of a mixture of one part of cement, as hereinafter defined, and three parts of fine aggregate, as hereinafter defined, and three parts of coarse aggregate, as hereinafter defined, to a depth of not less than four inches. It shall be worked to an approximately true surface and shall be roughened. The concrete pavement shall be monolithic and no mortar course shall be permissible for surface.~~

~~—(e) Water Used. All water used in mixing materials for sidewalk pavements shall be clean and free from oil, acid, strong alkalies or vegetable matter.~~

~~—(f) Forms. All forms used for setting sidewalk pavements shall be free from warp, and of sufficient strength to resist springing out of shape. All mortar and dirt shall be carefully removed from forms that have been previously used. All forms shall be well staked to the established lines and grades, as indicated by the stakes set by the City Engineer, and all forms shall be so set as to provide for the specified slope of one fourth of an inch to the foot toward the curb.~~

~~—(g) Expansion Joints. Expansion joints shall be made three fourths of an inch wide for the whole of all sidewalk pavements, and shall be spaced at intervals of not more than forty feet, and shall be filled with sand, felt, tar or other suitable material. The wearing surface at all expansion joints shall be cut clear through with a jointing tool.~~

~~—(h) Drainage. Where the drainage course is at the same elevation as, or above the drainage course of the curb, a blind drain or ditch of suitable size and filled with broken stone shall be laid with a proper degree of fall from the bottom of the drainage course of all sidewalk pavements at such points as will properly drain the water from the drainage course to the curb. Where the drainage course of the sidewalk pavement is below that of the curb, a three inch agricultural tile drain shall be laid in the lower part of the drainage course, and vitrified tile drainage connection made from it to the storm sewer in the street.~~

~~—(i) Precautions Against Freezing. Concrete shall not be mixed or deposited at a freezing temperature, unless special precautions are taken to avoid the use of materials that are frozen or covered with ice crystals, and adequate means are provided to prevent the concrete from freezing after being placed in position and until it is thoroughly hardened; and no such concrete shall be mixed or deposited in freezing weather, without the written consent of the City Engineer.~~

~~(j) "Cement", "Fine Aggregate" and "Coarse Aggregate" Defined. "Cement", as used in this article, shall meet the requirements of the specifications for Portland cement, adopted by the American Society for Testing Materials, as set forth in its bulletins and other publications. "Fine aggregate", as used in this article, shall consist of clean sharp sand, crushed stone or gravel screenings, free from all vegetable loam or other deleterious matter. "Coarse aggregate", as used in this article, shall consist of inert matter, such as crushed stone, brickbats, gravel or cold crushed slag. All such materials shall be hard and durable and free from all deleterious matter.~~

913.07. PERMIT TO LAY SIDEWALK PAVEMENT.

~~(a) The owner of any property abutting on a public street shall, before laying any sidewalk pavement on the part of such street intended to be used for sidewalk purposes, apply to the City Manager Engineer for a permit therefor (a "Sidewalk Permit"), and such permit when granted shall show the location and width of such sidewalk pavement and shall recite the specifications required therefor. If such application is to lay a sidewalk pavement on a street within the fire limits on which the width between the curbs of such street shall be paved has not been determined, Council shall, before a permit is granted, specify by order, resolution or ordinance the width of sidewalk pavements on each side thereof, and the location and width of grass plots, if any; and if a grade has not been established on such street, Council shall not grant such permit until a grade is established on such street by the City Engineer and adopted by Council. In no case where a permit is granted to lay a sidewalk pavement shall the work be commenced until the City Engineer shall have first set stakes or had the same done under his direction, showing the exact location of the same. The City Manager shall have the power and authority to grant such permits, without referring the same to Council, and to report the same at the next meeting of Council when it shall be made a matter of record.~~

~~(b) The application for a Sidewalk Permit shall be accompanied by the fee required by the current "Plan Review and Permitting Fee Schedule" adopted by the City, if any.~~

~~(c) The City Engineer may grant the Sidewalk Permit only if the application demonstrates compliance with the current Street Design and Classification Manual adopted pursuant to Article 909 of this Code and upon payment of any applicable fee. The Sidewalk Permit may be made subject to such conditions as the City Engineer reasonably determines appropriate, including a requirement to post a bond or other security to ensure the full and proper completion of the work. A denial of any application will be made in writing stating the reasons therefor.~~

913.08 ORDER TO OWNER TO GRADE AND PAVE. PAVING OR REPAVING

~~Council may order the owner of any property abutting on any public street or alley within this City to grade that part of the sidewalk of such street abutting on such property, if not then already graded, and to construct thereon a sidewalk pavement, the same to be constructed according to the specifications therefor. Such grade shall conform to the adopted grade of such street. Such order shall designate the width of such sidewalk pavement so ordered to be constructed. The City Manager shall cause notice of such order to be served upon the owner of such property, such notice to be served in the manner provided by the laws~~

~~of the State for the service of notices generally, or by publication in a newspaper of general circulation published in the County in the manner provided by the laws of the State for the publication of notices generally.~~

(a) The owners of property adjoining a public right-of-way may be directed to construct or reconstruct sidewalks and sidewalk pavement on such right-of-way and be responsible for the cost thereof in accordance with West Virginia Code Chapter 8, Article 18, as it may be amended. By agreement of the property owner, approved by City Council, a path outside the established public right-of-way may be substituted for the obligation to construct or reconstruct sidewalks and sidewalk pavement.

(b) The City may construct or reconstruct sidewalks within the public right-of-way without assessing the cost thereof against the adjoining property owners upon the following conditions:

- (i) the Pedestrian Safety Plan then in effect designates the area for Connective Network Sidewalks; or
- (ii) the area where the sidewalk will be constructed is entirely within 1,000 feet of a public school, public park, or government building; or
- (iii) The City Engineer makes a prior written determination that the construction of the sidewalk is necessary to establishment or maintenance of a connecting sidewalk network throughout the City. In the event this determination is made, the written determination shall be provided to City Council and the City Clerk upon its preparation by the City Engineer and shall be retained by the City Clerk with the official records of the City.

(c) The City may establish a cost-sharing program to construct or reconstruct sidewalks within the public right-of-way, pursuant to which property owners and/or residents of an area may be required to pay a defined percentage of the total cost of a sidewalk project. The City Engineer shall prepare regulations implementing such cost-sharing program for adoption by Council.

913.09. WORK TO BE DONE BY CITY; ASSESSMENT OF COSTS; LIEN.

If any property owner shall have failed or refused to comply with an order issued pursuant to this Article by the date compliance is required ~~the order provided for by the preceding section within fifteen days after the service or publication thereof~~, then the City Manager may cause such work to be done, and the cost thereof, including a commission of not exceeding twenty percent (20%) of the ~~net~~ cost thereof to the City for the time of City employees in supervising such construction, laying the assessment therefor, and collecting the same, over and above the actual cost to the City of such work, shall be assessed against such property. Such assessment shall bear interest at six percent (6%) per annum and shall be immediately due and payable and may be collected in the same manner provided by law for the collection of City taxes. If such assessment is not paid within thirty days after the same is made, the City Clerk may certify the amount of any such assessment with a description of the property chargeable therewith, and the name of the owner thereof, to the Clerk of the County Court to be recorded in the trust deed books of such Clerk's office; and such assessment shall be and constitute from and after the date

of such recordation the first lien against such property, subject only to State, County and Municipal taxes and prior assessments.

913.10 REPAIRING AND REPAVING. [RESERVED]

~~All owners of property abutting upon a public street where there is a sidewalk shall keep the sidewalk in good repair so as to minimize public or private liability. Any concrete sidewalk which is broken or deteriorated to the extent of needing repair shall be repaired by replacing the entire block or section thereof and not by surface patching.~~

~~—The City Manager on his own initiative may or upon direction of Council shall require any such property owner to make needed repairs by having served upon such owner a notice as provided by Section 913.08. Each thirty day period during which the owner fails to comply with the provisions hereof shall constitute a separate violation.~~

~~—When deemed proper by the City Manager, he may cause the repairs to be made either by the City employees or by an independent contractor and assess the cost thereof as a lien against the property as provided in Section 913.09.~~

913.11 MAINTENANCE; REMOVAL OF SNOW, ICE AND DIRT. [RESERVED]

~~—The owner, lessee, or occupant of property abutting on any street shall keep the sidewalk adjacent thereto in a clean and sanitary condition and free from snow, ice, dirt or refuse. In the event the owner, lessee or occupant of any property shall fail to keep the sidewalk adjacent to such property in a clean and sanitary condition and free from snow, ice, dirt or refuse the City Manager is hereby empowered and authorized to give notice to such property owner, lessee or occupant to clean such sidewalk of snow, ice, dirt or refuse and to put such sidewalk in a clean and sanitary condition, such notice to be served as provided by Section 913.08, and upon the failure or neglect of such property owner, lessee or occupant to put such sidewalk in a clean and sanitary condition and to remove snow, ice, dirt or refuse therefrom within twenty four hours, excluding Sunday, after such notice has been given, the City Manager may cause the same to be done and the cost thereof shall be assessed against such property and become a lien upon such property in the manner provided by Section 913.09.~~

913.12 CONDEMNATION OF SIDEWALK PAVEMENT; ORDER TO RELAY; WORK BY CITY. [RESERVED]

~~—When, in the judgment of Council, the public necessity may require it, any sidewalk pavement may be condemned because of its unsafe condition, or because it is not laid out of suitable materials or in the manner and according to the specifications provided therefor; and the owner of the abutting property may be required to relay the same, after notice of the order of Council, in the same manner as provided by Section 913.08; and upon the refusal or failure of such property owner to do so, the City Manager may cause the same to be done and the cost thereof assessed against such property owner in the manner provided by Section 913.09, and such assessment shall become a lien against such property in the manner provided _____ by _____ Section _____ 913.09.~~

913.13. REPAIR OR REPAVING WHEN PAVEMENT BROKEN.

~~When a~~Any person who shall break or injure damages any sidewalk, sidewalk pavement, or path by driving a truck or vehicle upon or over the same, or in any other manner, he shall be required to pay the cost of repair, including the reasonable cost for work by employees of the City. The City Engineer shall deliver an order requiring payment of the cost to any such person in the manner provided by Section 913.03(c), and, if payment is not received within 30 days it may be collected by any method provided by law. repair it, or if necessary to relay the same and put it in as good condition as it was before such injury occurred; and in the event of his failure to do so, after being served with an order of Council requiring him to do so, the City Manager may have such sidewalk repaired or relaid and the cost of the same shall be charged against such person, and collected by legal process; and where, in order to properly repair such broken or injured sidewalk pavement, it is necessary to repave the same, such repaving shall be with the materials and in the manner and according to the specifications set forth in this article.

913.14. SUPERVISION AND INSPECTION OF PAVEMENT CONSTRUCTION; POWER TO STOP IMPROPER WORK.

All sidewalk pavements and paths laid, constructed, or repaired under the provisions of this article shall be under the direct and immediate supervision and inspection of the City Engineer, or ~~his~~ an authorized representative. Any owner of property who may desire to lay a sidewalk pavement or path or repair the same shall, upon being granted permission therefor, notify the City Engineer of the time work is expected to begin ~~he expects to begin such work;~~ and when, in the judgment of the City Engineer such work is not being done with the materials and in the manner and according to the specifications required by this article, ~~he~~ the City Engineer or an authorized representative shall have the power and authority to stop such work until such owner agrees to perform the work as required and provides such assurance as the City Engineer or authorized representative reasonably requires, which may include the requirement to post a bond securing the proper performance of the work. ~~indicates his willingness to do such work with the materials and in the manner and according to the specifications required by this article.~~

913.15. ROOMS OR SPACES UNDER SIDEWALKS.

(a) No person shall excavate or construct any room or space or use the space in and under any sidewalk until and unless the owner of the property adjacent thereto shall have first obtained a permit therefor from the City, such permit to be granted by the City Manager ~~and confirmed by Council;~~ and the City Manager ~~and Council~~ shall have full and absolute discretion in granting or refusing such permit and establishing appropriate conditions for the permit.

(b) In applying for such permit, the applicant shall furnish the design, plans and specifications for the construction of such room or space intended to be used under such sidewalk, and such design, plans and specifications shall be subject to the approval of the

City Engineer.

(c) The space between the surface of the sidewalk and the ceiling of any room constructed thereunder shall be not less than eighteen inches in thickness, unless otherwise specified in the current Street Design and Classification Manual published pursuant to Article 909.

(d) Such property owner shall be responsible for the construction and maintenance and safety of any such room under any sidewalk and of the sidewalk over the same, and if any person or his property is injured or damaged as a result of the construction or improper maintenance of any such space under any sidewalk or the sidewalk thereover, the owner of the property adjacent thereto shall protect and save harmless the City from any liability therefor.

(e) Where there now exists a space or room underneath any sidewalk used or intended to be used in connection with the property adjacent thereto, it shall be the duty of the owner of such adjacent property to maintain safely and to keep in good repair such room or space under such sidewalk and the sidewalk thereover, and to protect and save harmless the City from any and all liability to any person who is injured or his property damaged by reason of the failure of such property owner to maintain safely and keep in good repair any such room or space under such sidewalk or the sidewalk thereover.

(f) No openings, chutes or ways shall be made from the surface of the sidewalk or street to any room or space under such sidewalk now or hereafter constructed unless and until a permit therefor shall have been obtained from the City as provided in this Section 913.15.; ~~such permit to be granted by the City Manager and confirmed by Council.~~ The design, plans and specifications therefor shall be subject to approval by the City Engineer. The doors or coverings to such openings, chutes or ways shall be of design and constructed according to the approval of the City Engineer, and the same shall be maintained safely and kept in good repair by the property owner, who shall be responsible for any injuries or damages to persons or property for failure to do so and who shall protect and save harmless the City from any and all liability therefor. Such openings, chutes and ways shall not be left open and unguarded and it shall be the duty of the property owner in connection with whose property the same are being used to protect persons and property from injury or damage while such openings, chutes and ways are being used.

(g) If, upon inspection, any room or space heretofore or hereafter constructed under any sidewalk shall be found to be in an unsafe or unsanitary condition, ~~Council~~ the City Engineer may order the same to be repaired or put in a sanitary condition at the expense of the owner of the adjacent property. If such property owner shall fail to do so, ~~Council~~ the City Engineer may cause the same to be done and the cost thereof charged against and collected from such property owner.

(h) The granting of any permit heretofore or hereafter for the construction and maintenance of any space or room under any sidewalk or street in the City shall not be construed as vesting or granting any permanent or perpetual right, interest or title thereto in

or to the owner of the adjacent property, but the same is only a temporary privilege. ~~Council~~ The City Manager may at any time without notice and without the payment of any compensation or damages to the property owner annul and revoke any permit theretofore granted therefor and take exclusive possession of such space or room under such sidewalk and convert the same to public use or cause the same to be abandoned, and, where necessary, cause the same to be filled at the expense of the owner of the adjacent property. In such event the adjacent property owner shall have no further right or privilege to use such space or room.

913.16. SIDEWALKS REQUIRED WHEN BUILDING CONSTRUCTED OR STREET PAVED.

(a) Findings of Council. Council finds ~~as a fact~~ that sidewalks and paths within the City are deficient as to quantity and quality, which contributes to the hazards confronting pedestrians and in order to initiate a program of providing more sidewalks, it is declared to be the policy of the City to require, unless otherwise directed, the construction or replacement of sidewalks for the use of pedestrians within the City and to require a deposit of funds in the Sidewalk Fund established by this Article when a waiver of sidewalk construction is granted.

(b) Order When Street or Alley Paved; Exception. In furtherance of the stated policy concerning sidewalks, Council shall order the construction or reconstruction of a sidewalk or sidewalks at the same time that it orders the paving or repaving of any street or alley as provided for by Article 911, unless Council makes a special finding in such paving ordinance that existing sidewalk or sidewalks are adequate or the physical characteristics of the terrain, neighborhood or pedestrian traffic would not warrant the construction or reconstruction of sidewalks, in which event the construction or reconstruction of sidewalks in conjunction with the paving of the street or alley shall be waived.

(c) Required When Dwelling or Building Constructed; Exception. In addition to the requirements of this article, any person who applies for ~~obtains~~ a permit to construct a dwelling or building in any manner that requires issuance of a Certificate of Occupancy for new construction or for renovations that equal fifty percent or more of the value of the building in one construction project pursuant to the provisions of Part Seventeen - Building and Housing Code; ~~the plans shall include plans for the construction or replacement of a sidewalk or sidewalks along the entire frontage on the public right-of-way of the premises or lot where the building or dwelling will be constructed. Should there be an existing adequate sidewalk adjacent to the property on which construction is to take place and it is so deemed by the City Manager, then this section shall be inapplicable. In all other cases, a sidewalk shall be constructed or replaced unless on appeal to the City Manager such requirement is waived by appropriate order.~~ A sidewalk in compliance with all regulations of the City Code, including any applicable regulation in the Planning and Zoning Code, shall be constructed along with the construction of the building or dwelling unless a waiver or modification is granted. Such modification may include construction of a path on an alternate location, if agreed by the property owner and approved by City Council.

(d) Waiver.

(i) Upon application, the City Engineer may waive these sidewalk construction requirements for one of the following reasons: (A) the Pedestrian Safety Plan, or any plan or regulation that succeeds or replaces the Pedestrian Safety Plan, then in effect designates the area as one where sidewalks are not preferred; or (B) the City Engineer determines, after consultation with the Pedestrian Safety Board, or, if there is no Pedestrian Safety Board, another committee or group designated by City Council for the purpose of such consultation, that pedestrian traffic to and through the area is adequately served by existing infrastructure.

(ii) No waiver shall be granted in the following instances, unless the City Engineer determines that there is an existing adequate sidewalk already adjoining the entire street frontage of the property:

(A) property adjoining a part of the State Road System established pursuant to West Virginia Code Chapter 17, Article 4, as it may be amended, other than a controlled access highway;

(B) property adjoining a roadway classified as an “Arterial” way pursuant to Article 909 of the City Code, unless there is a preexisting sidewalk on the opposite side of the roadway

(e) Deposit in Sidewalk Fund.

(i) If the City Engineer determines the requirement to construct a sidewalk should be waived, the applicant shall deposit with the City an amount equal to fifty percent (50%) of the ordinary cost of constructing a sidewalk of the dimensions required to cover the frontage of the subject premises or lot, as determined by the City Engineer; except that, if the waiver is granted due to the presence of an existing adequate sidewalk adjoining the entire street frontage of the property, no such deposit shall be required.

(ii) The City Engineer may adopt regulations establishing the ordinary cost of construction of sidewalks for purposes of determining the required deposit amount. If no such regulations are in effect, the City Engineer shall determine the ordinary cost of construction upon each waiver request in accordance with the ordinary practices of the engineering profession.

(iii) The waiver shall not be effective until the deposit required by this Section is made, and any waiver granted shall be void if the deposit is not made within ninety days of the determination.

(iv) All such deposits shall be maintained by the City in a fund designated for use in connection with the construction, reconstruction, maintenance, and repair of sidewalks, sidewalk pavements, or paths on the public rights-of-way within the City.

(v) If the City adopts a cost-sharing plan as authorized by this Article, and a sidewalk is constructed under that cost-sharing plan at property that received a waiver pursuant to this Section within 10 years of the waiver being issued, the property owner who contributed the waiver deposit shall be credited with the amount of that deposit as a portion of the property's cost share obligated under the cost-sharing plan.

913.17. ADMINISTRATION OF ARTICLE.

The City Engineer shall administer the provisions of this Article and is authorized to adopt written regulations, not inconsistent with the provisions of this Article, implementing the provisions of this Article. The regulations shall describe the process for appeal of any order issued under this Article, if an appeal is permitted. All such regulations shall be filed with the City Clerk upon adoption, and the City Clerk shall keep the regulations as a public record.

1333.07. PERFORMANCE STANDARDS.

~~(G) Sidewalks shall be constructed in accordance with the requirements of Article 913 of the City Code along the frontage of a at each lot upon which a use is to be constructed unless waived by the City Engineer for single and two family infill development on practicability merits. New sidewalks shall be at least five (5) feet wide. The City Engineer shall have the discretion to reduce this minimum standard to four (4) feet based on site constraints, or to conform to an existing but incomplete sidewalk along the same side of the street.~~

1335.07. PERFORMANCE STANDARDS.

~~(F) Sidewalks shall be constructed in accordance with the requirements of Article 913 of the City Code along the frontage of a at each lot upon which a use is to be constructed unless waived by the City Engineer for single and two family infill development on practicability merits. New sidewalks shall be at least five (5) feet wide. The City Engineer shall have the discretion to reduce this minimum standard to four (4) feet based on site constraints, or to conform to an existing but incomplete sidewalk along the same side of the street.~~

1337.07. PERFORMANCE STANDARDS.

~~(F) Sidewalks shall be constructed in accordance with the requirements of Article 913 of the City Code along the frontage of a at each lot upon which a use is to be constructed unless waived by the City Engineer for single and two family infill development on practicability merits. New sidewalks shall be at least five (5) feet wide. The City Engineer shall have the discretion to reduce this minimum standard to four (4) feet based on site constraints, or to conform to an existing but incomplete sidewalk along the same side of the street.~~

1339.07. PERFORMANCE STANDARDS.

(F) Sidewalks shall be constructed in accordance with the requirements of Article 913 of the City Code ~~along the frontage of a~~ at each lot upon which a use is to be constructed. ~~New sidewalks shall be at least six (6) feet wide, or the same width as an existing but incomplete sidewalk along the same side of the street.~~

1341.07. PERFORMANCE STANDARDS.

(I) Sidewalks shall be constructed in accordance with the requirements of Article 913 of the City Code ~~along the frontage of a~~ at each lot upon which a use is to be constructed. ~~New sidewalks shall be at least six (6) feet wide, or the same width as an existing but incomplete sidewalk along the same side of the street.~~

1343.07. PERFORMANCE STANDARDS.

(G) Sidewalks shall be constructed in accordance with the requirements of Article 913 of the City Code ~~along the frontage of a~~ at each lot upon which a use is to be constructed. ~~New sidewalks shall be at least six (6) feet wide, or the same width as an existing but incomplete sidewalk along the same side of the street.~~

1345.07. PERFORMANCE STANDARDS.

(F) Sidewalks:

(1) Sidewalks shall be constructed in accordance with the requirements of Article 913 of the City Code ~~along the frontage of a~~ at each lot upon which a B-1 use is to be constructed. ~~New sidewalks shall be at least six (6) feet wide, or the same width as an existing but incomplete sidewalk along the same side of the street.~~

(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 (9) feet above the sidewalk and extend no closer than three (3) feet from the curb line. An encroachment permit is required.

1347.07. PERFORMANCE STANDARDS.

(F) Sidewalks shall be constructed in accordance with the requirements of Article 913 of the City Code ~~along the frontage of a~~ at each lot upon which a use is to be constructed. ~~New sidewalks shall be at least six (6) feet wide, or the same width as an existing but incomplete sidewalk along the same side of the street.~~

1351.01. STANDARDS.

(N) Sidewalks and Paths.

Sidewalks and Paths, as defined in Article 913 of the City Code, shall be constructed in accordance with the requirements of Article 913 of the City Code at each lot upon which a use is to be constructed. Where any sidewalk is required by the terms of this Part Thirteen, entitled “Planning and Zoning,” excepting private walkways as governed by Section 1351.01(B), the sidewalk shall be constructed upon, or dedicated as, a public right-of-way. A path may be substituted for a sidewalk upon agreement of the property owner and City Council as provided in Article 913.

1353.07. PERFORMANCE STANDARDS.

(E) Sidewalks shall be constructed in accordance with the requirements of Article 913 of the City Code ~~along the frontage (where feasible) of a~~ at each lot upon which a use is to be constructed. ~~New sidewalks shall be at least six (6) feet wide, or the same width as an existing but incomplete sidewalk along the same side of the street.~~

1355.08. PERFORMANCE STANDARDS.

(E) Supplementary Regulations.

(1) There shall be one principal entrance to the industrial site from any major thoroughfare bordering the tract, which shall be designed so that traffic at its intersection with the major thoroughfare may be controlled and so that there will be adequate storage space for traffic destined to enter the thoroughfare or to leave the industrial site.

(2) There shall be direct entrances or exits from parking areas or structures onto the adjoining major thoroughfare, but a service drive parallel to the main traffic-way may be provided for such access. Traffic on the service drive shall enter the main traffic-way via the principal entry.

(3) The owner or owners shall provide a plan for the installation of adequate facilities for the disposal of human and industrial wastes meeting the approval of the State Department of Health.

(4) The owner or owners of the site shall establish in the restrictions, which are a part of the plot for the subdivision, a perpetuating organization for the maintenance of the industrial site, such as roads and planting areas, the approval of building plans and other improvements, and the future maintenance of the site.

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

1361.03. DESIGN AND PERFORMANCE STANDARDS COMMON TO ALL SUNNYSIDE OVERLAY DISTRICTS.

The following design and performance standards are held in common and shall apply to the SCOD, SSOD, and BCOD overlay districts.

(A) Buildings shall be oriented with the front facing the lot’s primary street, or the Monongahela River if the parcel has frontage on the river.

(B) Buildings should be designed to overlook streets and public open spaces so as to create a “self-policing” environment.

(C) Buildings shall not be oriented with the front facing parking or service areas.

(D) On primary streets, street trees shall be provided at a minimum of thirty-five (35) feet on center.

(E) Building facades that are adjacent to public streets and/or open spaces shall have a high degree of ground floor transparency (at least sixty (60) percent).

(F) The siting of buildings should avoid the creation of unusable open spaces and should respect and complement view corridors to and from the hillside and the riverfront.

(G) Building massing should be the tallest at street corners. In order to achieve this, buildings constructed on a corner of two primary streets should be at least five (5) stories in height, provided that all other requirements of the zoning ordinance are adhered to.

(H) Ground floor retail and service-type uses located within mixed-use buildings along primary streets shall not be included in height calculations.

(I) For buildings taller than four (4) stories or seventy-five (75) feet in height, any additional floors in excess of four (4) stories shall be recessed or set back at least twelve (12) feet from the build-to line.

(J) A minimum of seventy-five (75) percent of the length of a building face shall be constructed at the build-to line, if established herein, along a primary street. The remaining twenty-five (25) percent may be set back a maximum of ten (10) feet from the build-to line.

(K) Land between the front facade of a building and a public street shall be landscaped to integrate with the neighborhood’s sidewalk system. In any area or setback between a building and sidewalk, one or a combination of the following shall be provided:

(1) Landscaping/planting beds consisting of shrubbery and /or trees, or

(2) Special paving areas designed as plaza space. No grass or sod areas shall be allowed in this space.

(L) ~~On primary streets, sidewalks shall be a minimum of eight (8) feet in width.~~ Sidewalks shall be constructed in accordance with the requirements of Article 913 of the City Code at each lot upon which a use is to be constructed. The requirements of this Article 1361 with respect to the appearance and constituent materials of sidewalks shall prevail over conflicting requirements of Article 913.

(M) Front yard setbacks along secondary streets shall be a minimum of five (5) feet, and a maximum of fifteen (15) feet.

(N) Within areas of single family and two family dwellings, front yard setbacks of in- fill development shall not deviate by more than five (5) feet from the average front yard setbacks of the neighboring residences.

(O) Building Form and Scale:

(1) Total fenestration shall be at least fifty (50) percent for building facades facing primary streets and/or public open spaces. For the ground floor, the ratio shall be at least sixty (60) percent.

(2) All ground floor retail areas along primary streets and/or public open spaces shall have awnings over entrances and ground floor windows, extending out at least four (4) feet from the facade. Such awnings may be extended to cover public sidewalks, provided they are set back at least eighteen (18) inches from the curb line of the street.

(3) Overall building widths along primary streets may vary, but building facades shall be designed in ten (10) to twenty (20) foot increments, so as to achieve the appearance of a series of distinct, adjoining buildings.

(4) The articulation of buildings, and window proportions, shall be vertical for buildings constructed along primary streets.

(5) The minimum building height for a parcel on a primary street, shall be three (3) stories. On secondary streets, the minimum building height shall be two (2) stories.

(6) The majority of window openings shall be slightly recessed (4-8 inches) from the exterior building wall to create a distinct and uniform shadow line for the building's primary facade.

(7) Unless no feasible alternative exists, fire escapes shall not be constructed on or attached to the front facade of any building or structure. The City of Morgantown Fire Department shall be the determining authority as to whether a feasible alternative exists.

(P) Building Materials:

(1) Except for single and two family dwellings, the first two (2) floors of a building shall be constructed of natural materials. Natural materials include stone, brick, and wood siding, but do not include materials such as, or similar to, wood roof shingles, reflective glass, split faced concrete block, imitation stone, and imitation stucco or Drivit. Thirty-five (35) percent of the remaining building facade(s) on the public right-of-way or any facade(s) facing a single-family residence shall also be constructed of natural materials.

(2) Vinyl siding or other composite materials shall not exceed thirty-five (35) percent of a building face that abuts a right-of-way.

(3) In general, brick and a recessed window vocabulary should predominate along the northern end of Beechurst and along University Avenue. Materials should transition into a mixed palette of brick, metal and glass toward the southern end of Beechurst. The Riverfront should utilize more contemporary materials such as metal and glass.

(4) Building materials which promote energy efficiency and sustainability should constitute a minimum of thirty-five (35) percent of the total materials used to construct a building.

(Q) Street Hierarchies and Land Use:

(1) Except for single and two family dwellings, buildings constructed along primary streets shall have sixty (60) percent or more of their ground floor space dedicated to retail, restaurant, office or personal service uses. Residential uses shall be permitted on the ground floor in the remaining space, but shall not enfront the primary street.

(2) The minimum number of off-street parking spaces for multi-family dwellings shall be one-half a space (0.5) per occupant as determined by the West Virginia State Building Code and adopted and implemented by the City. The minimum number of off-street parking spaces for mixed-use and over-store dwellings shall be one-half a space (0.5) per occupant as determined by the West Virginia State Building Code and adopted and implemented by the City plus required spaces for commercial use(s).

(3) Surface parking lots between buildings shall be designed as interior landscaped courtyards where cars are screened from the right-of-way; surface lots shall not be constructed where two (2) public rights-of-way intersect.

(4) Parking structures abutting open spaces or fronting on primary streets shall be designed with building-like facades.

(5) Parking garages three (3) stories or higher shall provide ground floor retail or service uses in an amount not less than thirty-five (35) percent of the ground floor area, located along the frontage of the garage.

(6) Private parking areas shall be accessed from secondary streets and/or alleys. Access from primary streets shall only be utilized when other options are not available.

(7) To minimize curb cuts along primary and secondary streets, residential garages or car ports or driveways shall be located at the rear of the property and accessed from an alley, when available.

(8) Parking areas and properties containing multifamily or commercial buildings shall provide linkages of similar design and quality to adjacent off-site pedestrian amenities such as sidewalks, bike paths, etc.

(9) Parking areas containing ten (10) or more stalls shall be lighted to create safe, attractive nighttime environments. Such lighting shall not be designed or situated in such a manner as to cause spillover glare onto adjoining properties. Building entrances and significant architectural or landscape features should be illuminated with low-intensity, indirect lighting sources directed toward the feature.

This ordinance shall be effective 30 days from adoption.

First Reading: _____

Mayor

Second Reading: _____

City Clerk

Adopted: _____

Filed: _____

AN ORDINANCE PROVIDING FOR THE ZONING OF CERTAIN PARCELS OF REAL ESTATE TO BE ANNEXED INTO THE FIRST WARD OF THE CITY OF MORGANTOWN UPON FINAL ORDER FROM THE MONONGALIA COUNTY COMMISSION AS B-5, SHOPPING CENTER DISTRICT BY AMENDING ARTICLE 1331 OF THE PLANNING AND ZONING CODE OF THE CITY OF MORGANTOWN AS SHOWN ON THE EXHIBIT ATTACHED AND DECLARED TO BE A PART OF THIS ORDINANCE AS IF THE SAME WERE FULLY SET FORTH HEREIN.

The property included in this ordinance is identified as Clinton District (Tax District 5), Tax Map 14, Parcel 8.2.

THE CITY OF MORGANTOWN HEREBY ORDAINS:

1. That the proposed zoning of Tax District 5, Tax Map 14, Parcel 8.2, to be annexed into the City of Morgantown, is consistent with the City's 2013 Comprehensive Plan Update, in accordance with City Ordinance 2020-35 adopted by Morgantown City Council on September 15, 2020 and subject to review and approval by final order of the Monongalia County Commission per WV State Code §8-6-4.
2. That the zoning designation for Parcel 8.2, Tax Map 14, Tax District 5, 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 classified as a B-5, Shopping Center District.
3. That the Official Zoning Map be accordingly changed to show said zoning classifications.

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

FIRST READING:

Mayor

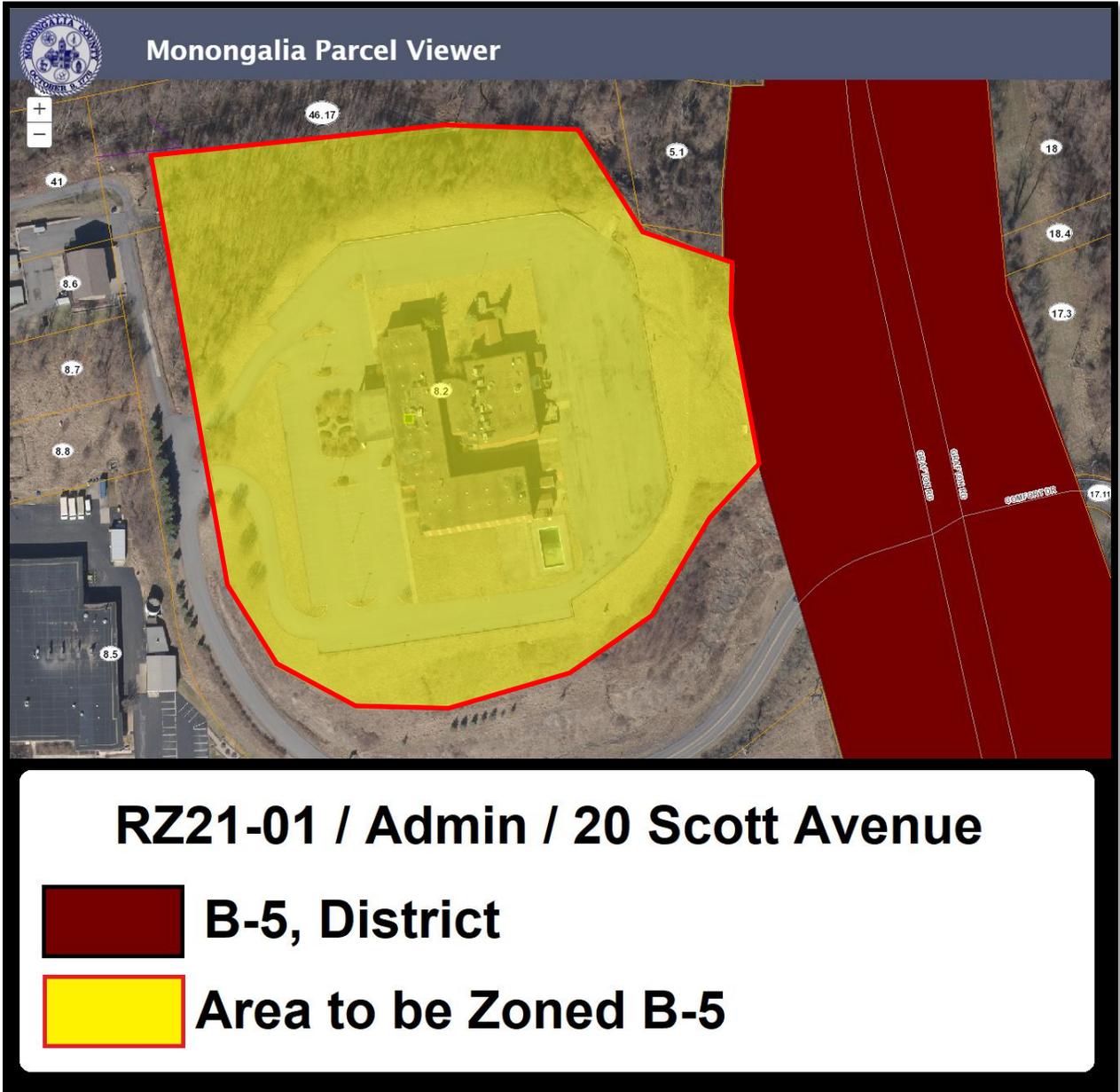
ADOPTED:

FILED:

RECORDED:

City Clerk

Exhibit 1



AN ORDINANCE AMENDING THE FY 2020-2021 ANNUAL BUDGET OF THE CITY OF MORGANTOWN AS SHOWN IN THE REVISED BUDGET ATTACHED HERETO AND MADE A PART OF THIS ORDINANCE AS THE SAME APPLIES TO THE GENERAL FUND.

The City of Morgantown hereby ordains:

That the FY 2020-2021 Annual Budget of the General Fund of the City of Morgantown is amended as shown in the revised budget (Revision 05) attached hereto and made a part of this ordinance.

First Reading:

Adopted:

Mayor

Filed:

Recorded:

City Clerk

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

REQUEST FOR REVISION TO APPROVED BUDGET

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

CONTROL NUMBER
 Fiscal Year Ending: **2020-2021**
 Fund: **General**
 Revision Number: **5**
 Pages: **1 of 3**

City of Morgantown
 GOVERNMENT ENTITY

Person To Contact Regarding Request:

Name: **Lori A. Livengood**
 Phone: **304-284-7443**
 Fax: **304-284-7418**

389 Spruce Street
 STREET OR PO BOX
 Morgantown CITY 26505 ZIP CODE

Municipality
 Government Type

REVENUES: (net each acct.)

ACCOUNT NUMBER	ACCOUNT DESCRIPTION	PREVIOUSLY APPROVED AMOUNT	(INCREASE)	(DECREASE)	REVISED AMOUNT
301-07	Tax Loss Restoration		12,401		12,401
305	Business and Occupation Tax	14,561,000	2,200,000		16,761,000
306	Wine & Liquor Tax	469,000	228,000		697,000
328	Franchise Fees		250		250
329	Inspection Fees		150		150
365	Federal Government Grants	4,632,690	1,900,990		6,533,680
NET INCREASE/(DECREASE) Revenues (ALL PAGES)			4,500,208		

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
412	City Manager's Office	933,567	11,835		945,402
414	Finance Office	1,123,025	4,000		1,127,025
417	City Attorney	460,000	131,445		591,445
420	Engineering	437,689	7,970		445,659
422	Personnel Office	431,779	12,850		444,629
439	Data Processing	445,809	2,000		447,809
440	City Hall	786,025	9,000		795,025
444	Contributions / Transfers to Other Funds	4,055,674	3,770,993		7,826,667
699	Contingencies*	4,055,674	250,000		4,305,674
700	Police Department	9,007,151	216,000		9,223,151
750	Streets and Highways	2,707,857	58,000		2,765,857
NET INCREASE/(DECREASE) Expenditures			4,500,208		

APPROVED BY THE STATE AUDITOR

BY: Deputy State Auditor, Local Government Services Division Date

AUTHORIZED SIGNATURE OF ENTITY

APPROVAL DATE

CITY OF MORGANTOWN					
GENERAL FUND - REVISION 5					
FY 2020-2021					
ACCT NO	REVENUES	BUDGET FY21	PROPOSED REV 05	PROPOSED AMENDED BUDGET	EXPLANATION OF PROPOSED ADJUSTMENTS
301-07	Tax Loss Restoration	-	12,401	12,401	Increase for revenue received
305	Business & Occupation Tax	14,561,000	2,200,000	16,761,000	Increase for B&O project construction
306	Wine & Liquor Tax	469,000	228,000	697,000	Increase for current overage and estimated for remaining quarter
328	Franchise Agreement Fees-Telephone	-	250	250	Revenue received but not budgeted
329	Inspection Fees	-	150	150	Revenue received but not budgeted
365	Federal Government Grants	5,028,590	1,900,990	6,929,580	To increase for CARES Act reimbursements received from the State of WV for COVID-19 response and related expenditures
366	State Government Grants	-	11,036	11,036	To increase for REAP Grant
370	Charges to Other Funds	75,300	(48,500)	26,800	Reduced Parking Authority fees due to COVID-19
380	Interest Earned On Investments	40,000	84,000	124,000	Increase for interest revenue
383	Sale of Fixed Assets	10,000	35,986	45,986	Increase for vehicles sold from fleet
399	Miscellaneous Revenues	10,000	75,895	85,895	Increase due to various Miscellaneous revenue items
				-	
			4,500,208		
ACCT NO	EXPENDITURES	BUDGET FY21	PROPOSED REV 05	PROPOSED AMENDED BUDGET	EXPLANATION OF PROPOSED ADJUSTMENTS
412	City Manager	933,567	11,835	945,402	Contracted Services, capital outlay, personnel
414	Finance	1,123,025	4,000	1,127,025	Increase for advertising costs related to the publishing of the Annual reports and budget
417	City Attorney	460,000	131,445	591,445	Contracted Services
420	Engineering	437,689	7,970	445,659	Contracted Services, Capital outlay
422	Human Resources	431,779	12,850	444,629	Contracted Services, Capital Outlay
439	Information Technology	445,809	2,000	447,809	Increase for overtime costs due to reduced personnel
440	City Hall	786,025	9,000	795,025	Increase for overtime costs due to snow removal
444	Contribution-Transfers to Other funds	9,858,004	3,770,993	13,628,997	Increase FSF by \$2,239,767, MET allocation by \$75,000, \$1M to capital escrow, OPEB fund \$200,000, Retirement Fund \$250,000
699	Contingency	4,055,674	250,000	4,305,674	To increase to 10% of the General Fund budget maximum allowed by State Code
700	Police	9,007,151	216,000	9,223,151	Increase to cover necessary equipment upgrades and new hire equipment
750	Street	2,707,857	58,000	2,765,857	Increase for overtime costs due to snow removal and uniforms
752	Signs & Signals	729,113	2,500	731,613	Increase for overtime costs due to snow removal
754	Equipment Maintenance	665,191	18,000	683,191	Increase for overtime costs due to snow removal
802	Recycling	17,200	5,615	22,815	Contracted Services
			4,500,208		