



CITY OF BETHLEHEM

OFFICE OF THE CITY SOLICITOR

INTEROFFICE MEMORANDUM

To: Louise M. Kelchner, City Clerk
CC: The Honorable Robert J. Donchez, Mayor; W. Alexander Karras, Chief of Staff
From: Edmund J. Healy, Esquire, First Assistant City Solicitor
Re: proposed consolidation ordinance regulating permits for Special Events, Uses, and Demonstrations
Date: April 9, 2019

The Administration requests Council to consider enacting the attached ordinance to add Article 961 to the Codified Ordinances of the City of Bethlehem. This ordinance is intended to accomplish several things:

- (1) consolidate and further codify the existing permit application, issuance, and revocation process concerning the use of public property for selected events, including but not limited to Demonstrations, festivals, parades, block parties, and temporary occupancies of streets, sidewalks, parks, traditional public forums, and other public places, organized, promoted, sponsored, and/or conducted by persons other than employees and officials of the City of Bethlehem;
- (2) coordinate such use among applicants therefor and various City departments and bureaus;
- (3) set forth rules of conduct and indemnification concerning such use;
- (4) give designated City employees and officials the power to issue rules, regulations and conditions considered reasonably necessary and incidental to such use; and
- (5) create a system of penalties for violating the provisions of this Ordinance and any rules, regulations and permit conditions.

Incidental to enacting Article 961, the Administration requests Council to consider several designated revisions to Articles 721 (relating to Streets and Sidewalks), 941 (relating to Parks), and 951 (relating to Pedestrian Malls). These revisions will remove language expected to be redundant or inconsistent with the anticipated enactment of Article 961, but preserve essential regulations as needed. Edited versions of these restated Articles showing the proposed revisions accompany this memo.

The Administration requests that the second reading of these ordinances occur no later than May 22, 2019, which is reasonably in advance of Musikfest 2019 (presently scheduled for August 1 through 11, 2019).


Edmund J. Healy, Esquire
First Assistant City Solicitor

Proposed Article 961:

Relating to Special Event Activity Permits,

Demonstrations, and Use Permits

AN ORDINANCE OF THE CITY OF BETHLEHEM,
COUNTIES OF LEHIGH AND NORTHAMPTON,
COMMONWEALTH OF PENNSYLVANIA, ADDING
ARTICLE 961 RELATING TO SPECIAL EVENT ACTIVITY PERMITS,
DEMONSTRATIONS, AND USE PERMITS TO THE CODIFIED ORDINANCES
OF THE CITY OF BETHLEHEM

THE COUNCIL OF THE CITY OF BETHLEHEM HEREBY ORDAINS AS FOLLOWS:

SECTION 1. That Article 961 of the Codified Ordinances of the City of Bethlehem titled “SPECIAL EVENT ACTIVITY PERMITS, DEMONSTRATIONS, AND USE PERMITS” is hereby enacted as follows:

961.00-STATEMENT OF PURPOSE: This Ordinance is intended to (1) consolidate and further codify the existing permit application, issuance, and revocation process concerning the use of public property for selected events, including but not limited to Demonstrations, festivals, parades, block parties, and temporary occupancies of streets, sidewalks, parks, traditional public forums, and other public places, organized, promoted, sponsored, and/or conducted by persons other than employees and officials of the City of Bethlehem, (2) coordinate such use among applicants therefor and various City departments and bureaus, (3) set forth rules of conduct and indemnification concerning such use, (4) give designated City employees and officials the power to issue rules, regulations and conditions considered reasonably necessary and incidental to such use, and (5) create a system of penalties for violating the provisions of this Ordinance and any rules, regulations and permit conditions.

961.01-DEFINITIONS

"ALCOHOLIC BEVERAGES" shall mean any beverage with an alcoholic content of more than two percent (2%);

"APPLICANT" shall mean any person, as defined by this Article, but shall not include the City, or any of its departments, commissions, or boards, or persons elected, appointed, or in the employ of the City while acting in such elected, appointed, or employed capacity.

"CITY" shall mean the City of Bethlehem;

"CITY CENTER PLAZA" shall mean any property contained within the block area bounded on the north side by Church Street and on the south, west and east sides by the perimeter street of New Street;

"CITY PROPERTY" means all City streets, alleys, sidewalks, parks, plazas, and public right of way and spaces that have been constructed or maintained for the primary use and benefit of the public, including those that constitute traditional public forums, designated public forums, or limited public forums. The term "City Property" shall not include the interior spaces of City Hall, or other City buildings, or any of, but not limited to, the following

property owned or leased by the City: (1) grounds utilized for the maintenance of public works, water or sewer service, recycling, or parking areas incidental to municipal business by City employees or members of the public; (2) storage of municipal property; (3) grounds providing housing, exercise, or quiet spaces for animals used by City personnel in the performance of municipal functions; or (4) the fenced-in area surrounding the Star of Bethlehem on South Mountain. The term "City Property" does not include property which fails to qualify as a traditional public forum but is owned or leased by the City to any authority or commission of the City, any college or university, the Commonwealth, a county, school district, another political subdivision, or a nonprofit organization.

"DEMONSTRATION" shall mean a parade, march, public assembly, meeting or gathering, rally or protest event, political rally or event, speechmaking, marching, the holding of vigils or religious services, and all other like forms of conduct, the primary purposes of which is expressive activity or the communication of expression of views or grievances, that: (1) is engaged in by more than five (5) persons and the conduct of which shall occur in whole or in part on City Property and has the effect, intent or propensity to draw a crowd or onlookers; or (2) will occur upon any City street, sidewalk, or alley without compliance with the normal and customary traffic regulations or controls governing such places. The term "Demonstration" shall not mean the casual use of City Property which does not have an intent or propensity to draw a crowd or onlookers, or a residential block party governed by the City's block party permitting process.

"DEMONSTRATION SPONSOR" means the person or entity which is responsible for the staging or production of a Demonstration. Such sponsor can be the same or different from the person or entity who is the applicant.

"DIRECTOR" shall mean the City of Bethlehem Director of Public Works for any Activity Permit or Use Permit pertaining to City Property except, when involving a Permit pertaining to Park property under City Article 941, it shall mean the Director of the Bureau of Recreation. Director also shall mean a person appointed by the Mayor with Permitting authority occasioned by the absence or unavailability of a Director. The term "Director" shall also include any person designated by the Director to perform any activity or thing required or authorized by this Article to be done by the Director.

"HINGE BLOCK" shall mean any property to the rear of the structure having frontage upon the south side of Broad Street between Guetter Street and Main Street, the east side of Main Street between Broad Street and Walnut Street, the north side of Walnut Street between Main Street and Guetter Street and the west side of Guetter Street between Walnut Street and Broad Street, as indicated on a map entitled "Layout Plan, Sun Inn Courtyard";

"PARK" shall mean any land or facility owned or leased by the City of Bethlehem and designated or used for park, active or passive recreation, gardening, or open space purposes;

"PAVILION" shall mean any open park structure used for picnics, parties, and social occasions;

“PERMIT” shall mean a Special Event Activity Permit or a Use Permit;

“PERMITTEE” shall mean a person to whom a Permit has been issued;

“PERSON” shall mean, and without regard for gender, any natural individual, firm, trust, partnership, association, corporation, company or other organization or artificial entity of any kind, in his, her, or its own capacity or an administrator, conservator, executor, trustee, receiver, or other representative appointed by a court. Whenever the word “person” is used in any section of this ordinance prescribing a penalty or fine as applied to partnerships or associations, the word shall include the partners (both general and limited) or members thereof and such word as applied to corporations shall include the officers, agents, or employees thereof who are responsible for any violation of said section;

“SPECIAL EVENT ACTIVITY” shall mean any event, activity, or Demonstration which occurs on private property and is open to the general public and requires approval from the City Fire Department, Bureau of Health, Inspections Bureau, or Zoning Officer, or occurs on City Property in one or more of the following circumstances:

1. the event, activity, or Demonstration is expected or will occur on one or more City street, sidewalk, lane, alley, pavement, footway or right-of-way and which affects or restricts pedestrian and/or vehicular traffic;
2. the event, activity, or Demonstration will make use of the Hinge Block or the Center City Plaza on account of any organized activity or event;
3. the event, activity, or Demonstration will make use of a City park on account of any organized activity or event;
4. the event or activity will make use of the Bethlehem municipal golf course, inclusive of its buildings and land, i.e. collectively presently known as the “Bethlehem Golf Club”, on account of any organized activity or event other than golf outings and tournaments to the extent the proposed activity or event is not governed by the terms and conditions of any lease or license agreement between the City and the operator of the restaurant at the municipal golf course;
5. the event, activity, or Demonstration will be open to the public and will make use of the interior, exterior, and/or accessory lands of the properties known as 100 Illick’s Mill Road, the Earl E. Schaffer Ice Rink, or the Charles Brown Ice House on account of any organized activity or event (For nonpublic events at one of these locations, see 961.02.C);
6. any event, activity, or Demonstration involving City services such as the electrical bureau, fire department, EMS bureau, police department, or public works department;
7. any event, activity, or Demonstration which will include but not be limited to fireworks, special effects (fire twirling, pyrotechnics, welding or any type of open flame), parade,

half/full marathon, festival, celebration, street race/5k, parking lot/street celebration (private event), or walk/run;

8. camping on any City Property.

A special event activity shall not include an event or activity occurring entirely within a building for which all certificates of occupancy have been duly acquired, regardless of whether the event or activity is open to the general public, and the occupancy of such building during such event or activity shall adhere to the governing terms and conditions of such certificate(s) of occupancy.

“SPECIAL EVENT ACTIVITY PERMIT” shall mean written approval in a form or agreement issued by the City to authorize the Permittee to conduct a Special Event Activity on City Property.

“USE PERMIT” shall mean written approval in a form or agreement issued by the City to authorize the Permittee to conduct a qualifying Special Event Activity under § 961.03 on City Property.

961.02—SPECIAL EVENT ACTIVITY PERMIT REQUIRED

- A. A person intending to conduct any Special Event Activity as defined in this Article on City Property is required to apply for and secure issuance of a Special Event Activity Permit from the Director, subject to the City’s authority to grant, revoke or deny a Permit as appropriate under this Article or other applicable law or ordinance.
- B. A Special Event Activity Permit is not required for activities authorized by Article 721.05 (relating to sidewalk vendors), 721.06 (relating to sidewalk sales and outdoor dining) or 721.08.
- C. A Special Event Activity Permit shall not be issued for any event, activity, or Demonstration proposed to occur at any City-owned pavilion or portion thereof.
- D. A Special Event Activity Permit shall not be required for any event or activity which is not open to the general public but will make use of the interior, exterior, and/or accessory lands of the properties known as 100 Illick’s Mill Road, the Earl E. Schaffer Ice Rink, or the Charles Brown Ice House on account of any organized event or activity. For such events or activities at these premises, the party seeking use shall be required to execute an agreement with the City which shall make such party responsible for complying with the requirements of Article 941.06(a)(3).

961.03—USE PERMIT REQUIRED

A person intending to conduct a Special Event Activity as defined in this Article on City Property is required to apply for and secure issuance of a Use Permit from City Council and not a Special Event Activity Permit from the Director in either of the following circumstances, subject to the

City's authority to grant, revoke or deny a Permit as appropriate under this Article or other applicable law or ordinance:

- A. the event or activity is open to the general public and will involve furnishing of alcohol and is one for which a special event activity permit is required; or
- B. the event or activity is expected or will run for 3 days or more regardless of whether it is open to the general public and is one for which a special event activity permit is required.

961.04 -- REGULATIONS APPLICABLE TO PERMITTED SPECIAL EVENT ACTIVITIES AND USES.

All Permittees under this Article shall be required to comply not only with the rules and standards of this Article but also with regulations issued by the Director and the rules and standards set forth in Articles 721, 941 and 951.

961.05-RESPONSIBLE CITY OFFICIAL.

- A. Any person wishing to conduct a Special Event Activity under this Article is required to obtain the appropriate Permit by filing an application to the Director who shall thereupon review and approve or disapprove all applications in accordance with the terms of this ordinance and all other City ordinances, but such approval shall not constitute approval under any special ordinances or codes pertaining to zoning, health, fire, building, mechanical, electrical, and/or plumbing.
- B. After submission of an application, the applicant is obligated to immediately provide the City in writing with any new, different or altering information, regardless of when acquired, so that the information furnished by the applicant to the City remains current, true, correct, and complete with respect to the special event activity at all times prior to and during the special event activity.
- C. Order of processing. The City shall process applications in the order that the City received them. The City shall allocate the use of a particular City Property or a part thereof among competing applicants in the order of receipt of fully-completed applications together with the required application fee. The City shall have priority use of the requested City Property where the proposed Demonstration conflicts or interferes with a previously scheduled event or with an annual or otherwise regularly-held event or ceremony that is sponsored by or on behalf of the City.
- D. The application fee for a Permit application shall be fixed by resolutions of City Council, which fees may be amended from time to time as Council may determine.
- E. The Director shall have the power to establish all application forms, rules and regulations concerning all procedures and aspects of the matters for which a Permit may issue. The forms may seek such information as may be needed to make the findings required by Article 961.06, as well as address any issues pertaining the Standard Conditions of any permit and/or potential Special Conditions of any Permit.

F. In addition to the provisions of 961.05.D, the following shall apply to an application for a Special Event Activity Permit in connection with a proposed Demonstration:

1. The application shall be submitted to the City at least five (5) business days prior to the proposed date and time of the Demonstration. However, the City will accept applications less than five (5) days prior to the proposed date and time of the Demonstration, provided, however, that the proposed Demonstration is in response to something which occurred within seven (7) days prior to the submission of the application (e.g., a march or rally that is timed to coincide with a recent or future political or other announcement, decision, determination, or declaration by a local, state, or federal official).
2. Where the applicant seeks: (1) the City to provide special or technical services for purposes of assisting in the production or staging of the Demonstration. (2) to use and/or rent City-owned equipment for the production or staging of the Demonstration, and/or (3) to erect fixed structures upon City Property, e.g., sound stage or canopies or tents, the application shall be submitted to the City at least sixty (60) business days prior to the proposed date and time of the Demonstration. Absent extraordinary circumstances, the City will not accept applications meeting the criteria of this subsection beyond this sixty (60) day deadline.
3. An application shall be deemed submitted on the date it is received by the City or, if received on a holiday or after normal business hours, on the next business day that is not a holiday.
4. The name, address, e-mail address, if available, day-time telephone number, and fax number, if available, of the applicant.
5. The name of the person who will be in charge of the Demonstration on-site.
6. The name, address, e-mail address, if available, day-time telephone number, and fax number, if available, of the Demonstration Sponsor.
7. The date, time, duration, and location of the proposed Demonstration including all set up and take down time.
8. An estimate of the approximate number of persons who are reasonably expected to attend the Demonstration.
9. If the Demonstration will include a march or parade, a detailed description of the proposed route of the march or parade (with assembling, starting, and ending points) and the proposed starting and ending times for the march or parade.
10. A statement describing the proposed conduct of applicant and its invitees, such as whether they will carry signs, distribute literature, make speeches, or debate with members of the public.

11. A statement of any equipment or facilities which are owned by the applicant or Demonstration Sponsor that are expected to be used.
12. A statement of any equipment or facilities that the applicant or Demonstration Sponsor desires to rent from the City.
13. Whether the Demonstration is an event which has been planned in response to a specific occurrence, and, if so, shall briefly describe such occurrence.
14. Whether the Demonstration is likely to utilize or create amplified noise and, if so, shall briefly describe the number and type of loudspeakers or audio amplification equipment that will be used;
15. A Certification that the applicant and Demonstration Sponsor:
 - a. Will comply with all statutes, ordinances, and regulations applicable to the Demonstration;
 - b. Will instruct its members and invitees who participate in the Demonstration that it is a crime to engage in fighting or threatening words or behavior; to make unreasonable noise; use obscene language or make obscene gestures; or create a hazardous or physically offensive condition by any act which serves no legitimate purpose; and
 - c. Will instruct its members and invitees who participate in the Demonstration of the requirements of Section 14 of this Ordinance (Prohibition on carrying or possessing specified items while attending or participating in any Demonstration).

961.06-STANDARDS FOR ISSUANCE. The Director shall issue a Special Event Activity Permit when he finds that all of the following requirements have been met:

- A. The proposed event, activity, or Demonstration on City Property will not unreasonably interfere with or detract from the general public access or use of the City Property;
- B. The application (including any required attachments and submissions) is fully completed and executed;
- C. The application contains no material falsehoods or misrepresentations;
- D. The applicant has tendered the required application fee. In the case of a Demonstration, an applicant may ask for the application fee to be waived by presenting a sworn or verified affidavit which contains sufficient credible information to enable the City to determine the applicant is financially unable to pay the fee. If the applicant submits a verified affidavit for this purpose, the affidavit must state that the factual information contained therein is true and correct to the best of his/her information and belief, and that false statements made therein are subject to the penalties of 18 PaCS § 4904, relating to unsworn falsification to authorities;

- E. The proposed event, activity, or Demonstration will enhance the appearance of the public property upon which it occurs; generate citizen interest and participation, stimulate commerce, directly or indirectly; promote community spirit; and/or constitute a peaceful, orderly exercise of freedom of speech as protected by the First Amendment of the United States Constitution;
- F. The proposed event, activity, or Demonstration will not unreasonably interfere with or detract from the promotion of public health, welfare, or safety;
- G. The proposed event, activity, or Demonstration is scheduled for a time during which a sufficient number of police officers can be scheduled to patrol and protect lawful participants and non-participants in the Activity when balanced with other demands for police protection throughout the City at the time of the proposed event, activity, or Demonstration;
- H. The concentration of persons, vehicles, or things at specified location(s) of the proposed event, activity, or Demonstration and any assembly and disbanding areas, including any adjacent areas, will not prevent proper fire and police protection or emergency medical service;
- I. The City has not revoked a Permit previously issued to the Applicant or another person or entity with which the applicant is associated for a substantially similar proposed event, activity, or Demonstration in the previous 12-month period;
- J. The proposed event, activity, or Demonstration will not interfere with the customary functions and uses of, and/or ingress and egress to and from, buildings or property that are immediately adjacent to the specified location in ways that cannot be sufficiently controlled through conditions or restrictions attached to the Permit;
- K. The applicant, or the person or entity on whose behalf the application for a Permit was made, has reimbursed the City for requested City personnel or requested City equipment utilized, expenses or damage incurred in connection with a previously-issued Permit of any type;
- L. The proposed event, activity, or Demonstration will not take place or rely upon access to (1) the interior spaces of City Hall, or other City buildings, or any of, but not limited to, the following property owned or leased by the City: (2) grounds utilized for the maintenance of public works, water or sewer service, recycling, or parking areas incidental to municipal business by City employees or members of the public; (3) storage of municipal property; (4) grounds providing housing, exercise, or quiet spaces for animals used by City personnel in the performance of municipal functions; (5) the fenced-in area surrounding the Star of Bethlehem on South Mountain; and/or (6) property owned or leased by the City to any authority or commission of the City, any college or university, the Commonwealth, a county, school district, or another political subdivision;
- M. The proposed event, activity, or Demonstration is not deemed unsuitable or potentially

harmful to the City Property so to present a risk of property damage or a substantial deprivation of the rights of others to reasonable access and/or use thereof;

- N. The proposed Demonstration, if any, is not proposed to occur at the Bethlehem Golf Club;
- O. The proposed Demonstration, if any, is expected to occur on City Property that qualifies as a public forum as protected by the First Amendment of the United States Constitution;
- P. The specified location, or some improvement or condition thereof, poses no threat to the safety of participants in the proposed event, activity, or Demonstration ;
- Q. The proposed event, activity, or Demonstration is not expected to have an articulable adverse impact upon the natural environment of the specified location or its neighboring areas;
- R. The proposed event, activity, or Demonstration or use is not reasonably anticipated to incite violence, crime or disorderly conduct;
- S. The proposed event, activity, or Demonstration will not involve a violation of this or any other ordinance of the City or other applicable laws or regulations, such as the PA Liquor Code and PA LCB regulations;
- T. The proposed event, activity, or Demonstration will not entail unusual, extraordinary or burdensome expense or demands upon the City police, fire, emergency medical services, or other City operations;
- U. The proposed event, activity, or Demonstration will not conflict or interfere with the orderly movement of vehicular or pedestrian traffic, or the rights of persons to reasonably access, use, and/or enjoy their places of residence or business, or other significant governmental interest. To effectuate this, the City may, in its discretion, issue a Permit under this ordinance with conditions and restrictions intended to implement these purposes, but such conditions or restrictions shall:
 - 1. be limited only to the time, place or manner of the proposed event, activity, or Demonstration and narrowly tailored to serve significant governmental interest(s);
 - 2. allow a reasonable alternative opportunity for the communication or expression of views and grievances as may be affected by the imposed conditions and restrictions.
- V. The specified location(s) has/have not been reserved for another use at the day and hour requested in the application, which other use is either a regular known event or has been identified in a previously-received application;
- W. All rules and regulations of the City and standard conditions of the Permit are likely to be met by the applicant and participants.

961.07-CONDITIONS OF PERMIT.

- A. Standard Conditions. It is the obligation of the applicant to comply with all of the following

standard conditions of each Permit issued by the Director or City Council.

1. The Permittee, participants, and vendors, if any, in the proposed event, activity, or Demonstration for which the Permit was issued remain in continual compliance with all applicable statutes, ordinances, rules and regulations as though the same were inserted in Permits, as well as all lawful orders or directives of any City police officer reasonably necessary to ensure the protection or safety of property or persons.
2. The Permittee shall remain in continual compliance with all insurance requirements of the City;
3. The Permittee shall not transfer or assign the Permit without the City's written permission, and subject to additional conditions as the City may require.
4. The Permittee shall not consume alcohol so as to become intoxicated, and/or engage in indecent language and/or disorderly conduct, and shall exclude anyone from the areas authorized by the Permit who does.
5. The Permittee shall only furnish and/or permit the consumption of alcohol in accordance with the approved Rules and Regulations for the type of permit issued by the Director, which type shall be identified in the permit, and shall require everyone using the areas authorized by the permit to do the same.
6. The Permittee shall place all refuse, rubbish, litter and recyclables in receptacles provided for that purpose, and shall require everyone using the areas authorized by the Permit to do the same. In the event of default by Permittee, the City may, in its sound discretion, perform such clean-up and the Permittee shall remit payment for such work within 30 days of being billed therefor at the City's cost.
7. The Permittee shall not furnish food, beverage, or any other thing in a glass container within the areas authorized to be used by the Permit, and shall exclude anyone from the areas authorized by the Permit who does.
8. The Permittee shall not move, remove, attach things to, alter, etc. any trees, sidewalks, light standards, bollards or any other public street fixtures, except as authorized in the Permit.
9. Each Permittee shall pay rental fees for any and all equipment agreed to be provided by the City in connection with such Special Event Activity within 30 days of being billed therefor at the City's cost.
10. Each Permittee shall reimburse the City an amount equal to all personnel costs for services that are specifically requested from the City for the purpose of enabling or providing support services for the Special Event Activity, including, but not limited to, costs for public safety, public health, sanitation, and Department of Public Works personnel. In the case of a Permit-authorized Demonstration, this section shall not be construed to apply to City police costs associated with traffic and crowd control.

11. Following the conclusion of a Special Event Activity, the Permittee shall pay the City for the repair and/or replacement costs (as determined by the City in its sole discretion) of City Property, both real and personal, including City Property as defined by this ordinance, that is (a) not returned, (b) returned in an unacceptable condition (reasonable wear and tear excepted), or (c) otherwise damaged during the course of the Special Event Activity.
 12. Following the conclusion of a Permit-authorized Activity, the Permittee shall pay the City for the repair and/or replacement costs (as determined by the City in its sole discretion) of City Property, both real and personal, leased by the City to any authority or commission of the City, any college or university, the Commonwealth, a county, school district, or another political subdivision to the extent such property is (a) not returned, (b) returned in an unacceptable condition (reasonable wear and tear excepted), or (c) otherwise damaged during the course of the Special Event Activity.
 13. Liability of Permittee. The Permittee shall be liable for any loss, damage or injury sustained by any person or the City by reason of the negligence of the person or persons to whom such Permit has been issued.
 14. The City shall not be responsible for damages, accidents or incidents which occur as a result of activities during the event period and nothing in this ordinance or in issuing any Permit shall be deemed to waive the City's immunities, defenses and privileges existing at law or in equity.
 15. Nothing in this Article shall relieve a person desiring to engage in a permitted event, activity, or Demonstration under this Article, including those open to the public on private property and/or those occurring on City Property which are or are not open to the public, from having to acquire both (a) a permit under this Article and (b) the consent of the recipient of a previously-issued Special Event Activity Permit or Use Permit where the applicant desires to use an area subject to a previously-issued Special Event Activity Permit or Use Permit, provided the basis upon which such consent is given or withheld complies with and respects the rights and privileges secured by the First Amendment of the United States Constitution applicable to uses open to the public on private property and/or those occurring on City Property regardless of whether the use is open to the public.
- B. Special Conditions authorized. The Director or City Council may attach additional special conditions to any Permit which are consistent with the above Standard Conditions for the purpose of minimizing adverse effects of the permitted event, activity, or Demonstration upon the public health, welfare, or safety, reasonable access to and the quiet enjoyment of any residential or commercial neighborhood, parking, and/or police, fire, emergency medical, or other City operations.

961.08-NOTICE OF ADVERSE DECISION.

- A. The Director shall, in accordance with the applicable Rules and Regulations, either issue or deny the Permit in the manner allowed by this Article. In the case of a denial or

revocation, the Director shall promptly apprise the applicant in writing of the reasons for such action.

1. An applicant who is denied a Permit by the Director, or a Permittee whose Permit has been revoked or who wishes to challenge a condition or restriction attached to the Permit other than a condition or restriction attached by City Council, may file a written appeal (the "Appeal") to the Mayor of the City of Bethlehem.
2. The Appeal must be filed within forty-eight (48) hours (exclusive of weekends and days during which City Hall is closed) of the written notice of the Permit denial, Permit revocation, or an adverse condition or restriction, and must state succinctly under oath the grounds upon which the denial, revocation, condition, or restriction should be reversed or modified. The Appeal must be accompanied by copies of the application for a Permit, the written response from the Director, and any other papers or documentation material to the determination. A copy of any Appeal to the Mayor shall be exclusively and personally served upon the City Law Bureau during normal business hours.
3. The Mayor shall respond to the appeal by promptly affirming, modifying, or reversing the Permit denial, condition, restriction, or Permit revocation and give prompt notice of the decision to the Applicant.

961.09-GROUNDS FOR SUSPENSION OR REVOCATION OF PERMIT

With or without advance notice to the applicant, the City may revoke a Permit where it determines that the Permittee does not intend to comply with, cannot comply with, or has violated any of the conditions or restrictions applicable to the Permit, including but not limited to the following:

- A. Failure of the Applicant to obtain any Permits or licenses that are legally required by any City ordinances or other governmental bodies in connection with the described Activity;
- B. Failure of the Applicant to remit any required user fee(s) for City-owned equipment;
- C. Failure to comply with the Permit or any attached condition or restriction;
- D. Failure to provide accurate or truthful information on the application for Permit. Any Permit revoked for this reason shall be grounds for disqualification of the applicant or another person or entity with which the applicant is associated for a substantially similar Activity for a new Permit for a period of one year;
- E. Transferring, assigning, or attempting to transfer or assign the Permit without the City's written permission. Any Permit revoked for this reason shall be grounds for disqualification of the applicant and the Demonstration Sponsor for a new Permit for a period of one year.

961.10-SPECIAL RULES PERTAINING TO DEMONSTRATIONS.

A. No person shall carry or possess the following items or articles while attending or participating in any Demonstration as defined hereinabove:

1. Any length of lumber, wood, wood lath, or particle board unless that object is 1/4 inch or less in thickness and 2 inches or less in width; if the item not generally rectangular in shape, such object shall not exceed 3/4 inch in its thickest dimension. Both ends of the lumber, wood or wood lath shall be blunt;
2. Any length of metal or plastic pipe, whether hollow or solid; provided, however, that hollow plastic piping not exceeding 3/4 inch in its thickest dimension and not exceeding 1/8 inch in wall thickness, and not filled with any material, liquid, gas or solid may be used solely to support a sign, banner, placard, puppet or other similar expressive display. Both ends of any plastic pipe permissible under this subsection shall be blunt;
3. Signs, posters, banners, plaques or notices, whether or not mounted on a length of material Permit ted under this section, unless, such sign, poster, banner, plaque or notice is constructed solely of soft material, such as cloth, paper, soft plastic capable of being rolled or folded, or cardboard material no greater than 1/4 inch in thickness;
4. Baseball or softball bats, regardless of composition or size; provided, however, that such items are permissible when configured of cardboard, foam or paper for expressive purposes;
5. Any aerosol spray, tear gas, mace, pepper spray or bear repellant;
6. Any projectile launcher or other device, such as a catapult or wrist rocket, which is commonly used for the purpose of launching, hurling or throwing any object, liquid, material or other substance, whether through force of air pressure, spring action or any other mechanism;
7. Weapons such as knives, swords, sabers or other bladed devices, axes, hatchets, ice picks, razor blades, nun chucks or martial arts weapons of any kind, box cutters, conducted electrical weapons (CEWs), including, but not limited to, tasers or stun guns, metal/composite/wooden knuckles, or any chain greater than 20 inches in length or greater than 1/4 inch in diameter; provided, however, that such items are permissible when configured of cardboard, foam or paper for expressive purposes;
8. Balloons, bottles or any other container such as water cannons or super-soakers, filled with any flammable, biohazard or other noxious matter which is injurious, or nauseating, sickening or irritating to any of the senses, with intent to throw, drop, pour, disperse, deposit, release, discharge or expose the same in, upon or about any Demonstration as defined hereinabove;
9. Glass bottles, whether empty or filled;
10. Open flame torches, lanterns or other devices that utilize combustible materials such as gasoline, kerosene, propane or other combustible fuel sources;

11. Shields made of metal, wood, hard plastic or any combination thereof;
12. Bricks, rocks, pieces of asphalt, concrete, pellets or ball bearings;
13. Explosives, fireworks, sparklers, and smoke-generating devices;
14. Devices or any matter which deliberately creates or projects unreasonably disruptive odors or irritants to bodily health outside the City Property authorized to be used by the Permit.

- B. When feasible, excluding exigent circumstances, a warning shall be issued before enforcement of the provisions of this section. Such warning shall be sufficient if provided orally, by posted signs, or by amplified announcement.
- C. Authorized peace officers, or employees, agents or representatives of the City, shall be exempt from the provisions of this section when such officers, employees, agents or representatives of the City are engaged in official business of the City.
- D. Nothing in this section shall prohibit an individual from carrying a cane or using a walker or other device necessary for providing mobility.

961.99-VIOLATIONS.

- A. A person commits a summary offense violation of this Article if he or she:
 1. engages in conduct without a Permit but for which a Permit is required by this Article;
 2. fails to produce and exhibit any Permit from the Director after claiming to have been issued a Permit, provided the person making the request is a City employee or law enforcement officer and is making the request for the purpose of enforcing compliance with the Permit or any ordinance or statute;
 3. fails to comply with the terms and conditions of a Permit issued under this Article; or
 4. violates any provision of this Article.

- B. The penalties for violating this Article shall be as follows:

First violation - A fine of \$200.00, or thirty days imprisonment, or both;

Second violation - A fine of \$500.00, or sixty days imprisonment, or both;

Third and each subsequent violation - A fine of \$1,000.00, or ninety days imprisonment, or both.

Each 24-hour period that a person who engages in conduct in violation of this Article shall be considered a separate violation punishable in accordance with this Section.

Proposed Revisions to Article 721:

Relating to Streets and Sidewalks

BILL NO. _____ - 2019

ORDINANCE NO. 2019-_____

AN ORDINANCE OF THE CITY OF BETHLEHEM, PENNSYLVANIA,
AMENDING ARTICLE 721 OF THE CITY OF BETHLEHEM CODIFIED
ORDINANCES RELATING TO STREETS AND SIDEWALKS AS A RESULT
OF THE ENACTMENT OF NEW ARTICLE 961 RELATING TO SPECIAL
EVENT ACTIVITY PERMITS, DEMONSTRATIONS, AND USE PERMITS

THE COUNCIL OF THE CITY OF BETHLEHEM DOES HEREBY ORDAIN AND ENACT THE
FOLLOWING ORDINANCE:

Section 1. Article 721 of the City of Bethlehem Codified Ordinances relating to Streets and Sidewalks is hereby amended to read as follows (underlined text denotes additions to existing Article 721, whereas ~~strikeouts~~ denote deletions from existing Article 721):

721.01 DEFINITIONS. The following definitions shall apply in the interpretation and enforcement of this Article:

Director: The Director of Public Works for the City of Bethlehem, or his/her designee.

Food: Solid food and beverages allowed to be sold in accordance with this ordinance.

Motor Vehicle: Motor vehicle is defined as any vehicle used for the displaying, storing or transporting of articles offered for sale by a vendor, which is required to be licensed and registered by the Department of Motor Vehicles.

Person: Person is defined as any natural individual, firm, trust, partnership, association, or corporation, in his or its own capacity or an administrator, conservator, executor, trustee, receiver, or other representative appointed by a court. Whenever the word “person” is used in any section of this ordinance prescribing a penalty or fine as applied to partnerships or associations, the word shall include the partners (both general and limited) or members thereof and such word as applied to corporations shall include the officers, agents, or employees thereof who are responsible for any violation of said section.

Pushcart: Pushcart is defined as a wheeled vehicle propelled solely by a single human.

Stand: Stand is defined as any table, showcase, bench, booth, rack, pushcart, or any other wheeled vehicle or fixture which may be removed without the assistance of a motor and which is not required to be licensed and registered by the Department of Motor Vehicles, used for displaying, storing or transporting of articles offered for sale by a vendor.

Vending: Vending is defined as the act of selling, offering for sale, transferring, or offering to transfer to another for pecuniary gain.

Vendor: Vendor is defined as any person engaged in the selling or offering for sale of food, beverages, services or merchandise on the public streets, sidewalks, lanes, alleys, pavements, footways or rights-of-way from a stand or motor vehicle.

721.02 OBSTRUCTIONS, PROJECTIONS OR ACTIVITIES.

A. Except as hereinafter provided, no person shall permit to remain, or hereafter erect or place any stand, stall, booth or showcase, vending machine, trash receptacle, banner, awning, awning post, swinging sign, post, pole, board, frame, or any other device or thing occupying, or in any manner projecting over or upon any portion of any of the streets, sidewalks, lanes, alleys, pavements, footways or rights-of-way of the City, or stand or place or cause to be stood or placed any barrels, boxes, wares, goods, merchandise, brick, stone, lumber or any other thing of any kind or description, whether for sale or otherwise, in or upon the streets, sidewalks, lanes, alleys, pavements, footways or rights-of-way of the City. Nothing herein contained shall prevent the projection over and above any street, sidewalk, lane, alley, pavement, footway or right-of-way in the City of any temporary awning which is at least seven and one-half clear feet above the street, sidewalk, lane, alley, pavement, footway or right-of-way at its lowest point. (Ord. 3009. Passed 9/3/1985.)

B. Except as hereinafter provided, no person shall obstruct the streets, sidewalks, lanes, alleys, pavements, footways or rights-of-way.

C. Except as hereinafter provided, no person shall sell or offer for sale any food, beverage, service or merchandise on any street, sidewalk, lane, alley, pavement, footway or right-of-way or public park within the City from any wagon, truck, auto push cart, stand or vehicle or in any other manner whatsoever upon streets, sidewalks, lanes, alleys, pavements, footways or rights-of-way or parking lots of the City.

~~———— D. ——— The Director of Public Works, as authorized by the Mayor, shall review, schedule and grant final approval to all activities on streets, sidewalks, lanes, alleys, pavements, footways or rights-of-way except for block parties and parades which require temporary closing of the street and redirection of traffic. Such events shall be permitted and controlled by the Department of Police.~~

~~D.E.~~ Nothing herein shall prevent the necessary loading and unloading of vehicles, and the delivery of goods and material to residences and business houses, or for building operations. The foregoing activities are subject to the rules and regulations promulgated by the Director of Public Works and/or the Police ~~Chief Commissioner~~.

~~F. Activities which may be conducted upon the streets, sidewalks, lanes, alleys,~~

~~pavements, footways or rights-of-way are those which would: enhance its appearance; generate citizen interest, community spirit and vitality. Subject activities will in no way interfere with the health, safety or welfare of the community, and may include the right without the necessity of a permit to the peaceful, orderly exercise of freedom of speech as granted by the First Amendment of the United States Constitution.~~

721.03 REMOVAL OF SNOW, ICE OR RUBBISH.

No person owning, controlling or occupying any lot adjoining or fronting upon any of the streets, sidewalks, lanes, alleys, pavements, footways or rights-of-way in the City shall allow or permit any mud, sand, gravel, leaves, snow, ice or rubbish of any sort or description to be or remain upon the pavements, sidewalks, footways or rights-of-way in front of or adjoining such lot for a period longer than twenty-four hours after the rain, snow, sleet or hail which is the cause thereof has ceased to fall or after the same has been deposited thereon in any manner.

Any person owning, controlling or occupying such lot who neglects to remove the mud, sand, gravel, leaves, snow, ice or rubbish of any sort or description from the pavement, sidewalks, footways or rights-of-way in front of or adjoining his lot within the time specified in this section, shall be guilty of maintaining a nuisance, and upon conviction shall be punished as provided in Section 721.99.

Any person owning, controlling and/or plowing an off street parking lot area, a sidewalk and/or any other property adjoining or fronting upon any street, sidewalk, lane, alley, pavement, footway or right-of-way in the City who plows or causes to place snow, mud, sand, gravel, leaves or rubbish of any sort or description into the street, sidewalk, lane, alley, pavement, footway or right-of-way or repositions such materials from the parking lane to the traffic lane of a street or cartway which causes an obstruction to the normal flow of vehicular traffic shall be guilty of maintaining a nuisance and upon conviction therefor shall be punished as provided in Section 721.99. (Ord. 2463. Passed 3/18/1975; Ord. 3731. Passed 2/6/1996.)

721.04 PROJECTING GATES OR DOORS.

No person shall construct any gate, door or other movable structure used for the purpose of egress or ingress to private property which, when opened or closed, projects over the building line and into or over the street, sidewalk, lane, alley, pavement, footway or right-of-way of the City. (1946 Code C. 28 §5).

721.05 SIDEWALK VENDORS

A. For any vending activity in excess of twenty-one (21) days in any given calendar year, it shall be unlawful to sell or offer for sale any food, beverage, service or merchandise on any City street, sidewalk, lane, alley, pavement, footway or right-of-way from any wagon, truck, auto, push cart, stand or vehicle or in any other manner whatsoever if not duly licensed pursuant to this section.

B. Standards and Requirements

(1) License Requirements

The application for a vendor's license shall be filed with the Community and Economic Development Department and include the following:

- (a) The name, home and business address of the applicant and the name and address of the owner and/or operator, if other than the applicant, of the vending business.
- (b) A description of the type of food, beverage or fresh flowers to be sold. Only applications for sales of food, beverage or fresh flowers will be accepted.
- (c) The place where applicant proposes to operate, which shall be limited to a commercial zoning district within the City of Bethlehem. Written permission of the landlord or property owner must be presented at the time of application.
- (d) A description and photograph of any stand, cart, vehicle or equipment to be used in the operation of the business, including the license and registration number of any motor vehicle used in the operation of the business. Photograph shall be of stand, cart, vehicle, or equipment in operational mode.
- (e) Three (3) two-inch (2") by two-inch (2") prints of a full-face photograph, taken not more than thirty (30) days prior to the date of the application, of any person who will sell, or offer for sale, any food, service, or merchandise on any street or sidewalk within the City.
- (f) Applicant must provide a self-generated criminal record check and child abuse check for himself and any employee to the Community and Economic Development Department.
- (g) Vendor shall provide a Certificate of Insurance from a company acceptable to the Law Bureau providing liability coverage to the vendor and naming of the City as an additional insured. The amount of the insurance coverage shall be One Million Dollars (\$1,000,000).

- (h) Sidewalk vendors will be required to obtain a right of way usage permit and a Business License prior to opening and will be required to pay Occupational Privilege Tax for all employees. Those selling food will be required to obtain a Health License.
- (i) No person not a legal title owner or lessee to the premises utilized, or employee of the lessee, shall be permitted to conduct any activities as permitted by Section 721.05.

(2) Denial of Application

- (a) An application shall be denied and the applicant ineligible to participate in the vending selection if:
 - (i) The application proposes the sale of anything other than food, non-alcoholic beverages, or fresh flowers.
 - (ii) The proposed vending stand does not comply with the applicable design criteria, standards or specifications and/or applicable health codes;
 - (iii) The applicant, or any natural person having not less than a thirty-three-percent interest in the entity making application has:
 - (1) An interest in another vending license;
 - (2) Within the past five years held or had an interest in a vending license that had been revoked;
 - (3) Any city tax liability being more than 10 days overdue; or
 - (4) Within the past 10 years been convicted of selling, offering to sell or possession with intent to sell a controlled substance.
 - (iv) Non-compliance with regulations.
- (b) If an application is denied, the applicant shall be notified, in writing, of the reason therefor.

(3) Stand Design Standards / Vending Cart Design Standards

All stands and carts must be clean, sanitary, attractive and be designed consistent with guidelines promulgated by the Department of Community and Economic Development. The design of all stands and carts located in the Historic Districts must be approved by the applicable Historic and Architectural Review Board of the City of Bethlehem.

- (a) The carts should be designed of quality materials that enhance the integrity of Bethlehem and the activities, location, and appearance of the carts shall be subject to the review of a committee comprised of the Historic Review Officer, the members of the HARB or the members of the Historic Conservation Commission - South Bethlehem and Mount Airy depending upon the applicant's location. All applications in City Wards 1, 2, 3, 4, 5, 10, 11, 12, 13, 16, and 17 shall be reviewed by the committee comprised of members of the Historic Conservation Commission – South Bethlehem and Mount Airy and City Wards 6, 7, 8, 9, 14, and 15 shall be reviewed by the committee and members of HARB. The applicable Historic Board shall notify City Council of the recommendation for a Certificate of Approval. Following notification from the applicable Historic Board to City Council of the recommendation for a Certificate of Approval, City Council shall place the Resolution for a Certificate of Approval on an Agenda for a vote.

(4) Award of License

Following review and issuance of permits by the applicable City Departments and Bureaus, and the applicable Historic Review Board the Engineering Bureau shall award licenses to any vendor approved by City Council after the vendor pays the first annual fee of \$250. The check, and all subsequent annual fees, shall be made payable to the City of Bethlehem, and presented to the Cashier. All fees shall be non-refundable.

(5) Operation Standards

- (a) Days and hours of operation. All vendor activities involving arrival on site, unloading, setup, sales, breakdown and departure must be confined to the following regular hours of operation: 6:00 AM to 6:00 PM Sunday, Monday, Tuesday, and Wednesday; and 6:00 AM to 4:00 AM Thursday, Friday, Saturday/Sunday. Other times of operation may be approved by City Council upon request of a

vendor.

- (b) Daily removal. Vending stands and all related equipment, supplies and packaging materials used or resulting from the vending activities shall be removed daily.
- (c) Safe and sanitary condition. Vending stands shall be maintained in a safe, clean and sanitary condition at all times. Vending stands licensed hereunder to sell food products shall:
 - (1) Be subject to inspection at any time by the Health Officer and/or his inspectors and shall at all times be licensed under and be in compliance with the Health Code of the city.
 - (2) If using portable heating or cooking facilities, be subject to inspection at all times by the Fire Marshal and shall comply with all applicable requirements of the Fire Code of the city.
- (d) Quiet operations. Vending shall be conducted in a quiet and peaceable manner, and there shall be no hawking of merchandise or solicitation of pedestrians or motorists, or other business/property owners.
- (e) Sign. No sign shall be permitted except an identification of the vendor's business name.
- (f) Use and maintenance of sidewalk. All sales and related activity shall be conducted from the vending stand during which times the vending stand shall not be moved from the assigned vending location. No products shall be stored or displayed nor trash receptacles placed on the sidewalk, street, or any adjacent outside area by the vendor. The sidewalk and street in the immediate vicinity of the vending stand shall be kept and maintained free of trash, recyclables, litter, debris or spillage by the stand vendor. Vendor shall supply a recycling container approved by the Recycling Bureau.

C. Suspension or Revocation of License.

- (a) Grounds. A vending license shall be subject to suspension or revocation for any of the following causes:
 - (1) The violation of any provision of this article, the regulations promulgated hereunder or orders issued pursuant hereto;

- (2) Where the license holder has knowingly made a false, misleading or fraudulent statement of material fact in the application for a license;
 - (3) When the license holder fails to renew or pay the annual fee within 10 days of the anniversary date of license issuance; or
 - (4) If the vending license is for sale of food products, when the vendor violates the provisions of or fails to maintain any license or permit required by any applicable city or state health codes;
 - (5) When the license holder violates any conditions of the license; or
 - (6) Abandonment, neglect, or such lack of regular occupancy and use of the license as is inconsistent with the purposes of this section. A vending license shall be subject to revocation should the vendor operate in any location other than the licensed location.
- (b) Procedure, notice and hearing.
- (1) Prior to the suspension or revocation of a vending license becoming effective, the Department of Community and Economic Development shall notify the licensee, in writing, of the suspension or revocation, the reasons therefor, his right to a hearing before City Council's Community Development Committee if desired and that unless a request for a hearing is filed in writing within 15 days of the date of the notice of suspension or revocation, the suspension or revocation shall then become effective without further action. Such notice shall be served upon the licensee by delivering the same personally or by registered mail, postage fully prepaid, addressed to the licensee at his or her place of business or residence as shown on the license application.
 - (2) If a hearing is requested before City Council's Community Development Committee, it shall be conducted by the Committee within 20 days of the request and shall be conducted in accordance with the Local Agency Law (2 Pa.C.S.A. § 105). If following the hearing the suspension or revocation is upheld, the reasons therefor shall be set forth in writing and delivered to the licensee by ordinary mail. A decision upholding or sustaining the suspension or revocation shall result in such suspension or revocation becoming effective and not subject to further stay except upon order of court.

D. Renewal.

A license issued under this section shall be valid for a period of one (1) year from the date of issuance of the license. Each licensee is eligible to renew his license an indefinite number of times, but annual fee will increase to \$400, upon the

application of vendor's second and subsequent years, and is subject to review by City Council at any time. Vendor's fees may not change except upon the date of their re-application. If no substantial changes are made to the application and revocation is not under consideration, City Council's Community Development Committee may recommend that City Council approve the license renewal. If any substantial changes are made in the application, as assessed by the Community Development Committee, the application shall be submitted before the Community Development Committee.

E. Regulations.

- (a) City Council may promulgate such regulations, specifications, and/or conditions as are necessary for the proper administration and enforcement of this Article.

F. Ice Cream Trucks and non-stationary vendors that need only to stop their vehicles from time to time to sell goods shall be required to obtain a permit, pay a One Hundred Dollar (\$100.00) fee, and provide a Certificate of Insurance from a company acceptable to the Law Bureau providing liability coverage to the applicant and naming of the City as an additional insured. The amount of the insurance coverage shall be One Million Dollars (\$1,000,000).

G. No person shall conduct any vending activity unless first having obtained a license or permit provided for by this section. Each day that anyone continues to operate without a license after having received notice of a violation either in person or by posting at the site of the violation shall be a separate violation punishable in accordance with Section 721.99. (Ord. 2012-12. Passed 3/20/2012.)

721.06 SIDEWALK SALES / OUTDOOR DINING.

A. Retail Merchants may have a sidewalk sale from time to time that occupies the public right-of-way which is an extension of the primary business of the adjoining property. For all sidewalk sales that occupy the public right-of-way a permit must be obtained for twenty-five dollars (\$25.00) from the Department of Public Works subject to the rules and regulations issued with the permit. A minimum of 5 feet of clear walkway must be maintained at all times on the sidewalk. There can be no sidewalk sales during Municipal Sponsored or Sanctioned Events unless the Department of Public Works permits said activity. (Ord. 3420. Passed 6/4/1991; Ord. 3684. Passed 4/18/1995; Ord. 2010-30. Passed 12/21/2010.)

B. Restaurateurs may have outdoor dining that occupy the public right-of-way adjoining its property. For all outdoor dining that occupies the public right-of-way a permit must be obtained for twenty-five dollars (\$25.00) from the Department of Public Works subject to the rules and regulations issued by the Department. A minimum of five (5) feet of clear walkway must be maintained at all times on the sidewalk. There can be no outdoor dining during Municipal Sponsored or Sanctioned Events, unless the Department of Public Works permits said activity. For locations of

outdoor dining within any historic district as established by the City of Bethlehem, the furnishings and equipment, if any, for outdoor dining shall be subject to review by the Committee and City Council as set forth in Section 721.05. (Ord. 2010-30. Passed 12/21/2010.)

C. No person shall dispense alcoholic beverages unless they have been issued a Restaurant or Liquor License by the Pennsylvania Liquor Control Board and have received Pennsylvania Liquor Control Board approval for sales outside their premises.

D. No person shall conduct any sidewalk sales or maintain any outdoor dining in the public right-of-way unless first having obtained a permit provided for by this Section. Each day that anyone continues to operate without a permit required by this section after having received notice of a violation either in person or by posting at the site of the violation shall be a separate violation punishable in accordance with Section 721.99.

721.07 MUNICIPAL EVENTS.

For all Municipal Sponsored or Sanctioned Events that occupy the right-of-way a permit to operate within the portion of the right-of-way occupied by the event must be obtained at no cost from the Department of Public Works, subject to conditions, rules, and regulations, if any, attached by the Department of Public Works or at costs as authorized by resolution of City Council.

721.08 ~~NON-VENDING~~ SPECIFIED ACTIVITIES GOVERNED BY THIS ARTICLE

A. ~~Except as otherwise provided in this Article, all persons wishing to conduct non-vending activities or place temporary structures upon the streets, sidewalks, lanes, alleys, pavements, footways or rights-of-way shall make application to the Director of Public Works for a permit to conduct activities which shall be issued upon the payment of a One Hundred Dollar (\$100.00) fee, where applicable, and compliance with the regulations established by the Director.~~ All persons shall make application to the Director of Public Works for a permit to conduct or do any thing upon the streets, sidewalks, lanes, alleys, pavements, footways or rights-of-way in any of the following circumstances:

(I) Excavation or construction-related work concerning sanitary sewer, storm sewer, water, driveway, sidewalk or curb repair or replacement, utility-related activities, any work governed by Article 910, and/or the placement of any sign (sandwich board or other temporary), or structure of whatever kind, whether permanent or temporary in character, moving pod, construction materials, equipment, dumpster, or any table or chair.

B. The application for permit shall:

(I) describe the activity which is contemplated;

- (II) describe in detail the location, dimensions, and type of construction of any structure to be used;
- (III) provide a Certificate of Insurance from a company acceptable to the Director providing liability coverage to the applicant and naming of the City as an additional insured. The amount of the insurance coverage shall be One Million Dollars (\$1,000,000);
- (IV) be filed with the Director no later than Five (5) days nor more than Sixty (60) days prior to the commencement of the activity;
(Ord 3684. Passed 4/18/1995.)
- (V) be granted only to those persons who have legal title to the land directly abutting the area of the street, sidewalk, lane, alley, pavement, footway or right-of-way to be utilized or are lessees of such abutting land under a lease entered into at least Sixty (60) days prior to the day of application;
- (VI) be issued upon the payment of a One Hundred Dollar (\$100.00) fee, unless such amount shall hereafter be changed by resolution of City Council;
- (VII) require compliance, where applicable, with the regulations established by the Director.

C. The issuance of a permit by the Director of Public Works to occupy a location in the street, sidewalk, lane, alley, pavement, footway or right-of-way shall not in itself supersede other applicable City Ordinances, such as those of Health and Fire.

D. For permits applicable to containers/dumpsters, building supplies, construction equipment, etc, which are temporarily placed upon the streets, sidewalks, lanes, alleys, pavements, footways or rights-of-way:

- (I) The fee shall be fifty dollars (\$50.00).
- (II) Application for the permit shall be filed with the Director or his designee not less than twenty-four (24) hours nor more than Thirty (30) days prior to the placement of the item;
- (III) The applicant must be the legal title property owner, or the contractor who is under the contract with the legal title property owner;
- (IV) All such permits shall be approved by the Traffic Bureau, Police Department prior to the issuance of the permit.

(Ord. 3684. Passed 4/18/1995; Ord. 2010-30. Passed 12/21/2010; Ord. 2017-52. Passed 12/19/2017.)

E. For permits applicable to signs which are temporarily placed upon the streets, sidewalks, lanes, alleys, pavements, footways or rights-of-way:

- (I) The fee shall be fifty dollars (\$50.00);
- (II) The applicant must be the legal title property owner of the land directly abutting the area of the street, sidewalk, lane, alley, pavement, footway or right-of-way to be utilized or are lessees of such abutting land under a lease entered into at least sixty (60) days prior to the day of application.
- (III) All such permits shall be approved by the Zoning Officer prior to the issuance of the permit.

(Ord. 2010-30. Passed 12/21/2010; Ord. 2017-52. Passed 12/19/2017.)

F. For permits applicable to banners which are temporarily placed upon poles along or across the streets, sidewalks, lanes, alleys, pavements, footways or rights-of-way:

- (I) The fee shall be forty dollars (\$40.00) for banners mounted on poles along the street and one hundred dollars (\$100.00) for banners across the street;
- (II) Approved banners must be delivered to the Electrical Bureau at least two weeks prior to the placement date;
- (III) Banners can only be placed at locations designated by the Department of Public Works;
- (IV) Banner material specifications are provided with the permit application package.

(Ord. 2010-30. Passed 12/21/2010.)

G. Prohibited Acts

Except as otherwise provided in this Article:

- (I) No person not a legal title owner, lessee or license or permit holder shall be permitted to conduct any activities set forth in this Section.
- (II) No person shall conduct any covered activity unless first having obtained ~~the~~ a permit ~~provided for~~ required by this ~~section~~ Article.

- (III) Each day that anyone continues to operate without a permit after having received notice of a violation either in person or by posting at the site of the violation shall be a separate violation punishable in accordance with Section 721.99.
- (IV) No person shall dispense alcoholic beverages unless they have been issued a Restaurant or Liquor License by the Pennsylvania Liquor Control Board and have received Pennsylvania Liquor Control Board approval for sales outside their premises.
- ~~(V) No person shall place any container for construction waste materials or for any other reason in the public right of way without obtaining a Right of Way Permit from the Director or his designee.~~
- ~~(VI) No person shall place a sign in the street, sidewalk, lane, alley, pavement, footway or right of way without securing a permit from the Director.~~

721.09 RELATIONSHIP OF ARTICLE 721 TO ARTICLE 961.

A permit issued under Article 961 shall not relieve any person from complying with the requirements of this Article 721, including but not limited to, any permitting requirements of Article 721.

721.99 PENALTY.

Any person violating the provisions of this article shall be fined not more than three hundred dollars (\$300.00) for each separate violation, together with costs, or imprisoned not more than ninety days if the amount of said fine and costs should not be paid.

(Ord. 1758. Passed 11/13/1962; Ord. 3184. Passed 5/3/1988; Ord. 2009-39. Passed 12/22/2009.)

Section 2. All ordinances and parts of Ordinances inconsistent herewith be, and the same are hereby repealed.

Sponsored by:

PASSED finally in Council on the ____ day of _____, 20__.

President of Council

ATTEST:

City Clerk

This Ordinance approved this _____ day of _____, 20____.

Mayor

Proposed Revisions to Article 941:

Relating to Parks

BILL NO. _____ - 2019

ORDINANCE NO. 2019-_____

AN ORDINANCE OF THE CITY OF BETHLEHEM, PENNSYLVANIA,
AMENDING ARTICLE 941 OF THE CITY OF BETHLEHEM CODIFIED
ORDINANCES RELATING TO PARKS AS A RESULT OF THE
ENACTMENT OF NEW ARTICLE 961 RELATING TO SPECIAL EVENT
ACTIVITY PERMITS, DEMONSTRATIONS, AND USE PERMITS

THE COUNCIL OF THE CITY OF BETHLEHEM DOES HEREBY ORDAIN AND ENACT THE
FOLLOWING ORDINANCE:

Section 1. Article 941 of the City of Bethlehem Codified Ordinances relating to Parks is hereby amended to read as follows (underlined text denotes additions to existing Article 941, whereas ~~strikeouts~~ denote deletions from existing Article 941):

941.01 DEFINITIONS.

For the purposes of this article, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

"Alcoholic beverages" means any beverage with an alcoholic content of more than two percent (2%).

"Bathing", "Bathe", "Swimming" or "Swim" mean the sport or activity of entering and/or moving through water by moving your arms and legs for recreational, religious or other purposes, including, but not be limited to, exercise, therapy, or refreshment.

"City" means the City of Bethlehem.

"Community Gardens" means a parcel of City-owned land designated specifically to grow fruits, vegetables, ornamentals, and native plants that are planted and maintained by the community.

"Director" means the Director of Public Works or his/her designee, ~~the Department of Parks and Public Property.~~

"Dog Park" means an area designated by the City for allowing City residents to exercise their dog off leash.

"Fishing" means the activity of catching fish, either for food or as a sport as regulated and licensed

by the Pennsylvania Fish & Boat Commission.

“Generator” means a gasoline or diesel powered device that converts mechanical energy into electrical energy.

“Greenway” means South Bethlehem Greenway.

“Loiter” or “Loitering” means protractedly lingering, staying, remaining or waiting at one location or repetitively wandering around in the same vicinity, either alone or in consort with others.

“Malicious” or “maliciously” means a vexatious, threatening, intimidating or injurious manner toward people or property; or with intent to engage in any disorderly conduct or behavior tending to a breach of the public peace; or acting with the effect of causing interference with or precluding peaceful use and enjoyment of the park by others.

“Metal Detectors” means a hand-held unit used in searching an area for coins or other metal objects.

“Motorized Vehicles” means any device propelled by an engine, including but not limited to automobiles, mopeds, motorcycles, go carts, scooters, All Terrain Vehicles (ATV), and segways. The term specifically excludes any electric personal assistive mobility device, any self-propelled wheel chair, any electrical mobility device operated by and designed for the exclusive use of a person with a mobility related disability, and any FDA approved devices for use by the disabled on pedestrian facilities. (Ord. 4424. Passed 4/17/07.)

“Mounted Police” means police who do patrols on horseback.
(Ord. 2009-23. Passed 9/1/09.)

“Park” means any land or facility owned or leased by the City of Bethlehem and designated or used for park, recreation, gardening, or open space purposes.

“Pavilion” means any open park structure used for picnics, parties, and social occasions.

"Person" means any person, firm, partnership, association, corporation, company or organization of any kind.

“Special facility” means (i) the Illick’s Mill building; (ii) the Earl E. Schaffer Ice Rink; or (iii) the Charles Brown Ice House.

“Tents” or “Temporary Shelters” mean any portable shelter usually of fabric or canvas stretched over a frame or supporting pole structure.

“Vehicle” means any wheeled device, whether motor-powered, animal-drawn or self-propelled. The term shall include any trailer in tow of any size, kind or description. An exception is made for baby carriages and vehicles in the service of the City parks.

(Ord. 4424. Passed 4/17/07; Ord. 2016-011. Passed 4/19/2016)

941.02 PARK PROPERTY.

(a) Buildings and Other Property.

- (1) Disfiguration and removal. No person shall willfully mark, deface, disfigure, damage, tamper with or displace or remove, any building, bridges, tables, benches, fireplaces, railings, paving or paving material, water lines or other public utilities or parts or appurtenances thereof, signs, notices or placards whether temporary or permanent, monuments, stakes, posts or other boundary markers, or other structures or equipment, facilities or park property or appurtenances whatsoever, either real or personal.
- (2) Restrooms and washrooms. No person who accesses or uses public restrooms and washrooms on City property shall fail to cooperate in maintaining restrooms and washrooms in a park in a neat and sanitary condition. Every user shall clean up and properly dispose of trash and waste they create.
- (3) Removal of natural resources. No person shall dig or remove any beach sand, whether submerged or not, or any soil, rock, stones, trees, shrubs or plants, down-timber or other wood or materials, or make any excavation by tool, equipment, blasting or other means or agency within a park, unless expressly designated as a community garden or issued a permit by the Director.
- (4) Erection of structures. No person shall construct or erect any building or structure of whatever kind, whether permanent or temporary in character, or run or string any public service utility into, upon or across park lands, except on special written permit issued as set forth in Section 941.08(c).

(b) Trees, Shrubbery and Lawns.

- (1) Injury and removal. No person shall damage, cut, carve, transplant or remove any tree or plant or injure the bark, or pick the flowers or seeds, of any tree or plant within a park, nor shall any person attach any rope, wire or other contrivance to any tree or plant. A person shall not dig in or otherwise disturb grass areas, or in any other way injure or impair the natural beauty or usefulness of any area, unless authorized by the Director for specific purposes.
- (2) Climbing Trees, Structures and Fixtures. No person shall climb any tree, or walk, stand or sit upon monuments, vases, fountains, railing, fences, walls or upon any other park property not designated or customarily and safely usable for such purposes.
- (3) Hitching of animals. No person shall tie or hitch an animal to any tree or plant

in a park.

(c) Wild Animals, Birds, Protective Species, Etc.

- (1) Hunting. No person in a park shall hunt, molest, harm, frighten, kill, trap, chase, tease, shoot or throw projectiles at any animal, reptile or bird; nor shall any person remove or have in his possession the young of any wild animal, or the eggs, nest, or young of any reptile or bird. Exception: Authorized USDA animal control representatives or City of Bethlehem employees.
- (2) Feeding. No person shall give or offer, or attempt to feed any animal or bird in a park. (Ord. 2211 §3. Passed 9/22/70.)

941.03 SANITATION.

(a) Pollution of Waters. No person in a park shall throw, discharge or otherwise place or cause to be placed in the waters of any fountain, pond, lake, stream or other body of water in or adjacent to any park or any tributary, stream, storm sewer or drain flowing into such water, any substance, matter or thing, liquid or solid, which will or may result in the pollution or altering the flow of such waters.

(b) Refuse, Trash, and Recycling. No person in a park shall have brought in or dump, deposit or leave any bottles, broken glass, ashes, paper, boxes, cans, dirt, rubbish or other trash. No aforementioned items shall be placed in any waters in or contiguous to any park, or left anywhere on the grounds thereof, but shall be placed in the proper receptacles where these are provided; where receptacles are not so provided, all rubbish or waste shall be carried away from the park by the person responsible for its presence, and properly disposed of elsewhere. (Ord. 2211 §4. Passed 9/22/70.)

941.04 TRAFFIC.

(a) State Motor Vehicle Laws Apply. No person in a park shall fail to comply with all applicable provisions of the State motor vehicle traffic laws in regard to equipment and operation of motorized vehicles together with such regulations as are contained in this article and other ordinances. (Ord. 4424. Passed 4/17/07.)

(b) Enforcement of Traffic Regulations. No person shall fail to obey all traffic officers and park employees, such persons being hereby authorized and instructed to direct traffic whenever and wherever needed in the parks and on the highways, streets or roads immediately adjacent thereto in accordance with the provisions of these regulations and such supplementary regulations as may be issued subsequently by the Director.

(c) Obey Traffic Signs. No person shall fail to observe carefully all traffic and parking signs in parks.

(d) Speed of Vehicles. No person in a park shall ride or drive a vehicle at a rate of speed exceeding fifteen miles an hour, except upon such roads as the Director may designate, by posted signs.

(e) Operation Confined to Roads. No person shall drive any motorized vehicle on any area except the paved park roads or parking areas, or such other areas as may on occasion be specifically designated as temporary parking areas by the Director. (Ord. 4424. Passed 4/17/07.)

(f) Parking.

- (1) Designated areas. No person shall park a vehicle in other than an established or designated parking area in a park, and such use shall be in accordance with the posted directions and/or with the instructions of any attendant who may be present.
- (2) Night Parking. Except in an emergency, no person shall leave a vehicle in a park standing or parked at night on any driveway or road area except legally established parking areas, or by special permit issued by the Director. If a vehicle is disabled and left in an unauthorized area after a park is closed, the owner or operator shall follow the Vehicle Breakdown Notification Procedure.
- (3) Vehicle Breakdown Notification Procedure. No person in a park shall fail to immediately notify, within one hour, an attendant or the police of an emergency in the nature of a vehicle breakdown requiring the assistance of a tow truck, mechanic or other person.
- (4) Double parking. No person shall double park any vehicle on any road or parkway unless directed by a park official.

(Ord. 2016-011. Passed 4/19/2016)

(g) Bicycles, skateboards, non-motorized scooters.

- (1) Confined to roads. No person in a park shall ride a bicycle, skateboard, or non-motorized scooter anywhere other than a paved vehicular road or path designated for that purpose or multiuse trail – mountain bike trail. A bicyclist shall be permitted to push a bicycle by hand over any grassy area or wooded trail or on any paved area reserved for pedestrian use.
- (2) Racks. No person in a park shall leave a bicycle in a place other than a bicycle rack when such is provided and there is a space available.
- (3) Immobile. No person in a park shall leave a bicycle lying on the ground or paving, or set against trees, or in any place or position so as to present any obstruction to pedestrian or vehicular traffic. (Ord. 2211 §5. Passed 9/22/70.)

(h) Motorized Vehicles. Motorized vehicles are prohibited on the multipurpose pathways in the parks and along the rivers, creeks, canals, (except along and upon designated areas). These paths are to be used for walking, running, biking, and other non-motorized means of transportation. The prohibition against motorized vehicles shall not include segways, vehicles engaged in maintenance or emergency activities or vehicles approved by the Director. (Ord 4424. Passed 4/17/07.)

941.05 RECREATIONAL ACTIVITIES.

(a) Bathing and Swimming.

- (1) Designated areas. No person shall bathe or swim in any natural waters and/or streams in or adjacent to any park, except where designated by the Director for the conduct of such activity.
- (2) Certain hours. No person shall frequent or enter any park waters or places designated for the purpose of swimming or bathing, or congregate there, except between such hours of the day as shall be designated by the Director for such purposes for each individual area.
- (3) Bathhouses. No person shall dress or undress in any vehicle, toilet or other place in a park, except in such bathing houses or structures as may be provided for that purpose.

(b) Boating and Motorized Watercraft.

- (1) Designated areas. No person shall bring into a park or operate any motorized boat, raft, or other motorized watercraft, whether motor-powered or not, upon any waters, except at places designated for boating by the Director. Such activity shall be in accordance with applicable regulations by the Fish & Boat Commission as are now or may hereafter be adopted.
- (2) Operation of boats. No person in a park shall navigate, direct or handle any boat in such a manner as to annoy or frighten or endanger the occupants of any other boat or wildlife.
- (3) Prohibition during closing hours. No person shall launch, dock or operate any boat of any kind on any waters between the closing hour of the park at night and opening hour the following morning, nor shall any person be on, or remain on or in, any boat during the closed hours of the park.

(c) Hunting Devices. No person shall discharge, shoot, aim or threaten the use of air rifles, spring guns, bow and arrows or slings that propel projectiles potentially harmful to wildlife and dangerous to human safety, or any kind of animal trapping device including all such activity conducted within a park or directed into park areas from beyond park boundaries. Exception: Authorized USDA animal control representatives or City of Bethlehem. [See Article 725 regarding Discharging Firearms Prohibited; Exceptions] (Ord. 2015-12. Passed 3/17/15)

(d) Picnic Areas and Use.

- (1) Pavilions. Permits must be obtained from the Director for the use of pavilions in designated areas at South Mountain, Monocacy and Saucon Parks.
- (2) Open Fires. Open fires, portable fire pits, and ground fires are prohibited.
- (3) Cooking Fires. Cooking fires are allowed only in permanent mounted grills located at Saucon Park, South Mountain Park, and Monocacy Park pavilions. Charcoal shall be the only allowed fuel source for such grills. Cooking fires shall be completely extinguished at the conclusion of use. Spent charcoal and charcoal ash shall not be disposed of in dumpsters, placed on the ground, or thrown into any natural waters.
- (4) Duty of Picnickers and Permittees. No person who has started, re-started or used a cooking fire shall leave the picnic area abandoned before the cooking fire is completely extinguished. Such persons and a Permittee using a picnic area are required to, and are responsible for, extinguishing cooking fires started in a grill. Picnic area users and a Permittee using the area are required to clean up and dispose of garbage, trash, and recyclables in the disposal receptacles provided. If no trash receptacles are available, then refuse and trash shall be carried away from the park area by such persons who shall lawfully dispose of the trash elsewhere.

~~(e) Camping. No person shall camp in any park without written permission from the Director.~~

~~(e)~~ ~~(f)~~ Safety. No person in a park shall participate in any activity that involves throwing or otherwise propelling objects such as stones, arrows, javelins, or golf balls, except in areas set apart for such forms of recreation.

~~(f)~~ ~~(g)~~ Horseback Riding. No person shall ride a horse in any City park. This subsection shall not apply to City of Bethlehem Mounted Police.

~~(g)~~ ~~(h)~~ Fishing. Fishing in parks is only permitted as regulated and licensed by the Pennsylvania Fish & Boat Commission.

(Ord. 2211 §6. Passed 9/22/70; Ord. 2009-23. Passed 9/1/09; Ord. 2016-011. Passed 4/19/2016)

941.06 BEHAVIOR.

(a) Alcoholic Beverages. No alcoholic beverages shall be brought into or consumed in any City park except designated pavilions at Monocacy Park, Saucon Park and South Mountain Park.

(1) Restrictions. Where alcoholic beverages are permitted the following restrictions shall apply:

- (A) Consumption of alcoholic beverages shall be restricted to those persons affiliated with pavilion permittee.
- (B) Alcoholic beverage use is limited to malt or brewed beverages (beer, ale, malt liquor) and wine. Distilled spirits such as whiskey, scotch, gin or any alcoholic beverage with an alcoholic content of more than twelve percent (12%) are prohibited.
- (C) Permitted containers are metallic, with maximum content of sixteen ounces, and wine boxes. Bottles are prohibited.
- (D) No alcoholic beverages shall be consumed in any parking lot, parking area, sidewalk, pedestrian path or roadway in any park.

(Ord. 2573 §2. Passed 9/6/77; Ord. 2016-011. Passed 4/19/2016)

(2) Drunkenness. No person in a park shall be under the influence of intoxicating liquor in violation of Pennsylvania Crimes Code Section 5505, as amended, regarding public drunkenness.

(3) Private Events Exception. The restrictions in (a)(1)(A) and (B) shall not apply to private events conducted inside the Illick's Mill building, the Earl E. Schaffer Ice Rink and the Charles Brown Ice House (said buildings hereafter "the park facility") when all of the following are satisfied:

- (A) The event is authorized by (i) a permit agreement between the City and either a third party or a tenant of the park facility sponsoring the private event or (ii) a license agreement between the tenant of the park facility and a third party sponsoring the private event. All private events are subject to approval of the Director under paragraph (C) below.
- (B) A private event under this Article means that (i) attendance is by either by private invitation or direct ticket sales; (ii) the event shall not be open to the general public; (iii) attendance at the event shall not exceed any applicable building occupancy limits set by City ordinance and Code regulations and directives by the Fire ~~Commissioner~~ Chief and Bethlehem Fire Inspection Department; (iv) revenues from the event, if any are received by a tenant, permittee or licensee, shall benefit only non-profit and registered charitable organizations; (v) for events at the Illick's Mill building, the Earl E. Schaffer Ice Rink and the Charles Brown Ice House alcohol shall be served and consumed exclusively inside the building.

- (C) An application for a permit or license agreement for an event subject to this Article shall be submitted to and is subject to review and approval by the Director. The application shall be submitted no less than sixty (60) days prior to the event. A permit or license agreement approved by the Director must be executed by the permittee or licensee, as the case may be, and executed copies delivered to the Director and the City's ~~Legal~~ Law Bureau no later than the date determined by the Director and set forth in the approved agreement. A permit or license agreement approved by the Director may be amended by written agreement executed by all parties. Execution of a permit or license agreement or amendment on behalf of the City shall be by the Mayor and Controller with signed approval and certification by the Director.
- (D) Alcohol shall be served free of charge at the private event. Attendees may bring their own alcohol for personal consumption ("BYOB") to private events. The provision of alcohol shall not be conditioned upon (i) the purchase of a ticket for admission to the event; (ii) in exchange for a donation or other fee; (iii) a required purchase or payment that would constitute a sale of alcohol under the Pennsylvania Liquor Code. An allowable BYOB private event under this Article 941 is restricted to a private event inside the Illick's Mill building, the Earl E. Schaffer Ice Rink and the Charles Brown Ice House which is permitted or licensed for a limited period of time, but in no event to exceed six (6) hours in length, nor to exceed one (1) rental in a twenty-four (24) hour period, nor to occur between the hours of 12:00 p.m. midnight and 11:00 a.m. (See City of Bethlehem ordinances, Article 736).
- (E) A permittee of the City, a tenant of the park facility or a licensee hosting a private event when alcohol will be served exceeding the restrictions in (a)(1)(A) and (B):
- (i) shall obtain either a liquor liability insurance policy, or a special event liability insurance policy including host liquor liability coverage, or a general liability insurance policy including host liquor liability insurance coverage, satisfying coverage limits specified by the Director, naming the "City of Bethlehem, its officials and employees" as additional insureds, and scheduled in force for the duration of the event;
 - (ii) shall provide a certificate of insurance from a licensed insurance agent or the insurer, evidencing issuance of the required coverage, to the Director and the City's Law Bureau no later than the date determined by the Director and set forth in the approved City permit or license;

(F) The lease of a tenant hosting or licensing a private event shall not be in default status as determined in the sole judgment of the Director of Parks and Public Property.

(4) Special Occasion Exception. A qualified entity under the Pennsylvania Liquor Code and applicable Pennsylvania Liquor Control Board (“PA LCB”) regulations may host and conduct an event in a City of Bethlehem park or park facility approved by the Director if the event qualifies for a Special Occasion Permit (“SOP”) under Pennsylvania Liquor Code and if all additional conditions stated hereafter are satisfied:

(A) The entity must apply for and receive approval by the Director of a permit for the event in compliance with (a)(3)(C) preceding.

(B) The entity must secure an SOP from the PA LCB. A copy of the required SOP issued by the PA LCB shall be provided to the Director and the City’s Law Bureau no later than the date determined by the Director and set forth in the approved City permit.

(C) The entity must comply with insurance requirements under (a)(3)(E) preceding.

(D) The permit for an event for which the applicant must obtain an SOP also must be approved by resolution of City Council which, in its discretion, may refuse approval of a permit if the event is deemed unsuitable to the facility, potentially harmful to the facility, if it conflicts with other events, if it conflicts with the City’s use of or access to the park, or if it causes unreasonable burden on City resources needed to support the event.

(E) Events authorized and conducted pursuant to an SOP and City Council approved permit may be open to the general public but the limitations of (a)(3)(B)(iii), (iv) and (v) preceding shall apply to the event.

(5) Bethlehem Golf Club Exception.

(A) A permittee, tenant or licensee operating the restaurant at the Bethlehem Golf Club on Illick’s Mill Road shall not be subject to restrictions on the provision, sale and service of alcohol under Article 941 but shall:

(i) operate in compliance with the Pennsylvania Liquor Code and PA LCB regulations regarding provision, sale and service of alcohol, also including the terms and conditions of issuance and use of the required golf course liquor license;

(ii) operate in compliance with the applicable lease, permit or license granted by the City;

- (iii) comply with the greater of the insurance requirements under (a)(3)(E) preceding or in the lease, if applicable;
 - (iv) not pledge or encumber as collateral, sell, assign or transfer the liquor license without express written consent from the City signed by the Mayor and the Controller; a violation of the preceding entitling the City to terminate a permit, lease or license.
- (B) The sale of beer on the golf course by the restaurant operator, and its consumption, if lawful under the applicable golf course liquor license, is permitted.

(6) Denial of Applications and Revocation of Permits. The Director may deny a permit application and City Council may refuse to approve a permit if the event is deemed, in their discretion, unsuitable to the facility, potentially harmful to the facility, if it conflicts with other events, if it conflicts with the City's use of or access to the park, or if it causes unreasonable burden on City resources needed to support the event. The Director may deny, suspend or revoke the permission granted an event host under a permit, lease or license who fails to comply with the requirements of this ordinance or other applicable laws, the PA Liquor Code, PA LCB regulations and City ordinances.

(b) Fireworks and Explosives. No person in a park shall bring, or have in his possession, or set off or otherwise cause to explode or discharge or burn, any firecrackers, torpedo, rockets, fireworks, explosives or flammable or incendiary material, or discharge them or throw them into any such area from land or highway adjacent thereto. This prohibition includes any substance, compound, mixture or article that in conjunction with any other substance or compound would be dangerous from any of the foregoing standpoints. Exceptions – Permit authorization by the Director and the Bethlehem Fire Department; matches and lighter fluid used solely to ignite a cooking fire in a grill. Also, City employees for animal control.

(c) Domestic Animals. Domestic animals are allowed but must be leashed and under owner's control. The leash shall not be longer than 6 feet, and owner must pick up all animal waste and either dispose of it in receptacles provided or remove it from the park. Nothing herein shall be construed as permitting the unleashed running of domestic animals except in the City Dog Park. Dogs must be licensed and up to date on all vaccinations.

(d) Closed Areas. No person shall enter a park area posted as "Closed to the Public," nor shall any person use, or abet the use of any area in violation of posted notices.

(e) Gambling. No person shall gamble or participate in or initiate any game of chance in a park.

(f) Going Onto Ice. No person shall go onto the ice on any park waters except such areas as are designated as skating rinks, i.e. Earl E. Schaffer Municipal Rink.

(g) Malicious Loitering Prohibited. No person shall maliciously loiter in a City of

Bethlehem park.

(1) Enforcement and Conviction.

- (A) No person shall be convicted of malicious loitering in a City of Bethlehem park unless a police officer, at the time and upon observation of the alleged malicious loitering, determines that such person was causing the conditions of malicious loitering;
- (B) Unless flight by a suspected offender or other circumstances make it impracticable, a police officer shall, prior to making an arrest or issuing a citation for an offense under this Article, afford the person an opportunity to dispel suspicion, which otherwise would be reasonably warranted, by requesting the person's identity, and proof thereof, and an explanation of his or her presence and conduct; and
- (C) No person shall be convicted of malicious loitering in violation of this Article if the police officer did not comply with Subsection (B) preceding or if it appears to the fact finder at trial that the explanation given by the person was true and, if believed by the police officer at the time, should have dispelled the officer's determination that the person engaged in malicious loitering.

(Ord. 2016-011. Passed 4/19/2016)

(h) Exhibit Permits. No person in a park shall fail to produce and exhibit any permit from the Director he claims to have upon request of any authorized person who desires to inspect the permit for the purpose of enforcing compliance with any ordinance or rule. Users must have a permit to exclusively occupy designated pavilions.

(i) Noise. Amplification Sound Systems, PA systems, amplified music are prohibited except with Director's approval. Revving the engine of a parked vehicle and playing music from a vehicle sound system to project into park areas is prohibited.

(j) Generators. Generators powered by gasoline or diesel are not permitted in any park unless authorized under 941.08 (c). (Ord. 2016-011. Passed 4/19/2016)

941.07 MERCHANDISING, ADVERTISING AND SIGNS.

(a) Vending and Peddling. No person shall, in a park, expose or offer for sale any article or thing, nor station or place any stand, cart or vehicle for the transportation, sale or display of any such article or thing. Exception is here made as to any regularly licensed concessionaire acting by and under the authority and regulation of the Director. (Ord. 2211 §8. Passed 9/22/76.)

(b) Advertising. No person in a park shall announce, advertise or call the public attention in any way to any article or service for sale or hire, except as provided for in subsection

(d) hereof.

(c) Signs. No person shall paste, glue, tack or otherwise post any sign, placard, advertisement or inscription whatever within a park, nor shall any person erect or cause to be erected any sign whatever on any public lands or highways or roads adjacent to a park, except as provided for in subsection (d) hereof.

(d) Exceptions. An organization may, upon application and written approval by the Director and in accordance with the following provisions and restrictions, erect, or cause to be erected, signs promoting the interests, services, or events of their sponsors:

- (1) Should any athletic or playing field be used by more than one organization, either concurrently or consecutively, then the Director shall be authorized to equally apportion areas for signs or may require an organization to remove all signs at the completion of the normal playing season.
- (2) Remuneration such as rental fees, if any, shall be a matter of private concern between the sponsor and the organization with no involvement whatsoever by the City or any of its officials thereof.
- (3) Council may, in any event, at any time, without regard to, and without incurring any liability whatsoever, direct that all signs erected be removed. The responsibility for removing signs shall be upon the organization erecting them. (Ord. 2462. Passed 3/18/75.)

941.08 OPERATING POLICY

(a) Hours. Except for unusual and unforeseen emergencies, parks shall be open to the public every day of the year from dawn to dusk. Exception - The following will close at 11:00 P.M.: lighted baseball fields at Monocacy, lighted tennis and basketball courts at Sand Island, lighted athletic fields at Saucon, Golf Course Driving-Range. This does not pertain to the South Bethlehem Greenway. The Director is authorized to extend the hours for special events upon the request of any group or organization, provided such request is made at least forty-eight hours prior to the date of the special event. No individual shall enter any park area before dawn or after dusk, unless such individual has written permission of the Director. (Ord. 3010-Passed 9/3/85; Ord. 3426-Passed 8/6/91.)

(b) Closed Areas. Any section or part of any park may be declared closed to the public by the Director at any time and for any interval of time, either temporarily or at regular and stated intervals (daily or otherwise) and either entirely or merely to certain uses, as the Director shall find reasonably necessary.

(c) Permit. ~~An Event~~ Unless governed by Article 961, a Permit required by this Article shall be obtained from the Director ~~before establishing an organized park activity/event.~~

- (1) Standards for issuance. The Director shall issue a permit hereunder when he finds that:

- (A) The proposed activity or use of the park will not unreasonably interfere with or detract from the general public enjoyment of the park;
 - (B) The proposed activity and use will not unreasonably interfere with or detract from the promotion of public health, welfare, safety and recreation;
 - (C) The proposed activity or use is not reasonably anticipated to incite violence, crime or disorderly conduct;
 - (D) The proposed activity will not entail unusual, extraordinary or burdensome expense or police operation by the City;
 - (E) The facilities desired have not been reserved for other use at the day and hour required in the application.
- (2) Appeal. Within ten days after receipt of an application the Director shall apprise an applicant in writing of his reasons for refusing a permit, and any aggrieved person shall have the right to appeal in writing within ten days to Council, which shall consider the application under the standards set forth in subsection (c) (1) hereof and sustain or overrule the Director's decision within twenty-one days. The decision of Council shall be final.
- (3) Effect of permit. A permittee shall be bound by all park rules and regulations and all applicable ordinances fully as though the same were inserted in permits.
- (4) Liability of permittee. The person or persons to whom a permit is issued shall be liable for any loss, damage or injury sustained by any person or the City whatever by reason of the negligence of the person or persons to whom such permit has been issued.
- (5) Revocation. The Director shall have the authority to revoke a permit upon a finding of violation of any rule or ordinance, or upon cause shown. (Ord. 2211 §9. Passed 9/22/70.)

941.09 ENFORCEMENT.

(a) Officials. The Director, the Police, and City park employees shall, in connection with their duties imposed by law, diligently enforce the provisions of this article.

(b) Ejectment. The Director, the Police and any City park employee shall have the authority to eject from the park any person acting in violation of this article.

941.99 PENALTY.

Any person who violates any provision of this Article commits a Summary Offense and

upon conviction shall be sentenced to pay a fine or to imprisonment, or both, at the discretion of the court, according to the following schedule:

- (a) First violation - A fine of \$200.00, or thirty days imprisonment, or both;
 - (b) Second violation - A fine of \$500.00, or sixty days imprisonment, or both;
 - (c) Third and each subsequent violation - A fine of \$1,000.00, or ninety days imprisonment, or both. (Ord. 3038. Passed 10/22/85; Ord. 3242. Passed 2/7/89.)
- (Ord. 2014-33. Passed 11/18/14.)

Section 2. All ordinances and parts of Ordinances inconsistent herewith be, and the same are hereby repealed.

Sponsored by:

PASSED finally in Council on the ____ day of _____, 20__.

President of Council

ATTEST:

City Clerk

This Ordinance approved this _____ day of _____, 20__.

Mayor

Proposed Revisions to Article 951:

Relating to Pedestrian Malls

BILL NO. _____ - 2019

ORDINANCE NO. 2019-_____

AN ORDINANCE OF THE CITY OF BETHLEHEM, PENNSYLVANIA,
AMENDING ARTICLE 951 OF THE CITY OF BETHLEHEM
CODIFIED ORDINANCES RELATING TO PEDSTRIAN MALLS AS A
RESULT OF THE ENACTMENT OF NEW ARTICLE 961 RELATING
TO SPECIAL EVENT ACTIVITY PERMITS, DEMONSTRATIONS,
AND USE PERMITS

THE COUNCIL OF THE CITY OF BETHLEHEM DOES HEREBY ORDAIN AND ENACT
THE FOLLOWING ORDINANCE:

Section 1. Article 951 of the City of Bethlehem Codified Ordinances relating to Pedestrian Malls is hereby amended to read as follows (underlined text denotes additions to existing Article 951, whereas ~~strikeouts~~ denote deletions from existing Article 951):

951.01 DEFINITIONS AND BOUNDARIES.

As used in this article, certain terms are defined as follows:

(a) “Director” shall mean the Director of Public Works for the City of Bethlehem, or his/her designee.

(b) "Pedestrian Malls" shall mean:

- (1) The Hinge Block which shall be defined and apply to all the properties to the rear of the structure having frontage upon the south side of Broad Street between Guetter Street and Main Street, the east side of Main Street between Broad Street and Walnut Street, the north side of Walnut Street between Main Street and Guetter Street and the west side of Guetter Street between Walnut Street and Broad Street, as indicated on a map entitled "Layout Plan, Sun Inn Courtyard."

(Ord. 2910. Passed 11/15/83.)

- (2) The City Center Plaza which shall be defined and apply to all the properties contained within the block area bounded on the north side by Church Street and on the south, west and east sides by the perimeter street of New Street.

(Ord. 3129. Passed 7/21/87; Ord. 4222. Passed 12/2/03.)

951.02 RULES AND REGULATIONS.

All persons using the Pedestrian Malls shall be subject to all rules and regulations established by the Director of ~~Parks and Public~~ PropertyWorks in addition to those herein set forth. (Ord. 2910. Passed 11/15/83; Ord. 3569. Passed 9/7/93.)

951.03 ACTIVITIES

~~————(a) The Director of Parks and Public Property shall review, and if approved, schedule and grant Activity Permits for all activities on the Pedestrian Malls. (Ord. 4222. Passed 12/2/03)~~

~~————(b) Activities which may be conducted upon the Pedestrian Malls are those which would: enhance its appearance; generate citizen interest and participation, stimulate commerce, directly or indirectly; and promote community spirit. Subject activities will in no way interfere with the health, safety or welfare of the community, and may include peaceful, orderly exercise of freedom of speech as granted by the First Amendment of the United States Constitution.~~

~~————(c) All users involved with activities on the Pedestrian Malls shall make application for Activity Permits to the Director of Parks and Public Property and shall be responsible for the cleaning and repair of the Pedestrian Malls to assure that the Malls will be returned to their prior condition. A minimum deposit of Twenty-Five Dollars (\$25.00) shall be required as security for compliance with this provision. Failure to comply with this provision shall result in the City taking such action as is necessary to clean and repair the Malls and restore them to their prior condition. In such case, the City shall charge its costs against the deposit. The balance, if any, will be returned to the user. If the cost exceeds the deposit, the user shall be billed the excess over the deposit. In addition, persons~~(a) Persons sponsoring activities on the Pedestrian Malls where the sponsor reasonably anticipates more than fifty (50) participants shall be required to provide for a certificate of insurance, from a company acceptable to the Law Bureau, providing liability coverage to the applicant and naming the City as an Additional Insured. This insurance requirement may be waived or the amount required may be established in the reasonable discretion of the Law Bureau taking into consideration the number of participants and the nature of the activity.

(db) In addition to ~~the foregoing any~~ requirement for ~~ana~~ Special Event Activity Permit under Article 961, all persons wishing to place temporary structures upon the Pedestrian Malls shall make application to the Director of ~~Parks and Public~~ PropertyWorks for a Structures Permit for such activity which, if approved, shall be issued upon the payment of a One Hundred Dollar (\$100.00) fee (\$200.00 fee if the activity is food sales) except where the fee is waived as set forth in Subparagraph (eg) below, and compliance with the regulations established by the Director of ~~Parks and Public~~ PropertyWorks. Noncommercial activities employing no more than two (2) tables may take place without the necessity of obtaining the Structures Permit required by this section.

(ec) The application for a Structures Permit shall:

- (1) describe the activity which is contemplated;
- (2) describe in detail the location, dimensions, and type of construction of any structure to be used;
- (3) provide for a Certificate of Insurance, from a company acceptable to the Law Bureau, providing liability coverage to the applicant and naming the City as an additional insured. The insurance shall be in an amount acceptable to the Law Bureau;
- (4) be filed with the Director of ~~Parks and~~ Public Property Works no later than fifteen (15) days prior to the commencement of the activity;
- (5) with regard to the placement of temporary structures in the area extending ten (10) feet beyond the faces of the buildings on the Pedestrian Malls, be granted only to those persons who have legal title to or are lessees, under a Lease entered into at least sixty (60) days prior to the date of the application, of said buildings.

The issuance of a Structures Permit by the Director of ~~Parks and~~ Public Property Works to occupy a location on the Pedestrian Malls shall not supersede other applicable City Ordinances, including those dealing with zoning, health, safety, and fire prevention.

~~(f)~~ Prohibited Acts

~~721(1)~~ No person shall ~~conduct~~violate any ~~covered activity without first having obtained an Activity Permit and, if applicable, a Structures Permit, provision of this Article.~~

~~722(2)~~ Each day that a person ~~continues to conduct a covered activity without the required permit(s)~~violates this Article shall be a considered separate violation punishable in accordance with Section 951.99.

~~723(3)~~ No person shall dispense alcoholic beverages without the express permission of the Director of ~~Parks and~~ Public Property Works and unless he/she has been issued an appropriate License or Permit by the Pennsylvania Liquor Control Board.

~~724(4)~~ There shall be no sale or display of nonfood items on the Pedestrian Malls except:

~~(H)~~(i) outdoor sales conducted by merchants whose business establishments directly abut a Pedestrian Mall as is set forth in subparagraph ~~(eg)~~ below.

~~(H)~~(ii) special events conducted under the auspices of the City or one of its departments, commissions, or boards after notice to the Department of ~~Parks and Public Property Works~~.

~~(H)~~(iii) the noncommercial display or sale for a nominal charge of informational material such as leaflets, buttons, and bumper stickers.

~~(ge)~~ Nothing contained herein shall prohibit retail merchants from conducting outdoor sales or erecting signs which are extensions of the businesses of the properties on the Mall. Activity and Structures Permits for such sales or signs must be secured. However, no fee will be charged. All such outdoor sales shall be conducted and signs erected within ten (10) feet of the face of the building on the Mall and adjacent to the business. Further, this Article shall not prohibit municipal events sponsored by the City, or any of its departments, commissions, or boards.

~~(hf)~~ Vehicular operation, parking, standing, loading, unloading, or delivery shall be prohibited. The Director of ~~Parks and Public Property Works~~, or his designee, shall review special requests, and, if appropriate, schedule and grant final approval authorizing the operation of motor vehicles or trailers on the Pedestrian Malls.

~~(ig)~~ The City shall not be responsible for damages, accidents or incidents which occur as a result of activities conducted on the Pedestrian Malls. (Ord. 3129 §2. Passed 7/21/87; Ord. 3569. Passed 9/7/93.)

951.04 ALCOHOLIC BEVERAGES.

No alcoholic beverages shall be consumed on the Pedestrian Malls except by express permission of City Council. (Ord. 3569. Passed 9/7/93.)

951.05 ANIMALS.

No animals are allowed on the Pedestrian Malls unless specifically authorized. (Ord. 2910 §6. Passed 11/15/83.)

951.06 PEDACYCLES.

(a) Pedacycles may not be ridden on the Pedestrian Malls at any time. They may, however, be walked on the sidewalk area. "Pedacycles" are defined as any vehicle propelled solely by human-powered pedals.

(b) Bicycles shall be parked in the bicycle racks, if provided. (Ord. 2910. Passed 11/15/83.)

951.07 CONDUCT.

Intoxication, indecent language and/or disorderly conduct are prohibited. (Ord. 2564 §8. Passed 5/24/77.)

951.08 FOUNTAINS.

No person shall wade, swim or place any liquids or solid objects in any fountain located on the Pedestrian Malls. (Ord. 2910. Passed 11/15/83.)

951.09 FURNITURE.

Except as otherwise provided herein, no permanent or temporary installation of any type of tables, chairs or other furniture shall be permitted on the Pedestrian Malls except upon the issuance of Activity and Structures Permits. Any permits, if issued, shall provide times and conditions for such use. (Ord. 3569. Passed 9/7/93.)

951.10 LITTERING.

All refuse, rubbish and litter shall be placed in receptacles provided for that purpose. (Ord. 2564 §11. Passed 5/24/77.)

951.11 MALL STRUCTURE PROTECTION.

Any exterior repair, rehabilitation, preventative maintenance and/or renovations that will take place on any building abutting the Pedestrian Malls shall be reviewed by the Director of ~~Parks and Public~~ Property Works to assure adequate protection to the Pedestrian Malls. (Ord. 2910. Passed 11/15/83; Ord. 3569. Passed 9/7/93.)

951.12 POSTING.

No posting of bills, advertisements, signs, etc. is allowed except by permission, except that a temporary sign no larger than ten (10) square feet may be placed on the tables as an adjunct to the noncommercial activities contemplated by Article 951.03(~~bd~~) in such a manner as not to impede pedestrian traffic. (Ord. 2564 §13. Passed 5/24/77; Ord. 3569. Passed 9/7/93.)

951.13 ROLLER SKATES.

No person shall roller skate, ride on a skate board or operate any recreational type device on the Pedestrian Malls nor shall any person permit same to be operated. (Ord. 2910. Passed 11/15/83.)

951.14 SOUND AMPLIFICATION OR MUSICAL INSTRUMENTS.

No person shall use any sound amplification unless specifically authorized. (Ord. 2564 §17. Passed 5/24/77.)

951.15 STORAGE.

No storage of items, material, stock, etc., will be allowed anywhere on or in the Pedestrian Malls except on approval. (Ord. 2910. Passed 11/15/83.)

951.16 SWEEPING.

(a) The sweeping of the Pedestrian Malls will be done by the City. (Ord. 2910. Passed 11/15/83.)

(b) Recessed store entrances, foyers or other areas within the building lines shall at all times remain the responsibility of the tenants or owners who shall maintain them.

(c) The sweeping of refuse or other litter on to the Pedestrian Malls, dumping of refuse, littering on the Pedestrian Malls, or in any way impeding the maintenance of the Pedestrian Malls is prohibited. (Ord. 2910. Passed 11/15/83.)

951.17 SNOW REMOVAL.

(a) Normal snow removal sufficient to provide for and accommodate pedestrian traffic shall be the responsibility of the City. However, access to individual properties from the area cleared by the City shall be the responsibility of each property owner and tenant.

(b) If applicable, de-icing methods and materials shall follow procedures as outlined in the Bethlehem Plaza Manual dated November 23, 1976. (Ord. 2910. Passed 11/15/83.)

951.18 VEHICLES.

(a) No vehicle except those mentioned in subsection (b) hereof shall be permitted on the Pedestrian Malls.

(b) Permitted vehicles are Mall maintenance vehicles, emergency vehicles and delivery trucks.

(c) Delivery trucks shall be limited to two-axle single vehicles.

(d) Deliveries shall be made between the hours of 7:00 A.M. and 10:00 A.M.

(e) The maximum speed of vehicles permitted under this section to operate on the Pedestrian Malls shall be limited to five miles per hour. (Ord. 2910. Passed 11/15/83.)

951.19 VANDALISM.

Cutting, mutilating, removing or the taking away of trees, shrubs and flowers or the removal, defacing or damaging of property is prohibited. (Ord 2564 §22. Passed 5/24/77.)

951.20 VENDING MACHINES.

No vending machines or coin operated amusement devices shall be placed upon the Pedestrian Malls without special permission. (Ord. 2910. Passed 11/15/83.)

951.21 EXISTING ORDINANCES.

All applicable City ordinances now in effect apply to the Pedestrian Malls unless such ordinances are superseded by one of the aforementioned rules and regulations. (Ord. 2910. Passed 11/15/83.)

951.22 POLICE POWERS.

The Department of ~~Parks and Public Property Works~~ and the Department of Police have the authority to police and issue citations for violations of all sections of this Article 951 in accordance with Article 951.99 PENALTY. (Ord. 3569. Passed 9/7/93.)

951.99 PENALTY.

Any person who violates any provision of this Article shall be subject to the following penalties:

(a) First violation - A fine of \$200.00, or thirty days imprisonment, or both;

(b) Second violation - A fine of \$500.00, or sixty days imprisonment, or both;

(c) Third and each subsequent violation - A fine of \$1,000.00, or ninety days imprisonment, or both;

(d) Any person who violates Section 951.03 (~~fh~~) is guilty of a summary offense and shall, upon conviction, be sentenced to pay a fine of \$15.00. (Ord. 3569. Passed 9/7/93.)

Section 2. All ordinances and parts of Ordinances inconsistent herewith be, and the same are hereby repealed.

Sponsored by:

PASSED finally in Council on the _____ day of _____, 20____.

President of Council

ATTEST:

City Clerk

This Ordinance approved this _____ day of _____, 20____.

Mayor