

AN ORDINANCE AMENDING SECTION 361.09 OF THE TRAFFIC CODE OF THE CITY OF MORGANTOWN, AS THE SAME APPLIES TO WHEN A VEHICLE PARKED IN THE BUSINESS OR CONGESTED DISTRICT OF THE CITY MAY SELL PRODUCE OR MERCHANDISE THEREFROM.

The City of Morgantown hereby ordains that Section 361.09 of its Traffic Code is amended as follows (new matter underlined, deleted matter struck through):

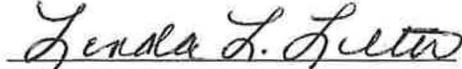
361.09 PARKING TO DISPLAY OR SELL MERCHANDISE.

No vehicle shall be parked in the business or congested district of the City for the purpose of displaying or selling therefrom any produce or merchandise of any kind, except between the hours of 11:00 p.m. and 6:00 a.m.

This ordinance shall be effective upon date of adoption.

First Reading: June 1, 2004  
Adopted: June 15, 2004  
Filed: June 16, 2004  
Recorded: June 16, 2004

  
Mayor

  
City Clerk

Hawker and Peddler food vendors in the downtown area  
Report from Police Chief Ed Preston

Currently there are three regular food vendors operating in the downtown area. There locations are marked on the attached map. There are two vendors that operate sporadically and their locations are marked on the attached map.

Officers that are assigned to the downtown area during high during the time that these vendors are allowed to operate in the area have assisted in the preparation of this assessment.

The two hot dog vendors are operating at either end of High Street are operating in a manner so as to allow the free flow of pedestrian traffic and the sidewalks remain clear, except when individuals are being served from the carts or are waiting in line for service.

The Hot Dog Vendor located on High Street near Wall Street, operates directly in front of the Cool Ridge business. This vendor has moved his operation into the alcove, away from the public sidewalk and does not open the attached umbrella on the cart so as to not interfere with pedestrian traffic. Currently the business formerly known as Club Kharma is not open and the crowds that typically congregate in and around the Wall Street area have been greatly diminished. However, at such time as this particular club re-opens, increased crowds in this particular area should be anticipated.

The Second Hot Dog Vendor operates near the Daniels Parking Lot on the Northern End of High Street. This vendor is located in fairly close proximity to brick and mortar food vendors.

The Taco Truck parks on High Street, in Parking Authority Controlled Parking Spaces in the area that was formerly used as a Cab Stand. Although the sidewalk is available for the free passage of pedestrians, lines that form near the truck create congestion problems similar to those on the southern side of Wall Street.

The BBQ Cart is typically located in a parking lot and has no direct impact on pedestrian traffic. However, any time there are crowds and intoxicated individuals there is potential for disturbances and fights.

The Jersey Mike's truck occasionally operates on Chestnut Street in the same manner as the Taco Truck. However, if there are vehicles already parked in the parking spaces, this particular vendor often opts to leave the area.

Recommendations for consideration:

1. Repeal City Code 361.09 OR
2. Designate an area, such as assigned Spaces, to be rented by vendors, in the Daniels Lot or the Farmer's Market Lot for the sale of food stuffs.

## Current Applicable City Ordinances

### City Code Section 751.16

#### 3. HAWKERS AND PEDDLERS

No person without a City license therefore shall act as a hawker or **peddler** within the City; but bona-fide farmers vending farm products shall not be required to have such license.

On every license to act as hawker or **peddler**, if the person licensed travels without a vehicle, the annual license fee shall be ten dollars (\$10.00); if he travels with a vehicle of not more than one-half ton capacity, fifteen dollars (\$15.00); if he travels with a vehicle of not more than one ton capacity, twenty-five dollars (\$25.00); if he travels with a vehicle of more than one ton capacity, but not exceeding two tons capacity, seventy-five dollars (\$75.00); if he travels with a vehicle of more than two tons capacity, but not exceeding three tons capacity, one hundred dollars (\$100.00); and if he travels with a vehicle of more than three tons capacity, two hundred fifty dollars (\$250.00), plus one hundred dollars (\$100.00) for each additional ton or fraction thereof over four tons capacity; and the person so licensed shall pay at the same rates for each vehicle. Such person shall carry his license in some conspicuous place in his vehicle or about his pack.

All persons who shall carry goods, wares or merchandise from place to place, either in person or by agent or employee, and offer to sell or barter, or actually sell or barter, and at the same time deliver, any of such goods, wares or merchandise to any purchaser, at wholesale or retail, shall be deemed a hawker or **peddler** under this section; except, that nothing in this section shall be construed as levying a license tax on an agent or traveling salesman of a manufacturer or wholesaler who may directly supply articles manufactured or handled by such manufacturer or wholesaler to customers engaged in merchandising at retail at bona-fide, fixed and stationary places of business.

All persons who do have and keep a regular place of business in this State with a stock of goods, wares or merchandise thereat for sale, and whether or not such place is open at all times during the usual business hours for business, who shall, elsewhere than at such regular place of business, personally, or through their agents, offer for sale or sell, and at the same time of such offering for sale, deliver goods, wares and merchandise within the City, shall also be deemed hawkers or **peddlers** as aforesaid; and all persons who do not have and keep a regular place of business in this State as aforesaid and who in person or by agent offer for sale or sell, and at the same time of such sale have for delivery, and deliver, goods, wares or merchandise within the City, shall also be deemed hawkers or **peddlers** as aforesaid; but nothing contained in this section shall apply to those who sell or offer for sale, in person or by their employees, petroleum products, ice, wood, meats, milk, bread, cakes, pies or other bakery products, butter, eggs, poultry, vegetables, fruits or other family or farm supplies, grown or produced by them, and not purchased by them for sale. Nothing in this section shall be construed as requiring a license of persons engaged in the business or calling of agriculture, horticulture or grazing, to sell or offer to sell individually or collectively, one or more for the other or others, the products derived from their business or calling aforesaid; nor of a person engaged in the business of operating a retail merchandise store in a rural community to exchange goods from such store for agricultural products acquired by such store in the due course of business of

barter or sale; nor as requiring a license of a wholesaler or jobber engaged in the sale of soft drinks, ice cream or non-intoxicating beer duly licensed under other provisions of the City Code or other ordinances relating thereto; nor of a mechanic or others to sell or offer to sell articles of his own production

Each farmer or other person exempt from license as herein provided shall obtain from the Director of Finance a license receipt, without cost, showing that he is so exempt, which shall be for the period of one year as other licenses hereunder; but to obtain such license receipt he shall make an affidavit as to the facts entitling him to such exemption on a form to be prescribed by the Director.

Such licenses under this section shall be for the period of one year, beginning on July 1 and ending on June 30 of the year following. If any part of the license year has expired when application for license is made, the license fee shall be reduced on a quarterly basis accordingly.

(1967 Code Sec. 19-18.)

#### **905.02 DISPLAYING MERCHANDISE OR MOVEABLE SIGNS.**

(a) No person shall place any merchandise, sign or obstruction of any kind upon any street or sidewalk within the City for the purpose of advertising, display or sale except as provided and authorized by this article, and the Zoning Ordinance of the City.

(b) Wherever a business is conducted and maintained, on property adjacent to any public sidewalk, street or alley, no owner of any such property or business or agent thereof shall set or place any goods, wares or merchandise by way of exposing them for sale, in any street or alley, or on the sidewalks of any such street or alley, to project more than two feet from the wall or front of the place of business in question. This shall also apply to approved moveable signs. A five-foot wide clear passage for pedestrians on any sidewalk shall be maintained at all times.

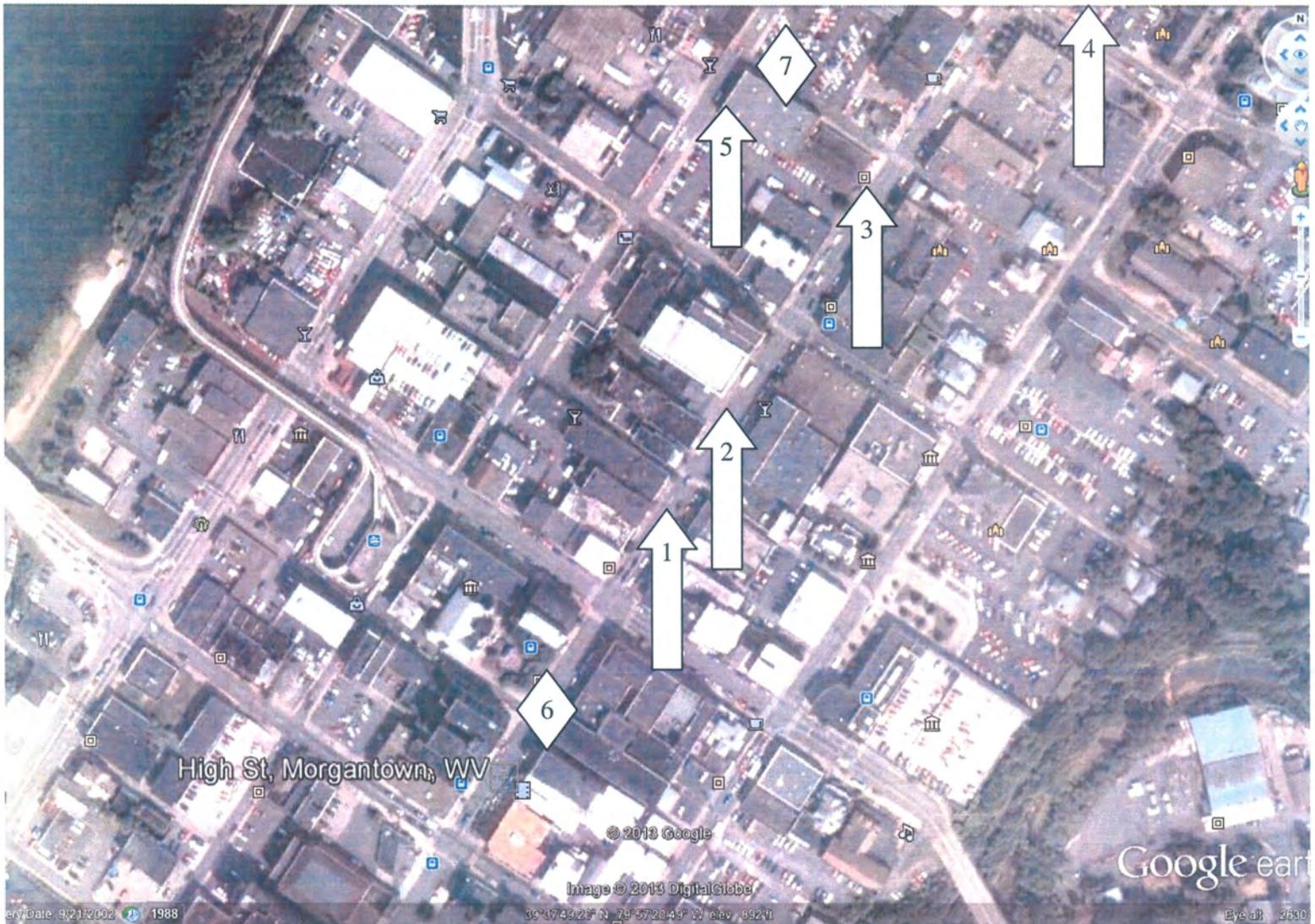
(c) No person shall place any newspaper or similar vending machine on a public sidewalk without first obtaining the approval of the City Manager. The specific location of all such machines shall be subject to recommendations by the City's Engineering Department and shall always take into consideration the safety of the general public.

(Ord. 99-19. Passed 5-18-99.)

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(Ord. 04-20. Passed 6-15-04.)



1. Hot Dog Cart located on the sidewalk of High Street just south of Wall Street.
2. Taco Truck, located in parking spaces between “Joe Mama’s” and Met Theatre.
3. Hot Dog Cart, located on the Sidewalk North of the Daniels Street Parking Lot.
4. Barbeque Cart, usually located in the parking lot North of Willey Street and High Street. This vendor has not been open since 1/1/2013.
5. Jersey Mike’s Sub Truck, located in parking spaces on Chestnut Street near “Chikin Bones”.
6. Bus Stop.
7. Taxi Stand.

BUSINESS NAME	LICENSE NUMBER	ALL LICENSE ACTIVE UNTIL 6/30/1:
ALBASHA INC	183	
ALMOST HEAVEN KONA ICE	146	
CAROLINA BARBEQUE	159	
DAVES FAMOUS T&L HOT DOGS	40	
JERSEY SUBS AND SANDWICHES	184	
MCCORMLEY ENTERPRISES	71	
MOORES HOT DOGS	173	
RAYS MORGANTOWN TACOS LLC	165	
RICHELS CLASSIC CANDY AND CLOTHES	119/143	
SUMMERTIME HOT DOGS	141	
ZULS INC	145	

## **Nighttime Food Vendors in the Downtown Parking Authority Related Experiences**

**Tom Arnold, Executive Director**

From time to time the Morgantown Parking Authority receives requests for reserving parking spaces for nighttime vendors to park their vehicles to distribute their products. The Authority has adopted a policy against reserving parking spaces for the purpose allowing any commercial sales of any kind in any designated parking space. The exception would be for a City approved fair, festival, or other social gatherings.

There is an ordinance that does permit vendors to set up in the Downtown parking spaces from 11 PM until 4 am, which the Authority does not reserve parking spaces for that allotted time. If a vendor pulls in and feeds the meter, we cannot deny them access during the specified time.

The biggest problem we face with street vendors is the litter and debris created by the sale, which ends up on our streets and parking lots. This does add significantly to our daily cleanup efforts. Inclement weather further increases the problem with paper products blowing out of litter baskets and the affected area grows larger. Also, their cleanup of their carts (at the conclusion of their sales) usually end up in our litter baskets and storm drains

Another problem that our officers observe is the congestion on the sidewalks where these vendors are located. The sidewalks are already loaded with pedestrians and lines of people to make purchases. This does compound the security problems for our Police Department.

Hopefully, this information has assisted you with your process.



**Development Services**  
389 Spruce Street  
Morgantown, WV 26505  
304.284.7431

## MEMORANDUM

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Date: Thursday, February 21, 2013  
To: Jeff Mikorski, Interim City Manager .....*via email*  
RE: Ordinance amending Article 523 "Litter"  
City Council Committee of the Whole – February 26, 2013

At your direction, the Development Services Department, the Police Department, and Tom Arnold, in his capacity as the Solid Waste Contract Compliance Officer, have been discussing potential strategies of advancing overall community appearance and quality of life.

One of the strategies discussed was revising Article 523 "Litter" of the City's General Offenses Code to incorporate existing provisions contained within Article 1139 "Solid Waste Collection" of the City's Health and Sanitation Code that specifically pertain to the proper placement and collection of authorized private receptacles.

In so doing, "Special Litter Prevention Officers" would be authorized to assist the Morgantown Police Department and augment the Administration's capacity to further present policies and efforts of abating litter and addressing factors that contribute to the scattering of litter.

As such, the attached ordinance is respectfully submitted for City Council's consideration during its February 26, 2013 Committee of the Whole meeting.

Please note that the suggested revision to Article 523.99 "Penalty" is to provide consistency with related provisions set forth in Article 1139.12 "Accessibility of Solid Waste and Recycling Containers".

cc: Stephen Fanok, City Attorney  
(via email) Mike Stone, Chief Building Code Official  
Tom Arnold, Solid Waste Contract Compliance Officer  
Chief Ed Preston, Morgantown Police Department  
Sgt. J.R. Robinson, Morgantown Police Department