**AN ORDINANCE AMENDING ARTICLE 311 PERMITTING SPECIAL USES OF STREETS AND REPEALING ARTICLE 315 GOVERNING PARADE PERMITS.**

WHEREAS, Article 311 of the City Code governs Street Obstructions and Special Uses; and

WHEREAS, the City desires to provide additional opportunities for use of the public right-of-way in order to increase public enjoyment and activity in public places and promote safety and aesthetic appeal in public places; and

WHEREAS, the permitting of events in the right-of-way will be made more efficient by using one process for all permitted events and repealing Article 315 specific to parade uses; and

WHEREAS, these purposes will be served by adopting a special event permit process within the City Code;

NOW, THEREFORE, The City of Morgantown hereby ordains that Article 311 of the City Code is amended and Article 315 is repealed as follows:

**Article 311. Street Obstructions and Special Uses**

**311.01. STREET OBSTRUCTION PROHIBITED**

Except as authorized by this Article or other applicable provision of this Code, no person shall obstruct a public right-of-way in any manner that prevents free movement and use of such right-of-way by the public.

**311.02. SPECIAL EVENT PERMIT.**

1. The City Manager may authorize the temporary use of the public rights-of-way by issuance of a special event permit.
2. The City Manager shall prescribe an application form for a special event permit.
3. A nonrefundable application fee in the amount established by the Fee Schedule currently approved by City Council ordinance shall be submitted with each application to defray the cost of administrative review. No other fees shall be assessed in connection with a Special Event Permit except pursuant to a generally-applicable schedule of fees adopted by City Council.
4. The City Manager shall prescribe regulations for the application and issuance of permits, including, but not limited to, provisions for a description of the special event and area(s), time(s), and purpose(s) for which the permit is requested. The regulations shall prescribe generally-applicable standards for determining whether a permit will be granted, including consideration of the impact on the right-of-way, on the public’s use of the right-of-way, and on abutting residents and property owners. The regulations shall be effective upon filing in the Office of the City Clerk and shall be made available for public inspection.
5. The special event permit may waive the application of laws governing the use of rights-of-way including but not limited to, the prohibitions on obstruction of traffic or the public, prohibition on use or sale of alcoholic liquors and/or nonintoxicating beer, and prohibition on erecting temporary structures, for the duration of the special event permit.
6. The special event permit may waive the application of the City’s Noise Control laws only to the extent permitted by Section 527.07 of this Code.
7. The special event permit shall be subject to the terms and conditions set forth in the permit issued.
8. No special event permit shall be issued for a period longer than five (5) consecutive calendar days.
9. No person shall hamper, obstruct, molest, impede or interfere with any permitted Special Event or with any person, vehicle or animal participating or used in a permitted Special Event.
10. The City Manager shall have the authority to revoke any permit issued under the provisions of this article in case of emergency or for reasonable cause.

**311.0~~1~~3  PLACING ~~INJURIOUS~~ DANGEROUS MATERIAL IN STREET.**

   (a)    No person shall ~~throw or~~ deposit upon any street or highway any glass bottle, glass, nails, tacks, wire, cans, gravel, sand, oil, gasoline or other flammable substance, or any other substance likely to injure any person, animal, or vehicle upon such street or highway.

   (b)    Any person who deposits any dangerous material described in this Section within a public right-of-way, or is responsible for the placement of such material in the right-of-way,~~drops, or permits to be dropped or thrown, upon any street or highway any destructive or injurious material~~ shall immediately remove the same, or cause it to be removed, and properly dispose of the material.

   (c)    Any person removing a wrecked or damaged vehicle from a street or highway shall remove any dangerous material described in this Section from the right-of-way and properly dispose of the material. ~~glass or other injurious substance dropped upon the street or highway from such vehicle.~~

**~~311.02 PLAYING IN STREETS.~~**

~~(a)    No person shall use the public streets, highways, alleys, thoroughfares, roads or avenues of the Municipality for the purpose of engaging in or playing any games or athletic activities, including but not limited to, such activities as playing catch, baseball, football, skating, sledding and/or any activity related to the same.~~

~~(b)    Any violation of subsection (a) hereof is hereby declared to be a public nuisance per se and may be summarily abated by any law enforcement officer.~~

**311.0~~3~~5  ~~TOY~~ ALTERNATIVE VEHICLES ON STREETS.**

(a) No person may travel on the public right-of-way by skateboard, roller skates, sled, or similar device ~~on roller skates or riding in or by means of any sled, toy vehicle, skateboard or similar device shall go upon any roadway~~ except while crossing a street in a manner permitted for pedestrians or on a designated Slow Street. ~~on a crosswalk and except on streets set aside as play stree~~ts. [**ALTERNATE1**: Except as permitted by this Article, no person shall operate any device other than a vehicle defined by *W. Va. Code* Chapter 17C, Article 1 on the public rights-of-way except while crossing a street in a manner permitted to pedestrians or on rights-of-way designated neighborhood greenways. \*definition problems with “vehicle,” “motor vehicle,” etc. **ALTERNATE2:** (allowing play vehicles on streets) When traveling on sidewalks, operators of bicycles, scooters, skateboards, or any play vehicle must yield to pedestrians]

(b) No person shall ride a skateboard or platform with wheels attached or propel themselves with roller skates upon any sidewalk within the Central Business District. Such Central Business District shall be encompassed by the boundary streets of the Monongahela River on the west; both sides of Spruce Street on the east; both sides of Willey to the north; and both sides of Foundry to the south. [NOTE: transferred from Art. 373. Bicycles]

**311.0~~4~~6  ~~DRIVING ON PLAY STREETS~~ HEALTHY STREETS**

 (a) A Healthy Street is a designated public right-of-way where motorized vehicular access and movement is restricted and where preferred access and movement is granted to pedestrians, bicycles, and other nonmotorized transport.

 (b) When authorized signs are erected indicating any street or part thereof as a ~~play street~~ Healthy Street, no person shall ~~drive a vehicle~~ operate a motorized vehicle upon any such street or highway or portion thereof except drivers of vehicles having business or whose residences are within such closed area, and then any such authorized driver shall exercise the greatest care in driving upon any such street or highway or portion thereof by yielding the right-of-way at all times to pedestrians, bicyclists, and other nonmotorized transport.

 (c) The City Manager may designate any public right-of-way or portion thereof a Healthy Street pursuant to this Section. The designation shall be made in writing and shall be delivered to City Council, the City Clerk, and the City Engineer prior to its effective date. The City Clerk shall maintain the designation as a public record, and the City Engineer shall keep a record of all designated Healthy Streets. The City Manager, or a designee, may prescribe regulations implementing the provisions of this Section.

**311.99  PENALTY.**

   (EDITOR'S NOTE: See Section [303.99](http://whdrane.conwaygreene.com/NXT/gateway.dll?f=jumplink$jumplink_x=Advanced$jumplink_vpc=first$jumplink_xsl=querylink.xsl$jumplink_sel=title;path;content-type;home-title;item-bookmark$jumplink_d=%7bmorgantn%7d$jumplink_q=%5bfield%20folio-destination-name:%27303.99%27%5d$jumplink_md=target-id=0-0-0-1255) for general Traffic Code penalty.)

**~~315.01 DEFINITIONS.~~**

 ~~For the purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section:~~

 ~~(a) "Parade" means any parade, march, ceremony, show, exhibition, pageant or procession of any kind, or any similar display, in or upon any street, park or public way or any public place within the City.~~

 ~~(b) "Parade permit" means a permit as required under the provisions of this article.
(1967 Code Sec. 23-1.)~~

**~~315.02 OBSTRUCTING OR INTERFERING WITH PARADE.~~**

 ~~No person shall hamper, obstruct, molest, impede or interfere with any parade or parade assembly or with any person, vehicle or animal participating or used in a parade.~~

~~(1967 Code Sec. 23-2.)~~

**~~315.03 DRIVING THROUGH PARADE.~~**

 ~~No driver of a vehicle, float or animal, except emergency vehicles enroute to a call, shall drive between the vehicles or persons comprising a parade when such vehicles or persons are in motion and are conspicuously designated as a parade.~~

~~(1967 Code Sec. 23-3.)~~

**~~315.04 PARKING ON PARADE ROUTE.~~**

 ~~The City Manager shall have the authority, when reasonably necessary in his discretion, or when requested by the applicant, to prohibit or restrict the parking of vehicles along any street, highway or alley or part thereof constituting a part of the route of a parade, and to rope off all or any part thereof. The City Manager shall cause signs to be posted to such effect, and no person shall park or leave unattended any vehicle in violation thereof.~~

~~(1967 Code Sec. 23-4.)~~

**~~315.05 RULES AND REGULATIONS.~~**

 ~~The City Manager shall have the authority to prepare and promulgate rules and regulations for the conduct of all parades within the City consistent with the intent, spirit and announced purposes of this article, and consistent with other applicable provisions of this Code and other ordinances of the City and the statutes of the State and may also impose any special conditions or requirements for any parade which he may deem reasonably necessary. A copy of such rules and regulations, and of any such special conditions or requirements shall be sent to the applicant with his parade permit, or shall be included in such permit, in the discretion of the City Manager.~~

~~(1967 Code Sec. 23-5.)~~

**~~315.06 PERMIT REQUIRED; EXCEPTIONS.~~**

 ~~No person shall engage in, participate in, aid, form or start any parade, unless a parade permit is first obtained from the City Manager under the provisions of this article, with the following exceptions:~~

 ~~(a) Funeral processions.~~

 ~~(b) Students going to and from school classes or participation in groups in educational activities; provided, that such conduct is under the immediate direction and supervision of proper school authorities.~~

 ~~(c) A governmental agency acting within the scope of its functions.~~

 ~~(d) Processions of lodges, fraternities, sororities, churches, thyrsus by student groups, school processions in connection with school or educational activities, individual school bands on practice marches or maneuvers, or bona fide advertising exhibitions.
(1967 Code Sec. 23-6.)~~

**~~315.07 PERMIT APPLICATION.~~**

 ~~A person seeking issuance of a parade permit shall file an application with the City Manager on forms provided by him.
(1967 Code Sec. 23-7.)~~

**~~315.08 APPLICATION FILING PERIOD.~~**

 ~~An application for a parade permit shall be filed with the City Manager at least twenty days before the date on which it is proposed to conduct the parade for which the application is made.
(1967 Code Sec. 23-8.)~~

**~~315.09 APPLICATION CONTENTS.~~**

 ~~The application for a parade permit shall set forth the following information:~~

 ~~(a) The name, address and telephone number of the person seeking to conduct such parade;~~

 ~~(b) If the parade is proposed to be conducted for, on behalf of or by an organization, the name, address and telephone number of the headquarters of the organization, and the authorized and responsible heads of such organization;~~

 ~~(c) The name, address and telephone number of the person who shall be parade chairman or marshal and who shall be responsible for its conduct;~~

 ~~(d) The date when the parade is to be conducted;~~

 ~~(e) The route to be traveled, the starting point and the point of termination;~~

 ~~(f) The approximate number of persons who, and the animals and vehicles which, shall constitute such parade; the type of animals and a description of the vehicles;~~

 ~~(g) The hours when such parade shall start and terminate;~~

 ~~(h) The location by streets of the assembly areas and of the dispersal areas of such parade;~~

 ~~(i) The time at which the units of the parade shall begin to assemble at any such assembly areas; and the time at which all units shall be required to be assembled and in formation;~~

 ~~(j) The interval of space to be maintained between the units of such parade;~~

 ~~(k) If the parade is designed to be held by, and on behalf of or for any person other than the applicant, the applicant for such permit shall file with the City Manager a communication in writing from the person proposing to hold the parade, authorizing the applicant to apply for the permit on his behalf;~~

 ~~(l) Any additional information which the City Manager shall find reasonably necessary to a fair determination as to whether the permit shall be issued;~~

 ~~(m) Whether or not parking is to be removed from the streets on the parade route;~~

 ~~(n) Locations where floats are to be constructed and may be inspected by proper City officials.~~

 ~~(1967 Code Sec. 23-9.)~~

**~~315.10 LATE APPLICATIONS.~~**

 ~~The City Manager, where good cause is shown therefor, shall have the authority to consider any application which is filed under the provisions of this article less than twenty days before the date such parade is proposed to be conducted.~~

~~(1967 Code Sec. 23-10.)~~

**~~315.11 FEES.~~**

 ~~Where the applicant for a parade permit requests the removal of parking from the streets along the parade route in his application, or where it appears to the City Manager from such application that the removal of such parking is necessary to the proper conduct of the parade, or where it appears that any other special services are required to be rendered by the City, then a fee of fifty dollars ($50.00) shall accompany such application, to pay the costs of placing and removing ropes and "No Parking" signs along such streets and in providing any other special services needed or requested. If no such special services are requested or required then the fee accompanying such application shall be five dollars ($5.00). In the event such permit is refused or denied then such fee shall be refunded to the applicant.~~

~~(1967 Code Sec. 23-11.)~~

**~~315.12 APPROVAL OR REJECTION; ISSUANCE.~~**

 ~~The City Manager shall act upon the application for a parade permit within three business days after the filing thereof. If the City Manager shall disapprove the application, he shall mail to the applicant within five business days after the date upon which the application was filed, a notice of his action, stating the reasons for his denial of the permit. If he shall approve the application, the permit shall be mailed to the applicant within a like period.~~

~~(1967 Code Sec. 23-12.)~~

**~~315.13 STANDARDS OF ISSUANCE.~~**

 ~~The City Manager shall not issue a parade permit as provided for in this article when, from a consideration of the application and from such other information as may otherwise be obtained, he finds that:~~

 ~~(a) The time, place, size or conduct of the parade including the assembly areas and route of march would unreasonably interfere with the public convenience and safe use of the streets and highways.~~

 ~~(b) The parade would require the diversion of so great a number of police officers to properly police the line of movement, assembly area and areas contiguous thereto so as to deny normal police protection to the Municipality.~~

 ~~(c) The parade route of march or assembly areas would unreasonably interfere with the movement of police vehicles, firefighting equipment or ambulance service to other areas of the Municipality.~~

 ~~(d) The parade would unreasonably interfere with another parade for which a permit has been issued.~~

 ~~(e) The information contained in the application is found to be false, misleading or incomplete in any material detail.~~

 ~~(f) An emergency such as a fire or storm would prevent the proper conduct of the parade.~~

**~~315.14 APPEAL UPON DENIAL OF PERMIT.~~**

 ~~Any person believing himself aggrieved by a rejection of his application for a parade permit by the City Manager shall have the right to appeal the denial of such permit to Council. The appeal shall be taken within ten days after receipt of the notice of rejection thereof.~~

 ~~Such appeal shall be filed with the City Clerk and presented by him at the next regular meeting of Council, and Council shall hear such appeal and render a decision thereon at such meeting, or as soon thereafter as it reasonably can do. The decision of Council shall be final.
(1967 Code Sec. 23-14.)~~

**~~315.15 ALTERNATIVE PERMIT.~~**

 ~~The City Manager, in denying an application for a parade permit, shall be empowered to authorize the conduct of the parade on a date, at a time, or over a route different from that applied for by the applicant. An applicant desiring to accept an alternative permit shall, within seven business days after receipt of notice of the action of the City Manager, file a written notice of acceptance with the City Manager.~~

~~(1967 Code Sec. 23-15.)~~

**~~315.16 COPIES OF PERMIT TO BE SENT TO CERTAIN PERSONS.~~**

 ~~Immediately upon the issuance of a parade permit, the City Manager shall send a copy thereof to the following persons:~~

 ~~(a) The Chief of Police.~~

 ~~(b) The Chief of the Fire Department.~~

 ~~(c) The applicant.~~

 ~~(1967 Code Sec. 23-16.)~~

**~~315.17 CONTENTS OF PERMIT.~~**

 ~~Each parade permit shall state the following information:~~

 ~~(a) Date and starting time;~~

 ~~(b) Assembly and dispersal areas;~~

 ~~(c) Parade route;~~

 ~~(d) Approximate number of persons, animals and vehicles in parade;~~

 ~~(e) Such other information as the City Manager may deem pertinent;~~

 ~~(f) Whether or not parking is to be removed from the streets along the parade route.
(1967 Code Sec. 23-17.)~~

**~~315.18 DUTIES OF PERMITTEE.~~**

 ~~A permittee under the provisions of this article shall comply with all permit directions and conditions and with all applicable provisions of this Code and other ordinances including the following:~~

 ~~(a) A sufficient number of parade marshals shall be furnished by the applicant to lead the parade to be distributed along the route of the parade and at the rear thereof, and the permittee shall instruct such parade marshals in their duties. The permittee shall provide all parade marshals with suitable identification such as armbands or like insignia.~~

 ~~(b) All floats or displays in the parade shall be of fire resistant materials.~~

 ~~(c) Full visibility shall be provided to the drivers of all vehicles, floats or animals in the parade.~~

 ~~(d) No materials of any kind shall be thrown to or from any floats, animals or vehicles in the parade.~~

 ~~(e) The applicant or parade sponsor shall remove all debris along the assembly areas and dispersal areas immediately following the termination thereof.~~

 ~~(f) The permittee shall ascertain that all parade vehicles comply with all applicable provisions of this Code and other ordinances of the City and the laws of the State.~~

 ~~(g) The permittee shall require all units of the parade to maintain a forward motion at all times.
(1967 Code Sec. 23-18.)~~

**~~315.19 REVOCATION OF PERMIT.~~**

 ~~The City Manager shall have the authority to revoke any parade permit issued under the provisions of this article for reasonable cause, and shall report at the next regular session of Council his action and the reasons therefor.~~

~~(1967 Code Sec. 23-19.)~~

**~~315.99 PENALTY.~~**

 ~~(EDITOR’S NOTE: See Section~~ [~~303.99~~](file:///C%3A%5Cnxt%5Cgateway.dll?f=jumplink$jumplink_x=Advanced$jumplink_vpc=first$jumplink_xsl=querylink.xsl$jumplink_sel=title;path;content-type;home-title;item-bookmark$jumplink_d=morgantn$jumplink_q=%5bfield%20folio-destination-name:'303.99'%5d$jumplink_md=target-id=0-0-0-1255) ~~for general Traffic Code penalty.)~~

This Ordinance shall be effective upon date of adoption.

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

 MAYOR

ADOPTED:

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

 CITY CLERK

RECORDED: