CITY OF CHARLES TOWN
CITY COUNCIL
AGENDA • APRIL 1, 2024

Regular Session **COUNCIL CHAMBERS** **7:00 PM**
101 E Washington Street, Charles Town, WV 25414

CALL TO ORDER

1. MOMENT OF SILENCE AND PLEDGE OF ALLEGIANCE

2. APPROVAL OF MINUTES

: **2024-367:** City Council Meeting Minutes - March 18, 2024
CityCouncilMeetingMinutes_18March2024_Draft_rmt.pdf

3. PUBLIC COMMENT

4. WARD REPORTS

5. MAYOR'S REPORT

6. COMMITTEE REPORTS

: **2024-355:** Infrastructure Committee Report - March 25, 2024, Meeting
Report_ Infrastructure Committee - March 2024.pdf

: **2024-356:** Board of Parks and Recreation Report
P&R Report_ March 2024_Special Meeting.pdf

7. CITY MANAGER REPORT

: **2024-366:** City Manager Report - April 1, 2024
City Manager Report - April 1, 2024.pdf

: **2024-341:** City Council Strategic Retreat Report
Capacity Partners Report_CharleTown Strategic Direction and Priorities 12_19_2023.pdf
Four Goal Areas Narrative.pdf
Four Goal Areas CTCC 12_9_2023.pdf
Capacity Partners for Charles Town WV MASTER Project Matrix 8DEC2023.pdf

8. POLICE CHIEF REPORT

9. UNFINISHED BUSINESS

: **2024-335:** Private Outdoor Designated Area (PODA) Discussion.
PODA Draft.docx
PODA SURVEY RESULTS.pdf
2024PODAReport.pdf

: **2024-340:** First Reading and Consideration of Amendment to the Codified Ordinance of

the City of Charles Town, West Virginia with Regard to Part 17 Building and Housing Code Article 1759 Vacant Properties and Vacant Structures
Article_1759_red-lined_17463035.2_SJDOCS_.pdf
Article_1759_clean_-_second_reading__17463035.2_SJDOCS_.docx
Vacant Structure Information.pdf

: **2024-354:** Property Acquisition - Executive Session

10. NEW BUSINESS

: **2024-73:** Presentation of the Jefferson County 2023 Hazard Mitigation Plan

: **2024-320:** Article 147 - Utility Board
Ord. 2022-001 - Article 147 Utility Board.pdf

: **2024-321:** Advertising for candidates to fill the Jefferson County Public Service District (JCPSD) seat on Charles Town Utility Board (CTUB).

: **2024-343:** First Reading and Consideration of Amendments to the Codified Ordinances of the City of Charles Town, West Virginia with Regard to Part One Administrative Code, Article 101, Part 3 Traffic Code, Article 301, 361, 373, and Part 5 General Offenses Code, Article 521 and 545 as a result of adopted State Code Changes.
State Changes Article 101.02 General Definitions - Codified Ordinances.pdf
State Changes Article 301 - Traffic Code Definitions.pdf
Ord. #2021-007 - Article 361 Parking Generally.pdf
State Changes Article 361 - Traffic Code - Parking Generally.pdf
State Changes Article 373 - Traffic Code - Bicycles.pdf
Ord. 2022 -011 - Article 521 Liquor Control.pdf
State Changes Article 521 - General Offenses Code - Liquor Control.pdf
Ord. 2022-008 - Article 545 Weapons and Explosives.pdf
State Changes Article 545 - General Offenses Code - Weapons and Explosives.pdf

: **2024-360** - Arbor Day Resolution
Arbor Day Resolution - April 2024.docx

11. REFERRALS TO COMMITTEES/COMMISSIONS

: **2024-338:** Referral to the Infrastructure Committee Pertaining to S. Lawrence Street, Ann Street, S. Charles Street, S. West Street, and N. Charles Street
Pictures of N. Charles Street.pdf

: **2024-336:** Referral to Ordinance Committee - Ordinance 951 Garbage Collection
Article 951 Garbage.pdf

12. APPROVAL OF BILLS

: **2024-368:** Payment of Bills - April 1, 2024
GENERAL FUND COUNCIL REPORT 2024 4 01.pdf
CAPITAL RESERVE COUNCIL REPORT 2024 04 01.pdf
PARKS N REC COUNCIL REPORT 2024 04 01.pdf

13. ADJOURNMENT

14. INFORMATION ONLY - NEXT MEETING, Tuesday, April 16, 2024

: **2024-337:** Charles Town Police Department Monthly Stat Report for February
CTPD Stats February 2024.pdf

: **2024-357:** Upcoming Events in Charles Town
Upcoming Events in Charles Town 2024.pdf

: **2024-358:** Citizen's Letter
Public Comment Letter.pdf

: **2024-365:** Charles Town Utility Board (CTUB) Meeting Minutes - March 13, 2024
2024.03.13 UB MINUTES.pdf

15. NOTICE: The Public May View the Meeting Live by Clicking on the Event Link at:

https://www.charlestownwv.us/government/agendas-and-minutes/

City Council
101 East Washington Street
Charles Town, WV 25414

Meeting: 04/01/24
Department: City Council
Category: Report
Initiator:

SCHEDULED

AGENDA ITEM (ID #)

2024-367: City Council Meeting Minutes - March 18, 2024

ATTACHMENTS:

- CityCouncilMeetingMinutes_18March2024_Draft_rmt.pdf

CITY OF CHARLES TOWN

CITY COUNCIL

MINUTES • March 18, 2024

Regular Meeting **Council Chambers** **7:00 PM**

101 East Washington Street, Charles Town, WV 25414

CALL TO ORDER

Attendee Name	Title	Status	Arrived
Bob Trainor	Mayor	Present	
James Kratovil	Councilmember	Present	
Elizabeth Ricketts	Councilmember	Present	
Jeff Hynes	Councilmember	Present	
Kevin Tester	Councilmember	Present	
Julie Philabaum	Councilmember	Present	
Priscilla Rodd	Councilmember	Present	
Micheal George	Councilmember	Present	
Rikki Twyford	Councilmember	Present	

Mr. John Nissel, City Manager; Ms. Alissa Meeks, Community Development Director; Ms. Cindy Rezmer, Operations Manager; Ms. Krista Davis, Finance Director; Ms. Liz Cook, Business Development/Downtown Coordinator; Mr. James Newman, City Planner; and Chief Chris Kutcher, Charles Town Police Department, were also in attendance.

1. MOMENT OF SILENCE AND PLEDGE OF ALLEGIANCE

2. APPROVAL OF MINUTES

2024-272: City Council Meeting Minutes - March 5, 2024

The following change was made to the March 5, 2024, meeting minutes.

Packet page 7, UNFINISHED BUSINESS, Agenda Item 2024-260: change: "**My** Tester seconded…" to "**Mr.** Tester seconded…"

3. PUBLIC COMMENT

Four people signed up for public comment.

Ms. Foote expressed her frustration regarding on-street parking in front of her residence on S. West Street and requested a resident only parking spot and/or a handicap parking spot be established in front of her residence.

Ms. Nowaz requested that the City convert the 400 block of S. Lawrence Street, Ann Street, and the 400 block of S. Charles Street from two-way traffic to one-way traffic because of the narrowness of the street and traffic volume.

Ms. Rutherford expressed her concerns regarding a person who is feeding stray cats, which is attracting various other stray animals into her neighborhood. She is seeking relief from the City.

Mr. Vance, a downtown business owner, expressed his support for Charles Town to adopt a Public Outdoor Designated Area (PODA). He stated that many of the concerns regarding the earlier West Virginia PODA bill have been addressed in the revised bill, which is awaiting the Governor's signature. He also requested that the City schedule another town hall meeting on the subject.

4. WARD REPORTS

Ward #1

Ms. Ricketts reported learning at the March 13, 2024, Charles Town Utility Board (CTUB) meeting that electric material delays will likely cause an overall delay in the completion of the wastewater treatment plant project. She also expressed disappointment in the CTUB directors denying a request to provide some additional information in the agenda packets to the public.

Mr. Kratovil had nothing to report.

Ward #2

Mr. Hynes expressed his disappointment with CTUB for not making public the CIF Report by sub-division to the public.

Mr. Tester had nothing to report.

Ward #3

Ms. Philabaum requested that PODA be added to the April 1, 2024, Council meeting agenda for discussion.

Ms. Rodd reported that the unveiling ceremony of the Sylvia Rideoutt Bishop sign is scheduled for Friday, April 12, 2024, at 4:30PM on N. Charles Street.

Ward #4

Mr. George reported that the Norborne Glebe Homeowners Association (HOA) will hold a meeting on March 20, 2024, to discuss their trash and recycling services options – Apple Valley Waste, LLC or Panhandle Dumpsters LLC. He also pointed out that the City ordinance 951 – Garbage Collection requires modification and requested that a referral for Article 951 to the Ordinance Committee be added to the April 1, 2024 City Council meeting agenda.

Ms. Twyford reported that a homeowner on S. George Street complained that the very bright pole light across the street from the Charles Town police station shines into their home and requested that the City remedy the situation.

5. MAYOR'S REPORT

Mayor Trainor reported attending the Mayor's meeting on March 13, 2024 and that he presented at the Local Government module of the Leadership Jefferson program.

6. COMMITTEE REPORTS

2024-303: Personnel Committee - March 11, 2024, meeting

Mr. George reviewed the Personnel Committee report with the Council.

2024-304: Ordinance Committee - March 14, 2024, meeting

Ms. Twyford reviewed the Ordinance Committee report with the Council.

7. CITY MANAGER REPORT

2024-318: City Manager Report - March 18, 2024

Mr. Nissel reviewed the City Manager's report with the Council. Ms. Liz Cook gave a brief update on upcoming events taking place in downtown Charles Town.

8. POLICE CHIEF REPORT

Chief Kutcher reviewed the February Charles Town Police Department Statistics report with the Council. He also reported that one police officer candidate successfully interviewed with the Civil Service Commission. An employment offer for the candidate is expected.

9. UNFINISHED BUSINESS

2024-302: Contract with HdL Companies

Mr. Hynes moved to remove this item from the table. Mr. Tester seconded the motion, and there were no objections.

> Mr. Kratovil suggested adding a clause to the contract agreement naming Apple Valley Waste Services, Panhandle Dumpster, LLC., American Public University System (APUS) and their subsidiaries, and SVG Cleaning Services, as excluded entities conducting business activities within Client jurisdiction.

Mr. George moved to approve the contract with the additional clause. Ms. Twyford seconded the motion, and it passed by unanimous vote.

RESULT:	**APPROVED [UNANIMOUS]**
MOVER:	Micheal George
SECONDER:	Rikki Twyford
AYES:	Kratovil, Ricketts, Hynes, Tester, Philabaum, Rodd, George, Twyford

2024-316: Public Hearing for Article 355 – All-Terrain Vehicles

Ms. Philabaum moved to open the public hearing. Mr. Hynes seconded the motion, and there were no objections.

Staff announced that no one had signed up for the public hearing.

Ms. Philabaum moved to close the public hearing. Mr. George seconded the motion, and there were no objections.

2024-317: Public Hearing on Article 349 – Miscellaneous Rules

Ms. Philabaum moved to open the public hearing. Mr. George seconded the motion, and there were no objections.

Staff announced that no one had signed up for the public hearing.

Ms. Philabaum moved to close the public hearing. Mr. George seconded the motion, and there were no objections.

2024-313: Second Reading and Consideration of an Amendment to the Codified Ordinances of the City of Charles Town, West Virginia with Regard to Part 3 Traffic Code, Article 355 All-Terrain Vehicles and Article 349 Miscellaneous Rules

Mr. George moved to approve the Second Reading of Article 355 - All Terrain Vehicles. Ms. Rodd seconded the motion, and it passed by unanimous vote.

RESULT:	**APPROVED [UNANIMOUS]**
MOVER:	Micheal George
SECONDER:	Priscilla Rodd
AYES:	Kratovil, Ricketts, Hynes, Tester, Philabaum, Rodd, George, Twyford

Mr. George moved to approve the second reading of Article 349 – Miscellaneous Rules. Mr. Hynes seconded the motion, and it passed by unanimous vote.

RESULT:	**APPROVED [UNANIMOUS]**
MOVER:	Micheal George
SECONDER:	Jeff Hynes
AYES:	Kratovil, Ricketts, Hynes, Tester, Philabaum, Rodd, George, Twyford

10. NEW BUSINESS

2024-306: FY2025 Coal Severance Budget

Ms. Davis reviewed the FY2025 Coal Severance Budget with the Council.

Mr. Hynes moved to approve the Coal Severance Budget. Ms. Philabaum seconded the motion, and it passed by unanimous vote.

RESULT:	**APPROVED [UNANIMOUS]**
MOVER:	Jeff Hynes
SECONDER:	Julie Philabaum
AYES:	Kratovil, Ricketts, Hynes, Tester, Philabaum, Rodd, George, Twyford

2024-107: Fiscal Year 2025 Budget - Approval of the Operating Budget and Coal Severance Budget

The Council agreed to the following changes to the proposed FY2025 Operating Budget.

- Revenue #30101 Taxes- Ad Valorem: remove the note.

- Revenue #34200 - Parking Meter Revenues: reduced by $6,000 from: $50,000 to $44,000.
- Department Line Item 571 – Parking - line #30 Contracted Services: reduced by $6,000 from $6,500 to $500.

Mr. Kratovil moved to approve the FY2025 General Fund Budget as amended. Mr. Hynes seconded the motion.

Ms. Rodd moved to amend the motion by including City employee salaries in the notes section of the proposed budget. Ms. Philabaum seconded the motion. The motion passed by a 6-2 vote.

RESULT:	**APPROVED [6-2]**
MOVER:	Priscilla Rodd
SECONDER:	Julie Philabaum
AYES:	Ricketts, Tester, Philabaum, Rodd, George, Twyford
NAYS:	Kratovil, Hynes

Mr. Hynes moved to amend the motion by including the following transfer:

From: Contingencies - 699 (Former ARPA – Revenue Loss Allowance) – $659,452

To: Transfers – 960/698 (Revenue Loss Allowance) – $659,452.

Ms. Rodd seconded the motion, and it passed by unanimous vote.

RESULT:	**APPROVED [UNANIMOUS]**
MOVER:	Jeff Hynes
SECONDER:	Priscilla Rodd
AYES:	Kratovil, Ricketts, Hynes, Tester, Philabaum, Rodd, George, Twyford

Mr. Hynes moved to amend the motion by eliminating $75,000 from the Organizations Contributions/Transfers – 444 (Contributions - "But For" Organizations). Mr. Tester seconded the motion, and it failed by a 2-6 vote.

RESULT:	**FAILED [2-6]**
MOVER:	Jeff Hynes
SECONDER:	Kevin Tester
AYES:	Hynes, Tester
NAYS:	Kratovil, Ricketts, Philabaum, Rodd, George, Twyford

The motion to approve the FY2025 General Fund Budget as amended passed by unanimous vote.

RESULT:	**APPROVED [UNANIMOUS]**
MOVER:	James Kratovil
SECONDER:	Jeff Hynes
AYES:	Kratovil, Ricketts, Hynes, Tester, Philabaum, Rodd, George, Twyford

2024-279: BR2023-12: Norborne Glebe Bond Reduction - Phase 15

Mr. Hynes moved to remove this agenda item from the table. Ms. Philabaum seconded the motion, and there were no objections.

Mr. Hynes moved to reduce the Norborne-Glebe Subdivision Phase 15 Performance Bond by $1,743,823.34 from $3,086,207.07 to $1,342,383.94. Ms. Philabaum seconded the motion, and it passed by unanimous vote.

RESULT:	**APPROVED [UNANIMOUS]**
MOVER:	Jeff Hynes
SECONDER:	Julie Philabaum
AYES:	Kratovil, Ricketts, Hynes, Tester, Philabaum, Rodd, George, Twyford

Mr. Hynes moved to reduce the Norborne-Glebe Phase 15 Land Disturbance Bond by $251,640.06 from $271,159.22 to $19,519.16. Mr. George seconded the motion, and it passed by unanimous vote.

RESULT:	**APPROVED [UNANIMOUS]**
MOVER:	Jeff Hynes
SECONDER:	Micheal George
AYES:	Kratovil, Ricketts, Hynes, Tester, Philabaum, Rodd, George, Twyford

2024-307: City Manager 6-Month Review - Executive Session

Mr. Hynes moved to enter into Executive Session for this agenda item, as well as agenda item 2024-308 and 2024-309. Mr. George seconded the motion, and there were no objections.

Mayor Trainor declared the Council in Executive Session.

Mayor Trainor declared the Council out of Executive Session.

Ms. Twyford moved to direct the Personnel Committee Chairman – Mr. George – to present the City Manager six-month evaluation to Mr. Nissel. Mr. Hynes seconded the motion, and it passed by unanimous vote.

RESULT:	**APPROVED [UNANIMOUS]**
MOVER:	Rikki Twyford
SECONDER:	Jeff Hynes
AYES:	Kratovil, Ricketts, Hynes, Tester, Philabaum, Rodd, George, Twyford

2024-308: Property Acquisition - Executive Session

This agenda item was discussed in the Executive Session as reported in item 2024-307.

No action was taken by the Council on this agenda item.

2024-309: Zoning Enforcement - Executive Session

This agenda item was discussed in the Executive Session as reported in item 2024-309.

Mr. Hynes moved to direct the City zoning administrator to proceed with the zoning enforcement action on the subject properties. Mr. Tester seconded the motion, and it passed by unanimous vote.

RESULT:	**APPROVED [UNANIMOUS]**
MOVER:	Jeff Hynes
SECONDER:	Kevin Tester
AYES:	Kratovil, Ricketts, Hynes, Tester, Philabaum, Rodd, George, Twyford

2024-310: Safe Streets for All (SS4A) Grant Funding Opportunity - Possible Referral to Infrastructure Committee

Mr. Tester moved to refer the Safe Streets for All (SS4A) grant funding opportunity to the Infrastructure Committee. Mr. George seconded the motion, and it passed by unanimous vote.

RESULT:	**APPROVED [UNANIMOUS]**
MOVER:	Kevin Tester
SECONDER:	Micheal George
AYES:	Kratovil, Ricketts, Hynes, Tester, Philabaum, Rodd, George, Twyford

2024-311: North Charles Street Design Grant from Main Street West Virginia

Ms. Twyford moved to support Charles Town Now's North Charles Streetscape Concepts initiative. Mr. Tester seconded the motion, and it passed by unanimous vote.

RESULT:	**APPROVED [UNANIMOUS]**
MOVER:	Rikki Twyford
SECONDER:	Kevin Tester
AYES:	Kratovil, Ricketts, Hynes, Tester, Philabaum, Rodd, George, Twyford

11. REFERRALS TO COMMITTEES/COMMISSIONS

Safe Streets for All (SS4A) Grant Funding Opportunity – Agenda Item 2024-310 was referred to the Infrastructure Committee.

12. APPROVAL OF BILLS

2024-319: Payment of Bills - March 18, 2024

Mr. Kratovil moved to approve the payment of the bills. Hearing no objections, Mayor Trainor declared the bills approved for payment.

13. ADJOURNMENT

Mayor Trainor asked if there was any other business to come before the Council.

Ms. Ricketts requested verification that the January 2024 letter addressed to Mr. Jimmy Wriston pertaining to the State Route 51 project was sent to the West Virginia Department of Transportation. She also reminded the Council that the Board of Parks

and Recreation will be holding their strategic planning session on Saturday, March 23, 2024, beginning at 9:00AM.

Hearing no other business, the Mayor adjourned the meeting at 9:57PM.

14. INFORMATION ONLY - NEXT MEETINGS:
April 1, 2024, at 6:00PM - WORKSHOP ON BUILDING LOAN PROCESS
April 1, 2024, at 7:00PM - REGULAR SCHEDULED CITY COUNCIL MEETING

2024-278: Finance Committee Report - March 5, 2024, meeting

2024-305: Charles Town Tree Board February Meeting Minutes

2024-312: Charles Town Utility Board Meeting Minutes - February 28, 2024, meeting

2024-315: Letter to the City Council from the Norborne Glebe Homeowners Association, Inc.

15. NOTICE: The Public May View the Meeting Live by Clicking on the Event Link at: https://www.charlestownwv.us/government/agendas-and-minutes/

City Council
101 East Washington Street
Charles Town, WV 25414

Meeting: 04/01/24
Department: City Council
Category: Report
Initiator:

SCHEDULED

AGENDA ITEM (ID #)

2024-355: Infrastructure Committee Report - March 25, 2024, Meeting

ATTACHMENTS:

- Report_ Infrastructure Committee - March 2024.pdf

City of Charles Town

Infrastructure Committee

Report

I. CALL TO ORDER: Monday, **March 25, 2024** at 4:30PM- City Hall

Persons Present: *Councilmembers:* Elizabeth Ricketts (Chair), Jim Kratovil, and Priscilla Rodd
Staff: Jim Wysong; *City Manager:* John Nissel ; *Public:* Councilmember Michael George

II. UNFINISHED BUSINESS

2024-325: Park Street and Surrounding Area Traffic Flows and Parking

Committee members and staff previously walked the area of Park, Higgs, Maple and Center Streets (known as "Tater Hill") on March 4th. Field observations have led the committee to feel that a one-way travel direction is the best course of action that will improve safety and have the least impact on street parking. Staff will create a door hanger for the homes in the impacted area which will be ready for the April 22nd meeting and announce a June public hearing. Committee members have volunteered to distribute these to the homes in the impacted area. The change notice should also be published in the paper per the public notice policy.

Recommendation to Council: *After considering public feedback, consider changing traffic flow making Park Street a one-way street.*

2024-326: Stormwater Issues and Updates

Staff updated the committee on stormwater issues, specifically those at Shutter Street and N. George St extension. An estimate for evaluation was provided by Greenway Engineering and quoted (at a minimum) **$10,850**. Staff is planning a jetting of the stormwater pipe on Shutter St in an attempt to determine where the pipe daylights and if a clog is the main source of flooding/ponding issues.

2024-327: Street Paving - Staff Update

Staff has completed an analysis of street paving needs and will next be meeting with CTUB and developers to learn of intended utility cuts in an effort to coordinate. A further update and staff recommendation will be provided at the April committee meeting.

Recommendation to Council: *none at this time*

2024-328: Staff Update on Current Projects

Staff updated the committee on the Liberty Street project.

Elizabeth Ricketts, as a representative on the Hagerstown/Eastern Panhandle Metropolitan Planning Organization (HEPMPO) updated the committee on the "over programming" of projects by the state which is negatively impacting planned studies and projects for the area.

Recommendation to Council: *Schedule a HEPMPO update with representative, Ms. Ricketts*

2024-329: Wayfinding Signage

Staff provided an update on work with Kimley Horn on city wayfinding signage and received some feedback from the committee.

Recommendation to Council: *none at this time*

III. NEW BUSINESS

2024-330: Maintenance Director Report

Jim Wysong updated the committee on activity since the March meeting which included set up/break down for seven (7) events at CW hall, Travis completing his arborist training and planning to take the exam, repair/replacement of lifeguard stands, removal of holiday lights, clean up on Evitts Run stream bank, street sweeping (scheduled for Fridays), sidewalk repair on W. Liberty St, installation of small water heater at City Hall, sign replacement/relocations, preparing for painting of City Hall exterior, repairs to tennis court, riser repair to manhole cover. The backhoe allocated for in the FY24 capital budget was ordered.

2024-331: Crosswalks on Washington Street (referral from Council)

Elizabeth Ricketts, as a representative on the Hagerstown/Eastern Panhandle Metropolitan Planning Organization (HEPMPO) updated the committee on the process for requesting a crosswalk on a state road.

2024-332: Grant Opportunity - SS4A (referral from Council)

Elizabeth Ricketts provided an update on the possibility of applying for a Safe Streets for All (SS4A) federal demonstration grant for Forrest Ave next to Jefferson Memorial Park. Matt Mullenax has broached the subject with the state about possible state-city collaboration to expand the project across Jefferson Ave (a state road) and to Charles Town Middle School along High St. Originally, it was assumed the application was due in April, but there is another opportunity in August, which allows for more time to plan a project proposal and seek collaboration partners.

2024-333: Sidewalk at Higgs Blvd and W. Liberty St

Staff made repairs to a dangerous portion of sidewalk. The hazard was created when the City (at an unknown point in the past) cut through an existing brick sidewalk to create Higgs Blvd. The adjacent property owner is interested in getting the full sidewalk repaired and staff is working on putting her in touch with a contractor who can deal with the unusual sized bricks.

2024-334: West Charles Town Connector Project

This agenda item stemmed from Council approving an application for a Congressionally Directed Spending request for a sidewalk project. This item was Tabled by the committee.

ADJOURNED 5:39PM

IV. INFORMATION ONLY: Next Meeting Monday, **April 22, 2024** at 4:30PM at City Hall.

2024-356: Board of Parks and Recreation Report

Special Meeting held March 4, 2024
Regular Meeting held March 28, 2024

ATTACHMENTS:

- P&R Report_ March 2024_Special Meeting.pdf

City of Charles Town

Parks and Recreation Commission

Special Meeting

I. CALL TO ORDER: *Monday, March 4, 2024 at 6 PM* - virtual (Zoom)

Persons Present: *Commissioners:* Nick Zaglifa, Elizabeth Ricketts, Mike Slover, Nathan Hartman; *Staff:* Alissa Meeks

II. APPROVAL OF MINUTES

N/A - will approve at next regular meeting

III. UNFINISHED BUSINESS

: 2024-224 Review and approve summer parks swim and tennis registration fee amounts

The commission unanimously approved adjusting swim lessons and the tennis summer program rates as follows:

Swim Lessons
$65 resident of county / $70 non resident (increase of $5)
Tennis Camp
$70 residents of county / $75 non residents

Motion: Nathan Hartman / 2nd: Mike Slover

2024-244 Finalizing agenda for Parks and Recreation Strategic Session - March 23

The commissioners reviewed the final agenda for the Strategic Session.

IV. ADJOURNMENT at 6:55 PM

V. INFORMATION ONLY

Strategic Session: Saturday, March 23rd 9AM at City Hall
Next regular meeting: Thursday, March 28th at 6PM at City Hall

City Council
101 East Washington Street
Charles Town, WV 25414

Meeting: 04/01/24
Department: City Council
Category: Report
Initiator:

SCHEDULED

AGENDA ITEM (ID #)

2024-366: City Manager Report - April 1, 2024

ATTACHMENTS:

- City Manager Report - April 1, 2024.pdf

City of Charles Town

101 East Washington Street, P.O. Box 14, Charles Town, WV 25414
Phone: (304) 725-2311 ♦ Web: www.charlestownwv.us

City Managers Report

April 1, 2024

- We are gearing up for the Spring and Summer season and staff will be busy making the pool ready for opening and hiring summer staff for camps and life guarding. The maintenance crews are also making preparations for mowing, weeding and beautification around the city. We have noticed an uptick in yard waste stickers being purchased.
- B&O revenues are on the rise as we are collecting delinquent accounts and registering businesses who have lapsed.
- Cindy Rezmer is putting together a user guide for City Hall (CHUG) City Hall User Guide that will guide staff and elected officials on the many facets of how to operate the various systems and operations at City Hall.
- Just a reminder that April 13th is Blooms and Blossoms and is also the opening day of the Farmers Market.
- Just want to thank Council Member Rickets for her leadership at the Parks and Recreation Strategic Retreat. We had a great turnout and received some good feedback on how the Commissioners want to move forward.

City Council
101 East Washington Street
Charles Town, WV 25414

Meeting: 04/01/24
Department: City Council
Category: Report
Initiator:

SCHEDULED

AGENDA ITEM (ID #)

2024-341: City Council Strategic Retreat Report

ATTACHMENTS:

- Capacity Partners Report_CharleTown Strategic Direction and Priorities 12_19_2023.pdf
- Four Goal Areas Narrative.pdf
- Four Goal Areas CTCC 12_9_2023.pdf
- Capacity Partners for Charles Town WV MASTER Project Matrix 8DEC2023.pdf

Capacity Partners®
CONSULTANTS TO NONPROFIT LEADERS

December 19, 2023

Cindy Rezmer
Operations Director
City of Charles Town
101 E. Washington Street, Charles Town, WV 25414

Dear Cindy,

I am pleased to submit the outcomes of the Strategic Direction/Project Priorities for 2024-2028 Work Session, held on Saturday, December 9, 2023. The collaborative efforts and insightful discussions during this session resulted in key priorities that will guide your strategic initiatives over the next five years.

The comprehensive discussion during the work session, driven by the insights of participants, provides a roadmap for the coming years with opportunities to enhance community, infrastructure, and overall quality of life.

Thank you for your commitment to the strategic planning process. Everyone was quite responsive and participatory; kudos to you all for your commitment to Charles Town.

Sincerely,



Margo Reid
Partner Consultant
Capacity Partners

Executive Summary

Capacity Partners consultant, Margo Reid, worked with the city of Charles Town to create a daylong work session focused on Strategic Direction and Project Priorities. . Planning for the session included several virtual meetings to co-create the agenda collect information. Each council member and the mayor filled out a matrix of top project priorities which was reviewed and organized into Four Goal Areas.
The city council members, staff, and mayor of Charles Town, West Virginia then met on December 9, 2023, to review the full list of projects and determine the top three to five project priorities for 2024-2028.

Four Goal Areas The strategic direction encompasses four areas that collectively shape the vision for Charles Town. Here are the Goal Areas that were determined by information in the matrices filled out by every council member and the mayor.

1. **Planning & Resources**
    a. Develop a Comprehensive Capital Improvement Plan (CIP)
    b. Update Planning Ordinance
2. **Quality of Life Amenities and Services**
    a. Complete the Pool and Pool House
3. **Walkability**
    a. Complete the Augustine Trail for Enhanced Walkability
    b. Develop a City-wide Connectivity Plan
4. **Infrastructure/Repairs/New Building**
    a. Develop Liberty Street, Lawrence/Congress St projects: Stormwater
    b. Two-way tie: repair or relocate City Hall tied with
    locate a new site for Public Works or refurbish maintenance facility.

Top Five Priorities

Participants marked projects in each Goal Area with Green, Blue, or Yellow dots to signify first, second, and third priorities in each Area. Some participants may have preferred to mark two top priorities in one Goal Area, so a final accounting was done at the end of the session to allow people to rate all goals without dividing into Goal Areas. Top choices held steady and Update the Planning Ordinance was added.

Top Five projects determined by consensus in the in-person group

1. Develop a Comprehensive Capital Improvement Plan (CIP)
2. Complete the Pool and Pool House
3. Complete the Augustine Trail for Enhanced Walkability
4. Complete Stormwater management: Liberty Street and Lawrence/Congress St.
5. Update the Planning Ordinance

Other top contenders for which studies could proceed or for which initial study may have begun:

Infrastructure/Repairs/New Building

#2 Priority - Two-way tie; repair or relocate City Hall and locate a new site for Public Works or refurbish maintenance facility.

Walkability

#3 Priority – City-wide connectivity plan which involves trails and sidewalks.

Participants

Ward 1	Elizabeth Ricketts
	James Kratovil (unable to attend Saturday work session)
Ward 2	Jeff Hynes
	Kevin Tester
Ward 3	Julie Philabaum
	Priscilla Rodd
Ward 4	Rikki Twyford
	Micheal W. George
Mayor	Bob Trainer

City Manager	John Nissel
Community Development Director	Alissa Meeks
Finance Director	Krista Davis
Operations Director	Cindy Rezmer
Capacity Partners Consultant	Margo Reid

World Café Breakout Groups

Planning & Resources Jeff, Micheal, Alissa	Quality of Life Amenities and Services Elizabeth, John, Priscilla	Walkability Julie, Kevin, Krista	Infrastructure/Repairs/ New Building Rikki, Cindy, Bob

Appendices

A Comprehensive Plan Seven Areas of Focus used as touchstones

B-E Four single-page Goal Areas with notes taken in the Saturday work session

1-4 Four single-page Goal Areas in narrative

Comprehensive Plan
7 Areas of Focus

1. Downtown Charles Town
2. Growth and Land Use
3. Vibrancy, Sustainability, and Livability
4. Mobility, Accessibility, and Connectivity
5. Image and Identity
6. Quality Public Services
7. Environmental Stewardship

DOWNTOWN CHARLES TOWN

Goal Statement:
Downtown Charles Town will be the center of the Jefferson County region and will serve as the center for community and economic development. The Downtown will be a strong center for business, and serve as a regional destination for arts, culture, entertainment, and learning

GROWTH & LAND USE

Goal Statement:
The City of Charles Town will strategically plan for and promote sustainable and well-designed growth and development throughout its Urban Growth Boundary (UGB) while maintaining a vibrant, walkable, and mixed-use Downtown that that serves as the City's image center and of civic life.

VIBRANCY, SUSTAINABILITY & LIVABILITY

Goal Statement:
The City of Charles Town will be a community where all of its residents can enjoy great streets and complete neighborhoods; where walking, bicycling, and public transit are the preferred choices for most trips; where public spaces are beautiful, well-designed, and well-maintained, where local businesses are supported by the community and, in turn, encourage local economic development; and where housing is more plentiful and more affordable.

MOBILITY, ACCESSIBIITY, & CONNECTIVITY

Goal Statement:
The City of Charles Town will be a highly accessible community for all citizens by providing efficient multimodal (pedestrian, bicycle, transit, and vehicular) connections with Downtown Charles Town, and between and among its residential neighborhoods and local and regional commercial centers.

IMAGE & IDENTITY

Goal Statement:
The City of Charles Town will protect, enhance, and reinforce its historic, small town character and "sense of place" through high quality urban design and development standards that protect existing assets and investments, and create great new places by building vibrant, enduring neighborhoods where all people want to live, work, and play.

QUALITY PUBLIC SERVICES

Goal Statement:
The City of Charles Town will ensure the provision of quality and affordable public services to meet the health, safety, and welfare needs of its residents and visitors.

ENVIRONMENTAL STEWARDSHIP

Goal Statement:
Charles Town will promote the conservation of the City's natural environment while supporting sustainable economic growth, development, and redevelopment.

Planning & Resources **(Compilation of all City Council Matrices for Work Session)** **December 9, 2023**
NOTES #1 Priority - CIP Plan; the more urgent part of P&R. When we go to develop the CIP plan, we will need to add projects. What things haven't been started that need to rise to the top? We need a stormwater plan, a pool plan/recreation/amenities plan, a Walkability plan. #2 Priority - Every group has the Planning Ordinance updates in their top 3. May want to bring in a consultant to build a CIP Plan. CIP Plan is a short-term project. Differences in opinion about cost of Charter and Planning Ordinance projects. #3 Priority - Planning Ordinance updates to align with commercial growth needs (for Downtown & Outer City commercial development) Discussion: To develop the CIP plan, you need to have a general idea but to develop the specificity. To determine what to move forward with there is a strong desire to fund the trails, build the pool, etc. We need to determine priorities across categories. What came out of today is we should update the planning ordinance, update the charter, and a CIP. Tourism is low-hanging fruit, need to create a committee. Could be done in-house, at a low cost. Staff retention is a challenge. Record projects that may want to be included in CIP: parks program, skate park, public works building, City Hall improvements, Walkability study, charter updates. Priscilla-the city does not have a tourism plan or outdoor recreation. There used to be bus tours from Harpers Ferry, horse parades, etc. Planning Ordinance updates to align with commercial growth needs (for Downtown & Outer City commercial development)
ADDITIONAL TOPICS UNDER PLANNING AND RESOURCES
Ratify Charter X2
Tax Increment Financing
Develop tourism plan and special committee to analyze current resources and how to develop them; partner with tourism entities like the JCCVB
Develop Five-year Capital plan/budget
Create an in-depth 5-year Capital Improvement Plan X2 Develop streamlined set of financial reports so staff and Council can quickly understand where we stand financially. Example: Budget vs Actual Report
Hire outside Legal Assistance for Cost/Availability/Accuracy to inform decision-making

Quality of Life Amenities and Services **(Compilation of all City Council Matrices for Work Session)** **December 9, 2023**
NOTES #1 Priority – Completion of the pool and pool house; build the pool and create robust programming and amenities. "Let's get the pool done." Now, it's how do we finance it? Parks & Rec can solicit donations so a capital campaign. Need to figure out the life expectancy of the pool equipment. This project would go into the Capital Improvement Plan (CIP). The pool would be costly. Parks & Rec staff 2-4 years. Having more of a community calendar for events with Ranson. Nothing the staff must do, but if people wanted to put activities on the calendar, they could do that. For example, schools and churches. In Shepherdstown, the newspaper editor of the Observer manages the community calendar. Community members are happy to help on a volunteer basis. Amenities; summer camps, swim classes, movies at the parks. Fostering partnerships, we would need staff oversight, may help pay for itself. YMCA was not a priority, because we want to offer our own services. For the "bring YMCA to Jefferson County," the YMCA would need help from the City. Council will need a buy-in from the community. Each of the entities within JC, each entity will be asked for a contribution. There is a Planning & Zoning aspect and City may have to do work to decide on a location. YMCA project timeline up to 5 years.
Build **Pool**
Build JMP **Pool** and create robust parks programming and amenities
Provide family activities: THE **POOL**, movies, golf, bowling, escape rooms, restaurants, etc.
Zero Carbon
Bring YMCA to Jefferson County
Develop **community outreach & services** imitative with community calendar. i.e.., volunteers for seniors, for those with disabilities, and to organize clean ups, offer free classes and events for adults and children.

Walkability **(Compilation of all City Council Matrices for Work Session)** **December 9, 2023**
NOTES #1 Priority – Completion of the Augustine Trail from end to end is top priority. We have the funding. #2 Priority – Augustine Trail Phases with Evitts Run bridges. Happy Retreat bridge and bridge to skate park. Bridges are funded; both projects are one priority. #3 Priority – City-wide connectivity plan which involves trails and sidewalks.
NOTES #1 Priority – Completion of the Augustine Trail from end to end is top priority. We have the funding. #2 Priority – Augustine Trail Phases with Evitts Run bridges. Happy Retreat bridge and bridge to skate park. Bridges are funded; both projects are one priority. #3 Priority – City-wide connectivity plan which involves trails and sidewalks. Phase I – Perry Drive to Page Jackson. Phase 2 – Page Jackson to Save a lot. Phase 3 – City staff would work with Alpha to pick an option; one would take up through the high school to Spruce Hill. $1 million for Phase 3. We need a project ID number to pull down funding for the Phase 3 project. City staff met with Happy Retreat. Happy Retreat has plans to build a bridge, and the cost would be less than $50K. We have funding allocated in the Capital Budget for the bridges. We would build the Happy Retreat bridge first. Extending Augustine Trail to include Spruce Hill North
Complete Augustine Trail
Complete Augustine Avenue Trail (Phases 1,2,3) + Evitts Run bridges
developing connected trails, designated bike lanes, benches for sitting, outdoor spaces in downtown
Path from Ward 4 to City
Develop City-wide connectivity plan

Infrastructure/Repairs/New Building
(Compilation of all City Council Matrices for Work Session)
December 9, 2023

NOTES

#1 Priority – Stormwater Liberty St. and Lawrence/Congress St.
#2 Priority - Two-way tie; repair or relocate City Hall is tied with locate a new site for Public Works or refurbish maintenance facility.
#3 Priority – Walkability and bike-ability improvements. Spend grant money for Liberty St. flooding mitigation project so we can spend our funding before 9/2024, need to assign a project manager.

City Hall vs. Public Works being the next priority; the capacity ends in a month, possibly get historical designation grants to help with City Hall. On the flip side, Public Works needs equipment and a facility.

Torn between capacity at City Hall vs. having heat/Public Works. Recommendation to have a council day to look at these places. Windows at City Hall are in poor condition. Lost personnel due to the physical environment at City Hall. Requested a plan from the City Manager to look at the City's facilities. Overall stormwater plan we can complete those two projects, and we can add to that.

John recommended that we go back to the consultant and do a comprehensive stormwater plan. A more comprehensive study of the entire city would benefit us, in parallel with Liberty and Lawrence Streets. There is water puddling and standing and they need to fix the grading on the pipe. We need to spend the money by September. From a strategic planning standpoint, go back and hire the company and get a comprehensive stormwater plan. Feeder trails are important because of their connectivity.

If we did the Augustine trail, we need to look at Phase 3 connectivity. We would put it under stormwater and those projects. John can't wait for CIP before he does Liberty St. Let's get the plan in place while we're doing individual projects.
Develop Liberty Street, Lawrence/Congress St projects: Stormwater

Pursue more walkable and bikeable town by improving and creating new sidewalks

Repair City Hall: include plans to add more office space. Discuss relocation or new build for City hall

Locate site for new Public Works building. Pursue lands such as the depot district park.

Develop plan to refurbish/relocate Maintenance Facility

City Planning and Resources Priorities
Outcomes of Work Session

Summary: An overview of the city's planning and resource priorities focuses on development of a Capital Improvement Plan (CIP), updates to the Planning Ordinance, and considerations for tourism and outdoor recreation. The emphasis on specific plans reflects a strategic approach to city development and resource allocation.

#1 Priority: Develop Comprehensive CIP Plan

Recognize the CIP plan as the top priority, emphasizing its urgency within Parks and Recreation.
Consider bringing in a consultant to build the CIP plan.
Acknowledge that developing the CIP plan may involve identifying projects that haven't started and need prioritization.
Highlight the need for specific plans, including a stormwater plan, a pool/recreation/amenities plan, and a walkability plan.

#2 Priority: Update Planning Ordinance

Emphasize Planning Ordinance updates, a common priority across various plans.
Recognize differences in opinion regarding the cost of Charter and Planning Ordinance projects.

#3 Priority: Continue Planning Ordinance Updates specifically for Commercial Growth

Downtown
Outer-city commercial development

Strategic Planning Considerations

Recognize the need for a general idea and specificity in developing the CIP plan, highlighting the desire to fund trails, build the pool, and other key projects.
Point out the outcome of discussions, directing toward updating the planning ordinance, charter, and the creation of a CIP.
List potential projects for inclusion in the CIP, encompassing parks programs, skate parks, public works building, City Hall improvements, and a walkability study.
Address gaps, including the absence of a tourism plan or outdoor recreation initiatives, with the potential to revive activities like bus tours and horse parades.

Quality of Life Amenities and Services
Outcomes of Work Session

Summary: The primary focus is on expediting the completion of the pool and pool house project, exploring funding avenues, integrating it into the Capital Improvement Plan, enhancing community collaboration through an inclusive calendar, and expanding amenities and partnerships. The YMCA project can be tabled until the Y approaches the Council. The overarching goal is to create a vibrant and engaging community space with a sustainable approach.

1. **Priority Project: Completion of the Pool and Pool House**
    a. **Objective:**
        i. Complete pool and pool house, including construction of the pool and the creation of robust programming and amenities.
    b. **Financing Strategy:**
        i. Prioritize securing funding for the pool project.
        ii. Explore options such as a capital campaign, and Parks & Rec outreach for donations.
        iii. Develop a financial plan to address the significant cost of the project.
    c. **Capital Improvement Plan (CIP):**
        i. Integrate the pool project into the Capital Improvement Plan (CIP).
        ii. Consider the life expectancy of the pool equipment and incorporate it into the long-term planning.
2. **Community Calendar Collaboration:**
    a. Enhance community engagement by establishing a comprehensive community calendar.
    b. Allow community members, schools, churches, and others to contribute events.
    c. Explore models like Shepherdstown, where the community calendar is managed by the newspaper editor of the Observer.
3. **Amenities and Programming:**
    a. Expand amenities and programming associated with the pool, including summer camps, swim classes, and outdoor movies at the parks.
    b. Foster partnerships with local organizations and businesses to enrich programming.
    c. Allocate staff oversight of effective implementation and potential financial sustainability.
4. **YMCA Consideration:**
    a. Clarify the YMCA's role, indicating that it is not a top priority currently.
    b. Address the "Bring YMCA to Jefferson County" initiative, highlighting that the City may need to assist the YMCA in various capacities.
    c. Acknowledge the need for community buy-in, with contributions sought from each entity within Jefferson County.
    d. Recognize the Planning & Zoning aspect and potential City involvement in deciding on a location.
    e. Outline a project timeline for the YMCA initiative, estimating up to 5 years for completion.

City Walkability Improvement Priorities

Outcomes of Work Session

Summary: The city's walkability priorities place completion of the Augustine Trail and associated bridge projects at the top of the list. The phased city-wide connectivity plan demonstrates a comprehensive approach to enhancing walkability, fostering community engagement, and creating a more accessible urban environment.

1. **#1 Priority: Complete the Augustine Trail:**
    a. Commit to completing Augustine Trail end to end as the top walkability priority.
    b. Assure available funding for the project.

2. **#2 Priority: Execute Augustine Trail Phases with Evitts Run Bridges:**
    a. Include Evitts Run bridges in the priority, specifically bridges at Happy Retreat and leading to the skate park.
    b. Recognize that both bridge projects are interconnected and share the same priority status.
    c. Confirm secured funding for the bridges.

3. **#3 Priority: Develop City-wide Connectivity Plan:**
    a. Emphasize a city-wide connectivity plan encompassing trails and sidewalks.
    b. Clearly delineate phases for the Augustine Trail connectivity plan:
        i. Phase I: Perry Drive to Page Jackson
        ii. Phase II: Page Jackson to Save a lot
        iii. Phase III: Collaborate with Alpha to determine an option, potentially leading through the high school to Spruce Hill.
    c. Acknowledge the $1 million budget for Phase 3 and the necessity of obtaining a project ID number for funding access.
    d. Collaborate with Happy Retreat, which plans to build a bridge with a cost estimate below $50K, aligning with allocated funding in the Capital Budget for bridges.

4. **Additional Connectivity Initiatives:**
    a. Extend the Augustine Trail to include Spruce Hill North.
    b. Commit to completing the entire Augustine Avenue Trail, encompassing Phases 1, 2, and 3, along with the associated Evitts Run bridges.
    c. Develop connected trails, designate bike lanes, install benches for sitting, and create outdoor spaces in the downtown area.
    d. Establish a path from Ward 4 to the city center, enhancing overall walkability.

City Infrastructure and Repairs Priorities
Outcomes of Work Session

Summary: The city's infrastructure and repairs priorities focus on stormwater management, capacity concerns at City Hall, and walkability/bikeability improvements. It underscores the urgency of addressing flooding issues and the need for comprehensive planning to ensure effective and strategic city development.

1. #1 Priority: Manage Stormwater on Liberty St. and Lawrence/Congress St.:

a. Immediately focus on addressing stormwater issues on Liberty St. and Lawrence/Congress St.

b. Recognize urgency due to flooding concerns on Liberty St., prompting the allocation of grant funds for mitigation as funds must be used by September 2024.

c. Appoint a project manager for effective oversight.

2. #2 Priority (Tie): Repair or Relocate City Hall and Refurbish or Locate a New Site for Public Works Maintenance Facility:

a. Recognize the imminent capacity issues at City Hall.

b. Consider historical designation grants for funding the City Hall building.

c. Acknowledge competing needs between addressing capacity at City Hall and ensuring proper facilities for Public Works, including equipment and a suitable facility.

d. Note poor conditions at City Hall, including windows, contributing to personnel loss.

e. Request a comprehensive plan from the City Manager to evaluate the overall condition of the city's facilities and consider a dedicated council day to thoroughly assess and decide on the priorities between City Hall and Public Works.

3. #3 Priority: Improve Walkability and Bikeability with a Focus on Stormwater:

a. Include walkability and bikeability improvements as the third priority.

b. Allocate grant money for the Liberty St. flooding mitigation project to be spent before September 2024.

c. Consider a comprehensive stormwater plan for the city, encompassing the Liberty St. and Lawrence/Congress St. projects.

d. Recognize the need for a more strategic approach, including fixing grading on pipes to addressing water puddling and standing.

4. Strategical Planning Considerations:

a. Recommend revisiting a consultant for a comprehensive stormwater plan, aligning with the ongoing Liberty St. and Lawrence/Congress St. projects.

b. Emphasize feeder trails for enhanced connectivity, with a specific reference to the Augustine Trail and its Phase 3 connectivity.

c. Propose proceeding with planning before waiting for the Capital Improvement Plan (CIP), ensuring a strategic plan is in place while addressing individual projects.

Planning & Resources Jeff, Michael, Alissa	**Quality of Life Amenities and Services** Elizabeth, John, Priscilla	**Walkability** Julie, Kevin, Krista	**Infrastructure/Repairs/ New Building** Rikki, Cindy, Bob
Planning Ordinance updates to align with commercial growth needs (for Downtown & Outer City commercial development)	Completion of Pool and Pool House	Extending Augustine Trail to include Spruce Hill North	Develop Liberty Street, Lawrence/Congress St projects: Stormwater
Ratify rewritten Charter	Build Pool	Complete Augustine Trail	
Review and re-write the City's early 2000s Zoning and Subdivision Ordinance to align with goals laid out in the Comprehensive Plan	Build JMP Pool and create robust parks programming and amenities	Complete Augustine Avenue Trail (Phases 1,2,3) + Evitts Run bridges	Pursue more walkable and bikeable town by improving and creating new sidewalks
Develop tourism plan and special committee to analyze current resources and how to develop them; partner with tourism entities like the JCCVB	Provide family activities: THE POOL, movies, golf, bowling, escape rooms, restaurants, etc.	developing connected trails, designated bike lanes, benches for sitting, outdoor spaces in downtown	Repair City Hall: include plans to add more office space. Discuss relocation or new build for City hall Locate site for new Public Works building. Pursue lands such as the depot district park.
Develop Five-year Capital plan/budget	Zero Carbon	Path from Ward 4 to City	Develop plan to refurbish/relocate City Hall
Develop tourism plan and special committee to analyze current resources and how to develop	Bring YMCA to Jefferson County		
Create an in-depth 5-year Capital Improvement Plan. Develop streamlined set of financial reports so staff and Council can quickly understand where we stand financially. Example: Budget vs Actual Hire outside Legal Assistance for Cost / Availability / Accuracy to inform Council/Staff decision-making	Develop community outreach & services imitative with community calendar. i.e.., volunteers for seniors, for those with disabilities, and to organize clean ups, offer free classes and events for adults and children.	Develop City-wide connectivity plan, to include repair and establishing sidewalks and trails	Develop plan to refurbish/relocate Maintenance Facility

WARD 1	Connectivity/ Trails	Parks and Recreation	Infrastructure general, stormwater specifically	
	Augustine Avenue Trail (Phases 1,2,3) + Evitts Run bridges	JMP Pool and robust parks programming and amenities	Liberty Street, Lawrence/Congress St projects	
WARD 1	Pool	Austine Ave Trail	Zero Carbon	
WARD 2	Financial Reports - CIP, Budget vs Actual, Etc...	Professional Zoning Ordinance and Subdivision Ordinance Re-write	City Buildings	
	The creation of an in depth 5 year Capital Improvement Plan. This is a common document in most governments and lays out the future 5 years of capital projects, an explanation of their purpose, funding needs, funding sources and projected annual outlays in the coming 5 years. This document is vital for a City to know and understand its upcoming projects, timelines, and capital funding needs. It allows for an in depth look when creating annual budgets and can be used to facilitate conversation when new needs/ideas arise. Along with a CIP the City need a more streamline set of financial reports so the staff and Council can quickly understand where we stand financially when making decisions. An example would be a monthly Budget vs Actual report that explains where our outlays are against the budgeted amount. Forecasting of revenues and costs would also be provided on a more regular basis. As it is i feel we are often flying	The City's Zoning and Subdivision Ordinance remains much the same as its original make-up in the early 2000's. There have been amendments and there are several updates working through the Planning Commission at present. With that said, the City needs to invest in a professional review and re-write of this key document to more align it with the goals laid out in the Comprehensive plan and both clarify and modernize it. The document, while being better than what came before (nothing), has notable gaps which causes confusion for both staff and the public. Charles Town and Jefferson County are growing rapidly and this document is inadequate to meet the demands of that growth while ensuring the City meets it goals. A new document should help improve the lives of our residents and provide flexibility and the tools necessary to attract commercial development.	Real action on numerous City buildings. This includes repairing our current City Hall, which is well overdue for maintenance and rehabbing as it is falling apart. This could also include plans to add more office space for a growing staff. Real conversations on possibly locating a new building to relocate City hall or a plot of land to build new. We need to visit the reacquisiton of our office space in Rouss Hall. Locating a site to build a new building for Public Works and actually building a new facility. More substantive discussion and movement on acquiring lands such as the depot district park.	
WARD 2	Extending Augustine Trail to include Spruce Hill North	Completion of Pool and Pool House	Planning Ordinance updates to allign with commercial growth needs	
WARD 3	make town more walkable and bikeable by improving sidewalks, developing connected trails, putting in new sidewalks, designated bike lanes, benches for sitting, outdoor spaces in downtown like N. Charles Street, walkability around schools, etc	Develop community outreach and services iniative, such as regularly organizing volunteers to support seniors, support those with disabilities, and organize clean ups, and even offer free classes and organize events for adults and children, like nature walks/talks and fishing days, develop a community calendar, website, etc. Would likely need a committee or possibility a newly hired staff member to organize and create partnerships with existing organizations and perhaps Ranson.	develop tourism plan and special committee to analyze our current resources and how to develop them (history, the Jefferson Memorial Pool, parks, N. Charles Street, and so on), partner with tourism entities like the JCCVB, race track and the national park, work on advising and building a website with this tourism focus, etc.	
WARD 3	Charter	Capital Improvement Plan	TIF District for Downtown/Depot District	
WARD 4	Walkability	Commercial Development	Commercial Development	
	Path from Ward 4 to City	Downtown	Outer city	
WARD 4	Lack of family activities: We need to provide the things that people go to Loudoun County for, such as THE POOL, movies, golf, bowling, escape rooms, restaurants, etc.	Legal Assistance: Cost / Availability / Accuracy - I feel like our hands are often tied because we do not have quick, readily available, proactive legal assistance. If we cannot afford an attorney on staff, could we get a paralegal? I feel like someone very good at legal research is what we truly need - not necessarily a litigator. Too many things get tabled, delayed, etc due to additional questions and I would like to see someone working to flush those out ahead of time.	The seemingly insurmountable Charter ratification process: We put so much effort into rewriting the Charter and it just keeps getting pushed off. We cite the Charter as the reason why we cannot do things, like repair sidewalks, but we are operating counter to the Charter everyday with a City Manager.	
M	**Develop plan to refurbish/relocate City Hall**	**Develop plan to refurbish/relocate Maintenance Facility**	**Develop City-wide connectivity plan, to include repair and establishing sidewalks and trails**	**Develop Five-year Capital plan/budget**

City Council
101 East Washington Street
Charles Town, WV 25414

Meeting: 04/01/24
Department: City Council
Category: Report
Initiator:

SCHEDULED

AGENDA ITEM (ID #)

2024-335: Private Outdoor Designated Area (PODA) Discussion.

This agenda item needs to be removed from the Table.

Delegate Wayne Clark will attend the Council meeting to discuss WV House Bill HB5295

ATTACHMENTS:

- PODA Draft.docx
- PODA SURVEY RESULTS.pdf
- 2024PODAReport.pdf

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

ENROLLED

Committee Substitute

for

House Bill 5295

BY DELEGATES W. CLARK, WILLIS, MARPLE, YOUNG,

SHAMBLIN, HORNBY, HITE, HALL, MAYNOR, E. PRITT, AND

LUCAS

[Passed March 4, 2024; in effect from passage.]

AN ACT to amend and reenact §8-12-26 of the Code of West Virginia, 1931, as amended; and to amend and reenact §60-7-2a, §60-7-8a, and §60-7-8g of said code, all relating to expressly

authorizing a private outdoor designated area to simultaneously host multiple qualified permit holders, including but not limited to a special S2 licensed and properly insured private fair and festival; providing that private outdoor designated areas may simultaneously host multiple permit holders; defining a term; providing that the dual licensing of private fairs and festivals simultaneous to other qualified permit holders is permissible; and eliminating the joint and several liability of qualified permit holders.

Be it enacted by the Legislature of West Virginia:

CHAPTER 8. MUNICIPAL CORPORATIONS.

ARTICLE 12. GENERAL AND SPECIFIC POWERS, DUTIES AND ALLIED RELATIONS OF MUNICIPALITIES, GOVERNING BODIES AND MUNICIPAL OFFICERS AND EMPLOYEES; SUITS AGAINST MUNICIPALITIES.

§8-12-26. Authorizing municipalities to create private outdoor designated areas.

(a) In addition to all other powers and duties conferred by law upon municipalities, municipalities are empowered and authorized to pass an ordinance establishing private outdoor designated areas as described in §60-7-8g of this code.

(b) The municipality shall include in the ordinance, at a minimum, the following:

(1) Requirements for the purpose of ensuring compliance with all state and municipal laws, and public health and safety within a private outdoor designated area;

(2) The proposed outdoor designated area or proposed licensed premises shall be indicated on a submitted map or survey in sufficient detail to identify the boundaries of the area, subject to the limitations in subsection (b) of this section;

(3) A general statement of the nature and types of qualified permit holders that may operate within the proposed outdoor designated area;

(4) That certain public property that is legally demarcated by the ordinance is within the proposed private outdoor designated area and such area complies with the comprehensive plan

or zoning ordinances of the municipality, if the municipality has so adopted, for the consumption of liquor, wine, nonintoxicating beer, and nonintoxicating craft beer;

(5) The specific boundaries of the private outdoor designated area, including street addresses;

(6) The number, spacing, and type of signage identifying the private outdoor designated area;

(7) The days and hours of operation for the private outdoor designated area which may not be greater than, but may be less than authorized by **§11-16-1** *et seq.* and **§60-1-1** *et seq.* of this code, but may be less than;

(8) The estimated number of personnel needed to ensure public safety and efficient operations in the private outdoor designated area;

(9) A sanitation plan that will help maintain the appearance and public health of the private outdoor designated area, including the number of restrooms and trash receptacles;

(10) A requirement that liquor, wine, nonintoxicating beer, and nonintoxicating craft beer be served in non-glass containers, not greater than 18 fluid ounces, approved by the municipality and the commissioner as set forth in **§60-7-8g** of this code; and

(11) Public health and safety measures, and requirements to meet compliance with current health permitting and zoning requirements.

(c) The municipality shall provide to the commissioner notice of the approval of the private outdoor designated area and identify the qualified permit holders that will be applying for permits set forth in **§60-7-8g** of this code. As set forth in **§60-7-2a** of this code, a private outdoor designated area may simultaneously have multiple qualified permit holders as defined in **§60-7-1** *et seq.* of the code, and is expressly authorized.

(d) The municipality shall be responsible for ensuring compliance with its ordinances and compliance with all criminal laws associated with the operation of a private outdoor designated area. The municipality shall provide the commissioner copies of all non-compliance and violations.

The commissioner shall ensure all qualified permit holders operate in accordance with requirements set forth in §11-16-1 *et seq.* and chapter 60 of this code.

(e) The municipality shall have the authority to dissolve a private outdoor designated area by ordinance and further may suspend a private outdoor designated area immediately when in the interest of public safety.

CHAPTER 60. STATE CONTROL OF ALCOHOLIC LIQUORS.

ARTICLE 7. LICENSES TO PRIVATE CLUBS.

§60-7-2a. Dual licensing permitted; conditions.

(a) A private coliseum or center may permit a private fair and festival licensee to conduct the temporary special event, authorized by that license, within, or on the private coliseum or center licensee's licensed premises, in order to create tourism opportunities that will promote brewers, resident brewers, wineries, farm wineries, distilleries, mini-distilleries, and micro-distilleries in this state.

(b) A private coliseum or center licensee may host a special event for a private fair and festival licensee on the licensee's licensed premises if both licensees are in good standing with the commissioner and submit to the commissioner the temporary floorplan revisions of the private coliseum or center in which the special event would be held to comprise the special event's lawful premises, which shall only include spaces in buildings or rooms of the private coliseum or center's licensed premises. By contractual agreement between the private coliseum or center licensee and the private fair and festival licensee, the parties shall agree that the private coliseum or center maintains control of its licensed premises, but for a set contracted rental time period. The private fair and festival licensee shall safely account for the ingress and egress of the stated members and guests who will be attending the special event at the licensed premises. During the contracted rental time period, the private fair and festival licensee is wholly responsible and liable for the proper sale and serving of alcoholic liquors and nonintoxicating beer in the area designated as

the private fair and festival's temporary floorplan, as set forth in this section. The private fair and festival's temporary floorplan shall comprise the private fair and festival's licensed premises for the temporary special event, which is authorized for the lawful sale, service, and consumption of alcoholic liquors and nonintoxicating beer throughout the private fair and festival's licensed premises during this dually licensed temporary special event: *Provided*, That the private fair and festival's licensed premises dually shared and licensed with the private coliseum or center shall:

(1) Have facilities to prepare and serve food and alcohol;

(2) Have adequate restrooms and sufficient building facilities for the expected number of members and guests attending the event;

(3) Comply with all other requirements of its license in this article; and

(4) Comply with health, fire, safety, and zoning requirements.

(c) There is no limit on the number of private fair and festivals that may be held at a private coliseum or center.

(d) The ability for a private outdoor designated area as defined in **§8-12-26** of the code to simultaneously have multiple qualified permit holders as defined in **§60-7-1** *et seq.* of the code, is expressly authorized.

§60-7-8a. Special license for a private fair and festival; licensee fee and application; license fee; license subject to provisions of article; exception.

(a) There is hereby created a special license designated Class S2 private fair and festival license for the retail sale of alcoholic liquors and nonintoxicating beer, and nonintoxicating craft beer for on-premises consumption.

(b) To be eligible for the license authorized by subsection (a) of this section, the private fair, festival, or other event shall:

(1) Be sponsored, endorsed, or approved by the governing body or its designee of the county or municipality in which the private fair, festival, or other event is located;

(2) Make application with the commissioner at least 15 days prior to the private fair, festival, or other event;

(3) Pay a nonrefundable non-prorated license fee of $500; and

(4) Be approved by the commissioner to operate the private fair, festival, or other event.

(c) A private fair and festival license under this section shall be for a duration of no more than 10 consecutive days.

(d) Nonintoxicating beer and nonintoxicating craft beer sold, furnished, tendered, or served for on-premises consumption by the private fair and festival pursuant to the license created by this section shall be purchased from licensed distributors that service the area in which the private fair and festival is held or from a resident brewer acting in a limited capacity as a distributor, all in accordance with **§11-16-1** *et seq.* of this code. Sealed containers of nonintoxicating beer or nonintoxicating craft beer may be sold for off-premises consumption if the nonintoxicating beer and nonintoxicating craft beer is being sold by an authorized brewer or resident brewer, as set forth in **§11-16-6a**(d) of this code, who manufactures the nonintoxicating beer or nonintoxicating craft beer in this state. The off-premises consumption sales shall be made pursuant to a written agreement between the private fair and festival and an authorized brewer or resident brewer. Prior to the start of the private fair or festival, an authorized brewer or resident brewer who agrees to offer off-premises consumption sales of their nonintoxicating beer or nonintoxicating craft beer from a booth or other facility on the private fair and festival's licensed premises must meet the requirements of **§11-16-6a**(d) of this code. The written agreement with each authorized brewer or resident brewer shall account for lawful sales of nonintoxicating beer and nonintoxicating craft beer sold for off-premises consumption as set forth in **§11-16-1** *et seq.* of this code. The authorized and approved brewer, resident brewer, or its licensed representatives may give or sell approved promotional items to private fair and festival members and guests, but not to the private fair and festival's volunteers, independent contractors, or employees.

(e) Wine or hard cider sold, furnished, tendered, or served for on-premises consumption by the private fair and festival pursuant to the license created by this section shall be purchased from a licensed wine or hard cider distributor or farm winery in accordance with §60-8-1 *et seq.* of this code and §60-8A-1 *et seq.* of this code, as applicable. Sealed containers of wine or hard cider may be sold for off-premises consumption if the wine or hard cider is being sold by an authorized winery or farm winery, as set forth in §60-4-3b(m) and §60-8A-5(c) of this code, who manufactures the wine or hard cider in this state. The off-premises consumption sales shall be made pursuant to a written agreement between the private fair and festival and an authorized winery or farm winery. An authorized winery or farm winery who agrees to offer their wine or hard cider for off-premises consumption sales from a booth or other facility on the private fair and festival's licensed premises prior to the start of the private fair or festival shall meet the requirements of §60-4-3b(m) and §60-8A-5(c) of this code, as applicable. The written agreement with each authorized winery or farm winery shall account for lawful sales of wine or hard cider sold for off-premises consumption as set forth in §60-8-1 *et seq.* of this code and §60-8A-1 *et seq.* of this code, as applicable. The authorized and approved winery, farm winery, or its licensed representatives may give or sell approved promotional items to private fair and festival members and guests, but not to the private fair and festival's volunteers, independent contractors, or employees.

(f) Liquor sold, furnished, tendered, or served for on-premises consumption by the private fair and festival pursuant to the license created by this section shall be purchased from a licensed retail liquor outlet in the market zone or contiguous market zone where the private fair or festival is occurring, all in accordance with §60-3A-1 *et seq.* of this code. Sealed containers of liquor may be sold for off-premises consumption if the liquor is being sold by an authorized distillery, mini-distillery, or micro-distillery, as set forth in §60-4-3a of this code, who manufactures their liquor in this state. Off-premises consumption sales shall comply with §60-3A-17 of this code and §60-4-3a(c) of this code shall not apply to these sales. The off-premises consumption sales shall be made pursuant to a written agreement between the private fair and festival and an authorized

distillery, mini-distillery, or micro-distillery. An authorized licensed distillery, mini-distillery, or micro-distillery who agrees to offer off-premises consumption sales of their manufactured liquor from a booth or other facility on the private fair and festival's licensed premises prior to the start of the private fair, festival, or other event must meet the requirements as set forth in **§60-4-3a** of this code. The written agreement with each authorized distillery, mini-distillery, or micro-distillery shall account for lawful sales of liquor sold for off-premises consumption as set forth in **§60-3A-1** of this code. An authorized and approved distillery, mini-distillery, micro-distillery, or its licensed representatives may give or sell approved promotional items to private fair and festival members and guests, but not to the private fair and festival's volunteers, independent contractors, or employees.

(g) A licensee authorized by this section may use bona fide employees, volunteers, or, in limited circumstances, licensed representatives to sell, furnish, tender, or serve the nonintoxicating beer, nonintoxicating craft beer, wine, liquor, or hard cider.

(h) Licensed representatives of an authorized and approved brewer, resident brewer, beer distributor, wine distributor, wine supplier, winery, farm winery, distillery, mini-distillery, micro-distillery, and liquor broker representatives may attend a private fair and festival and discuss their respective products but shall not engage in the selling, furnishing, tendering, or serving of any nonintoxicating beer, nonintoxicating craft beer, wine, hard cider, or liquor. However, licensed representatives of a brewer, resident brewer, winery, farm winery, distillery, mini-distillery, or micro-distillery that has agreed in writing to conduct sampling and off-premises consumption sales of their respective licensee's products at the private fair and festival, may discuss their respective products and engage in the limited giving of complimentary samples in accordance with **§11-16-6a** (c) and (d), **§60-4-3a** (a) and (b), and **§60-4-3b** (b) and (m) of this code; and the selling of sealed bottles or cans of their respective nonintoxicating beer, nonintoxicating craft beer, wine, hard cider, or liquor products for off-premises consumption. All taxes and fees must be paid on lawful sales.

(i) A license issued under this section and the licensee are subject to all other provisions of this article and the rules and orders of the commissioner: *Provided*, That the commissioner may by rule or order allow certain waivers or exceptions with respect to those provisions, rules, or orders as the circumstances of each private fair and festival require, including, without limitation, the right to revoke or suspend immediately any license issued under this section prior to any notice or hearing, notwithstanding **§60-7-13a** of this code: *Provided, however*, That under no circumstances may the provisions of **§60-7-12** of this code be waived or an exception granted with respect thereto.

(j) Dual licensing is permitted for private fairs and festivals pursuant to **§60-7-2a** of this code, including, but not limited to, dual licensing simultaneous to any other qualified permit holders as defined in **§60-7-1** *et seq.* of the code.

(k) A private fair and festival licensee who executes a written agreement with a licensed brewer, resident brewer, winery, farm winery, distillery, mini-distillery, micro-distillery, or their licensed representatives is jointly liable and responsible for any violations of this article.

(l) A private fair and festival licensee who executes a written agreement with a licensed brewer, resident brewer, winery, farm winery, distillery, mini-distillery, or micro-distillery to conduct limited off-premises consumption sales shall not have any pecuniary interest, share, or percentage in any sales of sealed nonintoxicating beer, nonintoxicating craft beer, wine, hard cider, or liquor.

(m) A private fair and festival licensee who executes a written agreement with a licensed brewer, resident brewer, winery, farm winery, distillery, mini-distillery, or micro-distillery to conduct limited off-premises consumption sales may charge them a flat booth rental fee.

(n) A private fair and festival licensee, licensed brewer, resident brewer, winery, farm winery, distillery, mini-distillery, micro-distillery, or their licensed representatives who permits members or guests to consume, on the private fair and festival's licensed premises, any nonintoxicating beer, nonintoxicating craft beer, wine, hard cider, or liquor, that was purchased

as an off-premises consumption sale, shall have their respective license immediately suspended, and that conduct is grounds for revocation of their license.

§60-7-8g. Special permit for a qualified permit holder in a private outdoor designated area; license fee and application; license subject to provisions of article.

(a) There is hereby created a special permit, designated Class S4, for the sale of liquor, wine, nonintoxicating beer, and nonintoxicating craft beer in a private outdoor designated area that has been approved by a municipality pursuant to §8-12-26 of this code. Each Class S4 permittee may sell, furnish, or serve liquor, wine, nonintoxicating beer, and nonintoxicating craft beer as provided in this section.

(b) Definitions:

(1) "Private outdoor designated area" means public property that has become a legally demarcated area established by a municipal ordinance as set forth in §8-12-26 of this code for the consumption of liquor, wine, nonintoxicating beer, and nonintoxicating craft beer.

(2) "Qualified permit holder" means the holder of a Class A, Class B, or Class S2 license issued under this article that elects to operate within a private outdoor designated area, and a Class S4 special permit pursuant to §60-7-1 *et seq.* of this code.

(c) To be eligible for the special permit authorized by subsection (a) of this section, the qualified permit holder shall:

(1) Operate in a private outdoor designated area created by municipal ordinance as set forth in §8-12-26 of this code, and provide the commissioner a copy of the certified ordinance from the municipality;

(2) Apply to the commissioner for the special permit prior to operating in an approved private outdoor designated area on an application provided by the commissioner;

(3) Pay a nonrefundable non-prorated annual special permit fee of $100 to the commissioner;

(4) Be in compliance with all state and federal laws and be in good standing with the commissioner;

(5) Be approved by the municipality to operate in the private outdoor designated area;

(6) Provide the days and hours of operation in the private designated;

(7) Provide, in conjunction with the municipality, adequate restroom facilities, whether permanent or portable, to serve the members and guests who will be attending the private outdoor designated area;

(8) Provide a security plan for the private outdoor designated area indicating: All qualified permit holders' licensed premises where alcohol will be served in approved non-glass containers; all entrances and exits in order to verify members', patrons', and guests' ages, and to assess whether a member, patron, or guest is under 21 years of age or intoxicated; and a plan to provide for the public health and safety of members, patrons, and guests;

(9) Provide a floorplan for the private outdoor designated area indicating a legally demarcated area that is bounded or utilizes signage to safely account for the ingress and egress of members, patrons, and guests who will be within the private outdoor designated area and also be permitted to carry liquor, wine, nonintoxicating beer, and nonintoxicating craft beer on and off of the qualified permit holders' licensed premises and within the private outdoor designated area when contained in an approved non-glass container. The private outdoor designated area's floorplan does comprise a separate licensed premises authorized only for the lawful consumption of liquor, wine, nonintoxicating beer, or nonintoxicating craft beer throughout the licensed premises when lawfully purchased from a qualified permit holder;

(10) Meet and be subject to all other applicable license requirements;

(11) Provide a plan to prevent members, guests, and patrons from bringing, consuming, or selling alcohol not in an approved non-glass container in the private outdoor designated area; and

(12) Use an age verification system approved by the commissioner.

(d) As set forth in §8-12-26 of this code a municipality may, by ordinance, establish a private outdoor designated area where the municipality may zone, set requirements, and establish conditions for safe operation of private outdoor designated area by qualified permit holders.

(e) A municipality shall be responsible for the enforcement of any criminal violations occurring in a private outdoor designated area and shall report such violations to commissioner for a determination of any violation of §11-16-1 *et seq.* and chapter 60 of this code.

(f) The commissioner shall enforce any violations of §11-16-1 *et seq.* and chapter 60 of this code committed by qualified permit holders against their permit and their Class A, Class B, or Class S2 license.

(g) A qualified permit holder that is separately authorized for an outdoor dining area or sidewalk dining area may continue to operate those areas in conjunction with the private outdoor designated area subject to the commissioner's requirements. Notwithstanding any other section of the code, a private outdoor designated area is authorized to simultaneously host multiple qualified permit holders as defined in §60-7-1 *et seq.* of the code.

(h) A licensee permitted under this section is subject to all other provisions of this article and the rules and orders of the commissioner: *Provided*, That the commissioner may, by rule or order, allow certain waivers or exceptions with respect to those provisions, rules, or orders as required by the circumstances of for the operation of qualified permit holders in each private outdoor designated area. The commissioner may revoke or suspend immediately any permit issued under this section prior to any notice or hearing, notwithstanding §60-7-13a of this code: *Provided, however*, That under no circumstances may the provisions of §60-7-12 of this code be waived or an exception granted with respect thereto.

The Clerk of the House of Delegates and the Clerk of the Senate hereby certify that the foregoing bill is correctly enrolled.

PODA Presentation

Now that you have read the WV Public Outdoor Designated Area text, I want to share why I feel the City of Charles Town should adopt an ordinance creating a PODA. First let me explain what a PODA is. It is a space within the City of Charles Town that permits patrons to walk along the streets and sidewalks while consuming an alcoholic beverage. There are several key factors to creating this with in our municipality. Below you will find just a few of these benefits.

1. You will increase foot traffic within the PODA.
2. During events you will see increased sales by your participating establishments. Since patrons will not need to sit for hours at a time the establishment will be able to turn their tables faster as patrons will be permitted to take their beverage outside and return for additional purchases, while the establishment is able to set a new table with additional food and beverage sales.
3. This increase sales tax collections and B&O collections.
4. During the PODA your other businesses will see increased sales as patrons will be permitted to enter their establishment (if approved by the business) for browsing and purchasing. Increase sales tax collections and B&O collections.
5. You will permit a more controlled consumption of alcohol during events downtown. Example rather than a patron who is sitting with their family watching an outdoor concert walk into an establishment and feel to rush through the beverage, they will be permitted to carry the beverage outside and join their family.
6. You will increase the family friendly environment for these events, rather than having families and groups sit in the establishment for hours at a time the family can enjoy the outdoor events and the adults can consume while being with their families.
7. The municipality gets to choose when the PODA is in effect. My recommendation is to permit the PODA year-round on every Saturday from 10:00 a.m. until 10:00 p.m. Also, from April 1st through October 31st annually on Thursday from 4:00p.m. until 10:00 p.m., and Friday from 4:00 p.m. until 11:00 p.m. This will cover all of your parades, and downtown events through out the year. If there are other events that I have missed you may add them I would just be careful of listing them by name or saying a specific date so that if you ever change the name or date of an event you don't need to amend the ordinance annually to cover that.
8. The city will see additional businesses want to come to town knowing that the PODA will increase foot traffic and sales.
9. The city will see an increase in parking fees with additional cars coming to the area.

10. The city will see an increase in participation at these events which will increase tourism throughout the city.
11. The city will see an increase in vendor participation for the events as they will understand you will have more foot traffic.
12. You can make the PODA as small or as large as you wish. Also, businesses may choose to participate but are not required.
13. I recommend that you create the PODA from the corner of West and Liberty to Liberty and Samuel, to Samuel and Congress and back to West Street excluding Wright Denny Elementary School.
14. I am including a draft ordinance for you, but I recommend that it go through the City Attorney for final presentation.
15. Will give the Charles Town Now organization the opportunity to plan special events that will continue to draw more attendance to the PODA.
16. Will provide additional revenue opportunities for the City of Charles Town, Charles Town Now and each participating establishment through the sale of PODA cups or souvenir cups that are made specific for Charles Town.

Public Outdoor Designated Area

(PODA)

Par?cipa?on in a private outdoor designated area

(a) Any Class A or Class B license holder under W. Va. Code § 60-7-1 et seq. that operates in a private outdoor designated area may apply to the city manager for the approval to operate in a private outdoor designated area. The city manager shall review the application to ensure it is complete and meets the following requirements:

(1) The applicant is located in an established private outdoor designated area, pursuant to this article, with a front door in compliance with all building and fire codes for the safe ingress and egress of members, patrons, and guests to and from the private outdoor designated area.

(2) The applicant has a valid city and state business license and is in good standing with the city.

(3) The applicant has a valid Class A private club license under W. Va. Code § 60-7-1 et seq.

(b) Once approved by the city manager, as indicated by a letter of approval to the applicant, the license holder may apply to the West Virginia Alcohol Beverage Control Administration ("WVABCA") for a special Class S4 permit, as detailed in W. Va. Code § 60-7-8g, to participate in a private outdoor designated area, as further detailed in this article, in the West Virginia Code, and in any applicable rules of the WVABCA. Upon approval by the WVABCA, the Class S4 permit holder shall notify the city manager's office. Any business that receives the approval of the city manager and a Class S4 permit from the WVABCA may participate in a private outdoor designated area.

(c) Participation in a private outdoor designated area does not provide a business with any authority to operate outdoor dining on the public right-of-way. Any business interested in participating in outdoor dining shall follow the requirements of chapter XXXX of this Code. A business with an approved outdoor dining area that is within a private outdoor designated area may operate its outdoor dining area simultaneously with its participation in a private outdoor designated area.

Containers

All beverages served from valid Class S4 permit holders for consumption in a private outdoor designated area shall be served in a non-glass container not greater than 16 fluid ounces, which has been approved by the city manager and the WVABCA.

Signage and prohibitions

(a) Prior to the operation of a private outdoor designated area, the city shall erect conspicuous signage. The signs shall be located at every reasonable point where a pedestrian may exit the private outdoor designated area by way of a public sidewalk. The signs shall clearly state "No alcohol beyond this point." and provide clear notice that a person is leaving the private outdoor designated area.

(b) A person may not leave a private outdoor designated area while possessing an open container of liquor, wine, nonintoxicating beer, or nonintoxicating craft beer that contains liquid.

(c) A person may not possess an open container of liquor, wine, nonintoxicating beer, or nonintoxicating craft beer that contains liquid while being in, on, or operating a motor vehicle within a private outdoor designated area.

Public health, safety, and sanitation

(a) All private outdoor designated areas shall be operated in a manner consistent with all state and municipal laws. The Charles Town Police Department shall be responsible for ensuring compliance and may issue citations within the private outdoor designated areas as necessary. The Charles Town Police Department shall provide a copy of any citation issued within a private outdoor designated area to the WVABCA.

(b) In addition to any public restrooms in a private outdoor designated area, participating Class S4 permit holders shall make available adequate restroom facilities, whether permanent or portable, to serve their members and guests during all hours of operation of the private outdoor designated area.

(c) All businesses operating within a private outdoor designated area shall comply with all requirements of the Jefferson County Health Department.

(d) All participating businesses within a private outdoor designated area shall make waste receptacles available during the operating hours of the private outdoor designated area in a number sufficient to contain the waste generated within the area and which are emptied regularly by each participating business as needed to ensure availability. These waste receptacles are in addition to the City of Charles Town public waste receptacles in the area.

Revocation of city manager approval; and general policy authority

(a) The city manager may revoke the letter of approval of any Class S4 permit holder when doing so is in the interest of public safety by sending a revocation letter to both the permit holder and the WVABCA.

(b) The city manager is authorized to create policies and procedures as necessary for the efficient operation of the private outdoor designated areas, including, but not limited to, signage language approval, container approval, identification of participating businesses and non-participating businesses, review of security plans proposed to the WVABCA, the interaction and interplay

between a fair or festival and the private outdoor designated areas, and the duties and responsibilities of all participating businesses with respect to clean up and other sanitation matters.

Suspension of private outdoor designated area

The city manager has the authority to suspend the operation of a private outdoor designated area immediately when in the interest of public safety by providing notice to all Class S4 permit holders within the private outdoor designated area, city council, any business association participating in the marketing or advertising of the private outdoor designated area, and the WVABCA.

Penalties

(a) An individual who violates any provision of this article relating to private outdoor designated areas is guilty of a misdemeanor and, upon conviction, shall be fined not less than $5.00 and not more than $100.00.

(b) Any person who owns or operates a business within a private outdoor designated area or is employed by such a business and who violates any provision of this article is guilty of a misdemeanor and, upon conviction, shall be fined not less than $5.00 and not more than $1,000.00. Any owner, operator, or employee who violates a provision of this article and is convicted of a third such offense, upon conviction, may be confined for up to 30 days. These penalties for owners, operators, and employees of private outdoor designated areas are in addition to any penalty from the WVABCA.

Creation and boundaries

(a) City Council for the City of Charles Town hereby establishes a private outdoor designated area known as "City Center PODA," which shall have the boundary as stated in subsection (b) of this section and which shall meet all of the requirements of this article and applicable West Virginia Code.

(b) The City Center PODA shall begin at the southeastern corner of the intersection of S West Street and W Congress Street, then continue along West Street in a northerly direction to W Liberty Street, then continue in an easterly direction along Liberty Street, including the structures on the northern side of Liberty Street to N Samuel Street, then continue in a southerly direction along Samuel Street to Congress Street, then continue in a westerly direction along Congress Street to West Street, excluding Wright Denny Elementary School.

(c) The attached map of the City Center PODA is incorporated by reference herein and made a part of this article.

(d) The area within the City Center PODA is in the Historic Downtown District, which is a zoning area that allows for the sale and consumption of liquor, wine, nonintoxicating beer and nonintoxicating craft beer, and is in compliance with the zoning ordinance.

Days and hours of operation

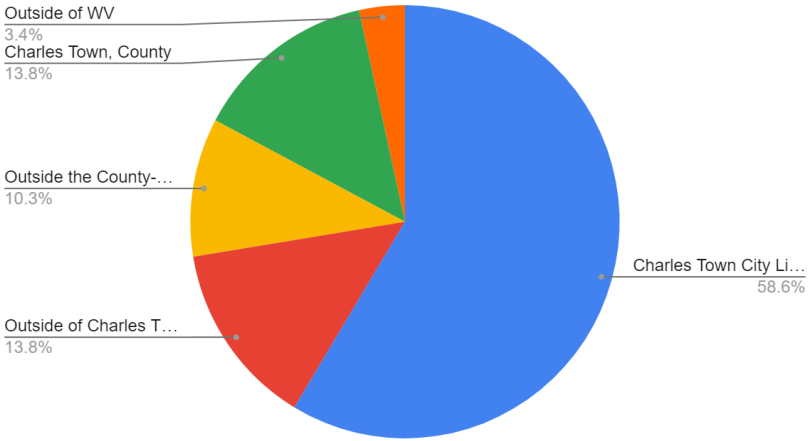
The City Center PODA may operate year-round on any Saturday from 10:00 a.m. until 10:00 p.m., from April 1st through October 31st on Thursday from 4:00 p.m. until 10:00 p.m., from April 1st through October 31st on Friday from 4:00 p.m. until 11:00 p.m. Drinks may not be sold in PODA cups or consumed within the City Center PODA outside of the hours of operation.

Personnel needed

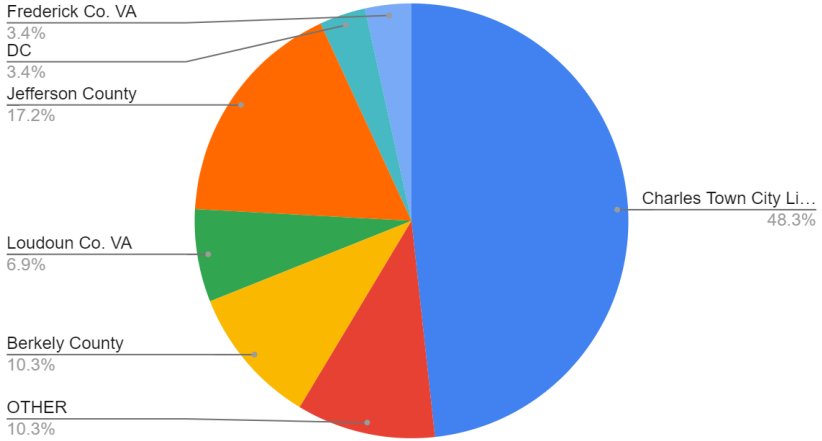
The estimated number of city personnel needed to ensure public safety and efficient operations in the City Center PODA is four police officers and two public works employees. The city council anticipates that these city employees will be working their regular shifts and generally assigned in this area of the city.

PODA SURVEY RESULTS

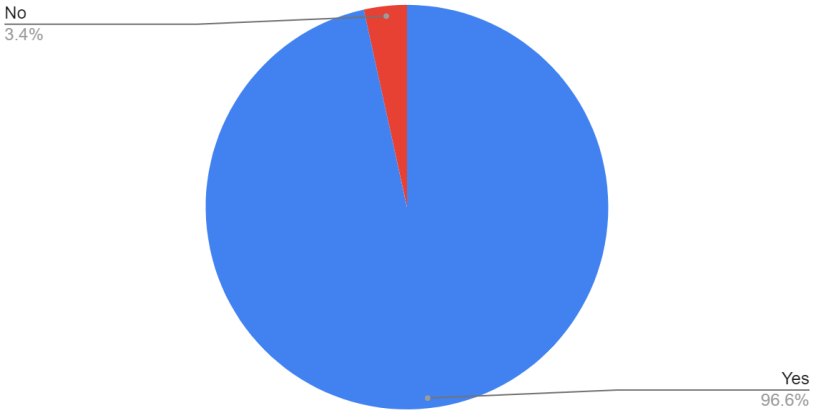
Where is your residence?



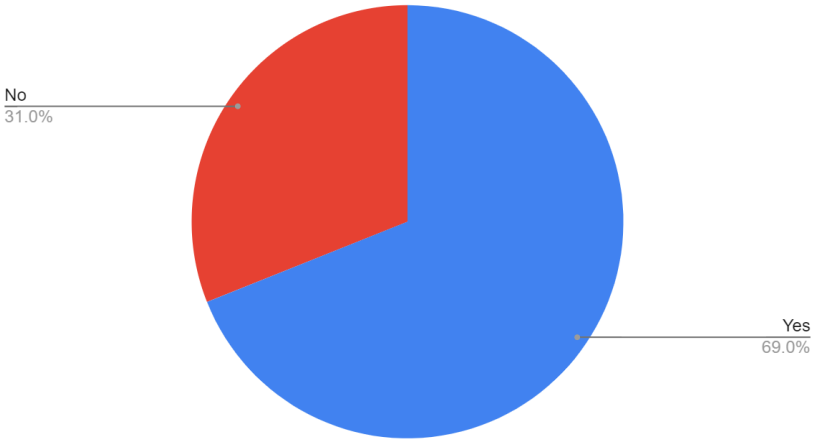
Where do you work?

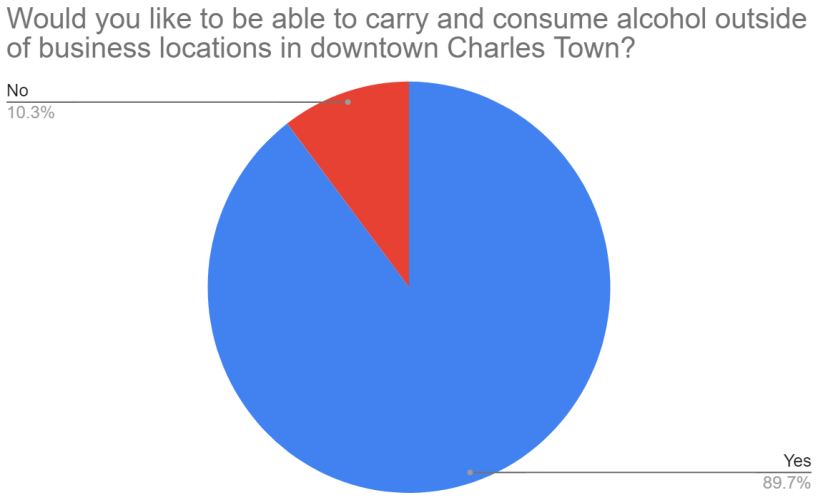


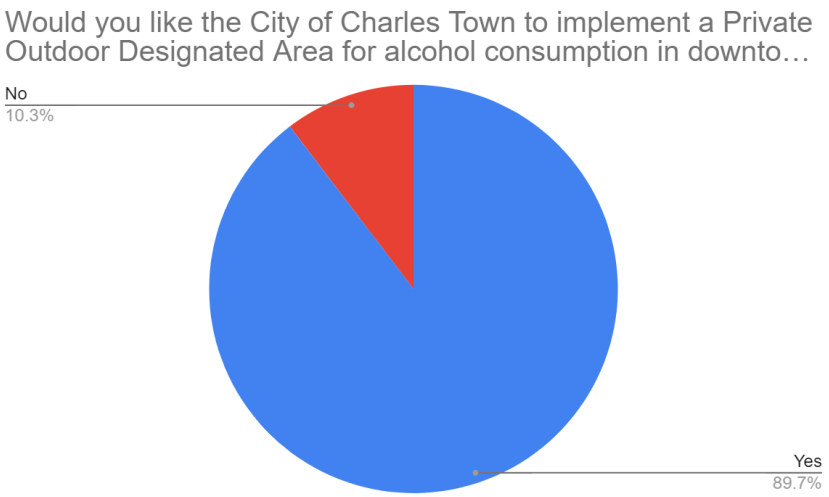
Do you patronize businesses that serve alcohol in downtown Charles Town?



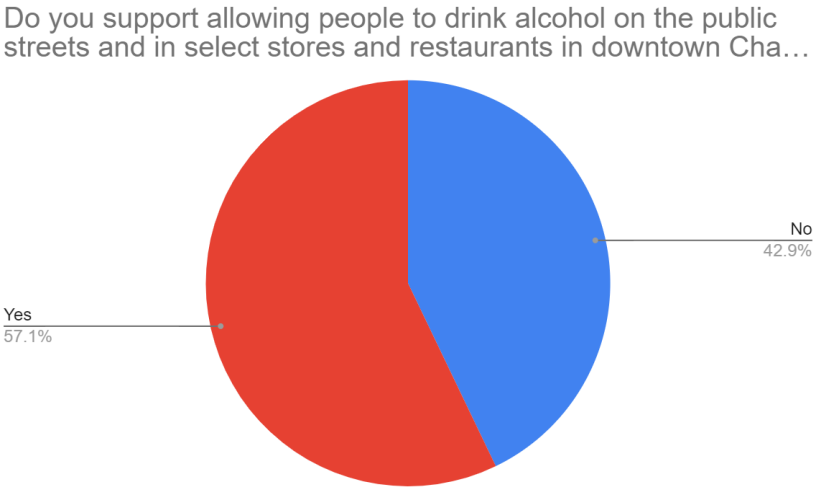
Do you patronize the beer garden at WV Fest or the Car show?



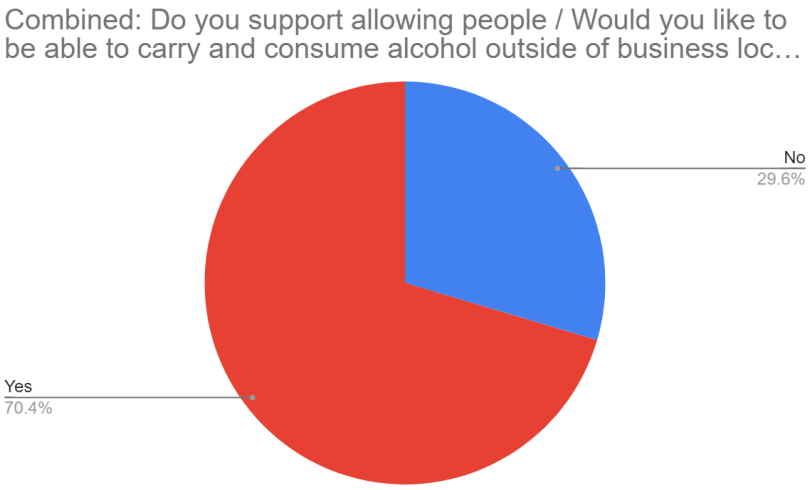


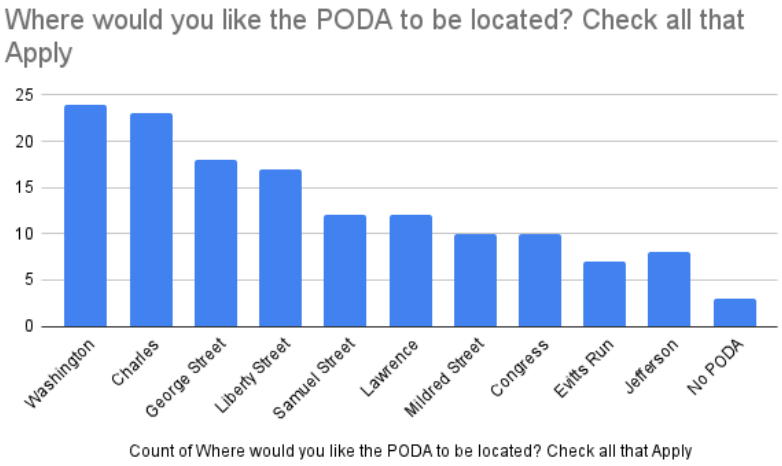


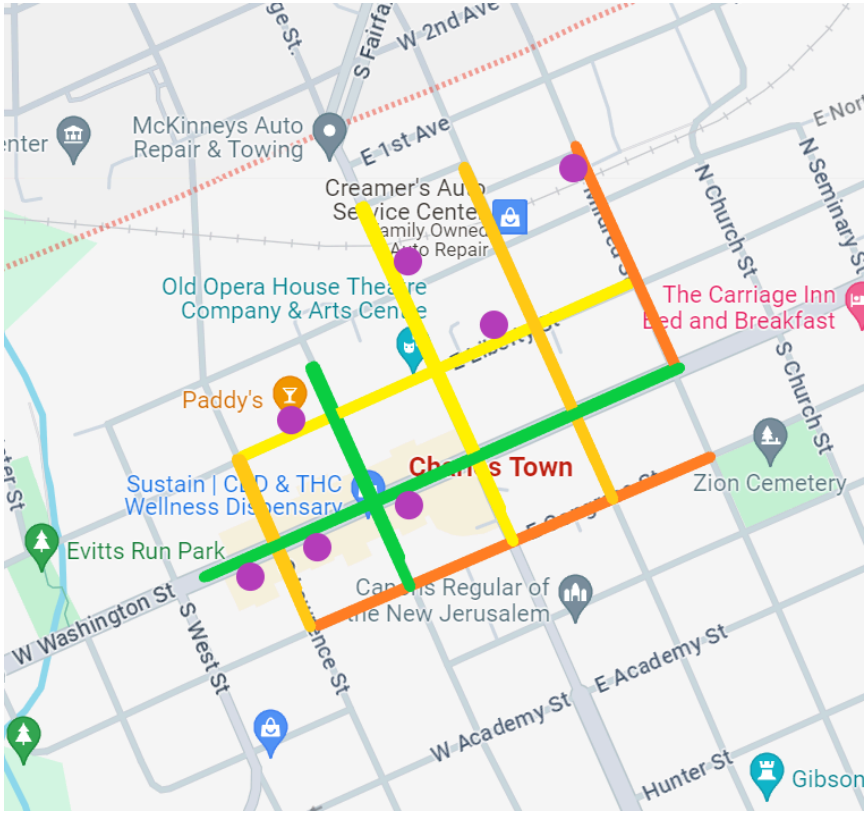
From Councilwoman Rodd's Survey:



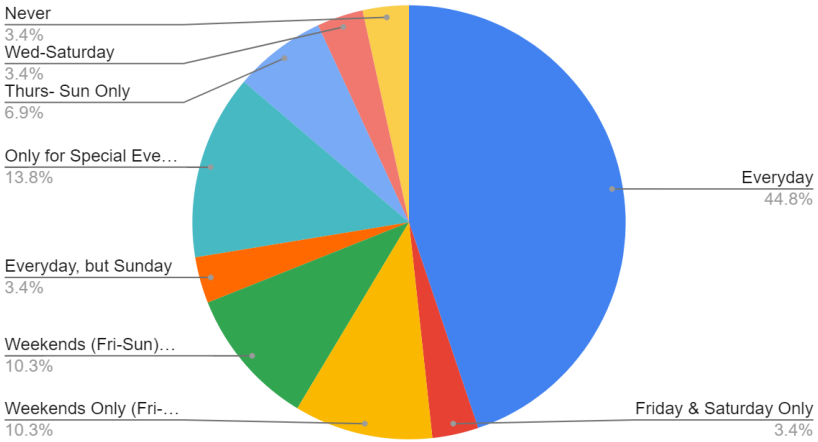
Combined results of similar questions on different surveys:



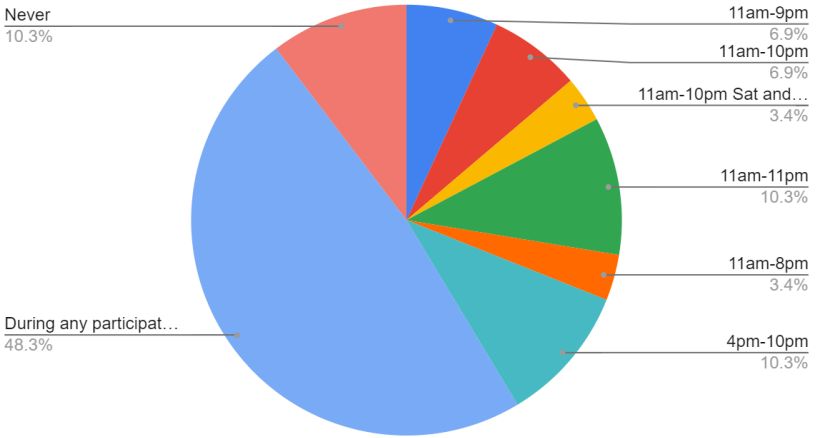

Where would you like the PODA to be located? Check all that Apply
25
20
15
10
5
0
Washington
Charles
George Street
Liberty Street
Samuel Street
Lawrence
Mildred Street
Congress
Evitts Run
Jefferson
No PODA
Count of Where would you like the PODA to be located? Check all that Apply


McKinneys Auto Repair & Towing
E 1st Ave
Creamer's Auto Service Center
Family Owned Auto Repair
Old Opera House Theatre Company & Arts Centre
The Carriage Inn Bed and Breakfast
Paddy's
Sustain | CBD & THC Wellness Dispensary
Charles Town
Zion Cemetery
Evitts Run Park
W Washington St
S West St
E Academy St
W Academy St
Hunter St
Gibson
N Church St
S Church St
N Seminary St

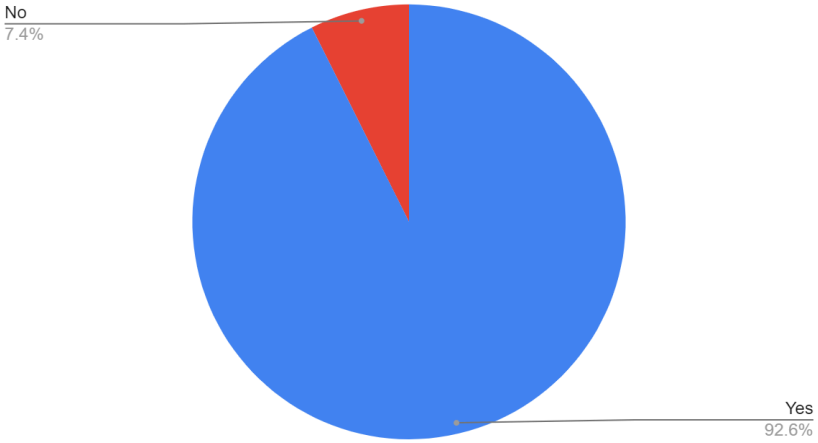
What day(s) should the PODA operate?



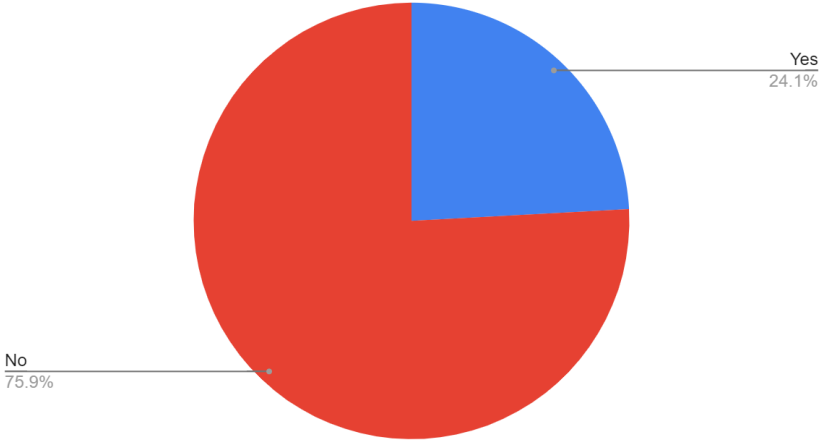
What hours should the PODA operate?



Would you utilize a PODA district?



Are you a business owner in the downtown area?



City of Charles Town
101 East Washington Street, P.O. Box 14, Charles Town, WV 25414
Phone: (304) 725-2311 ♦ Web: www.charlestownwv.us

PODA REPORT
March 2024

Charleston, WV

Contact: Jess – City Manager's Office, Oversees PODA

Charleston reports that PODA is "very successful," seeing "increased foot traffic," and they believe this to be an economic development tool to attract new restaurants into the PODA districts.

Charleston has 4 PODA Districts, with one currently active. PODA Districts are Elk City, Capital Market, Bridge Road, and City Center.

- City Center PODA began in November 2023
- City Center PODA District has 9 Restaurants
- City Center District has 40+ non restaurants that allow PODA beverages
- 3 Districts are awaiting law change, then it is anticipated those districts will become active.

Other Important Information:

1. There is not a heavy workload on staff to manage PODA. The application comes to City Hall for approval. Once approved, business applies through ABCA for approval. (Application attached)
2. Businesses involved with the PODA must provide trash receptacles at their business. The city does not provide any trash service specific to PODA.
3. Businesses involved must allow use of bathrooms on site. The city does not provide public bathrooms.
4. City made temporary signs to establish the PODA district. These costs were minimal, but they do plan to invest in aluminum signs this year.
5. The Charleston CVB invested in PODA by paying for the initial cup order. They ordered 10,000 cups to supply the businesses. The businesses are responsible to purchase cups when they run out of the initial investment.
6. Thus far, there are no reports of complaints, increased crime, or concerns.

Kevin Madison, General Manager of Black Sheep Burrito and Brews reported record sales days due to PODA implementation. He also reports that people are staying downtown longer because of PODA.

Huntington, WV

Contact: Sarah Bostic, Business Services City of Huntington

Sara reports positive results and no upticks in crime or complaints.

- Huntington PODA Began Sept 2023
- 7 Restaurants
- 20 Businesses allow PODA

Mayor Williams initiated PODA process. The City funded initial cup purchase (800 per business), and businesses are required to purchase cups after they exhaust supply. They sign an agreement to purchase identical cups and the city provides them with all artwork and QR Code.

City did implement more hours for public works, however, this was something on the horizon due to the influx of events (not PODA related). The city did invest in a few more trash cans, however, the businesses are required to manage the trash.

The only pushback was from businesses outside the district that wanted to be in the PODA district.

Huntington is currently updating PODA hours to be every day of the week.

They also anticipate more businesses to join PODA now that the bill has passed. They do anticipate they will expand the PODA boundaries.

Jeff McCoy owner Summit Beer Station reported positive feedback. It allows businesses to be more a part of events. Also promotes collaboration among businesses. Boutiques now work with PODA establishments to host more events downtown.

Chief of Police, Phil Watkins, reported that, thus far, there as been no uptick in disturbances in the PODA area. There has also not been an impact on resources. The PODA area already had coverage and coverage remained the same.

Morgantown, WV

PODA for the Wharf District and Downtown passed unanimously on February 5th. This PODA will begin May 15th.

PODA will be in effect from 4PM-10PM M-F, 10AM-10PM Saturday and Sunday.

Approval of Business in PODA conducted by committee of Councilmember, Main Street Morgantown, and a representative from the local business community.

See Attachment.

Parkersburg, WV

Parkersburg approved PODA in February. See attachment.

Huntington

2023-O-10

AN ORDINANCE OF COUNCIL AMENDING, MODIFYING AND RE-ENACTING ARTICLES 521 AND 711 OF THE CODIFIED ORDINANCES OF THE CITY OF HUNTINGTON, AS REVISED, TO ALLOW FOR THE CREATION OF PRIVATE OUTDOOR DESIGNATED AREAS.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF HUNTINGTON, CABELL AND WAYNE COUNTIES, WEST VIRGINIA, that Articles 521 and 711 of the Codified Ordinances of the City of Huntington, as revised, is hereby **AMENDED, MODIFIED AND RE-ENACTED** to read as follows:

.....

ARTICLE 521 – LIQUOR CONTROL

.....

ARTICLE 521.06 INTOXICATION OR DRINKING IN PUBLIC PLACES

(a) Legislative findings. Council hereby finds that the service or consumption in public places of beverages containing alcohol is an activity that could endanger the health, safety and welfare of the people of the city, that the municipality is empowered to regulate this activity; and that such activity shall be severely restricted in order to protect the health, safety and welfare of the people of the city.

(b) Definitions. As used in this section:

(1) "Alcoholic liquor" includes alcohol, spirits and any liquid or solid capable of being used as a beverage, but shall not include beer or wine as defined herein.

(2) "Beer" means all cereal natural malt beverages or products of the brewing industry commonly referred to as beer, lager beer, ale and all other mixtures and preparations produced by the brewing industry, including malt coolers and nonintoxicating craft beers with no caffeine infusion or any additives masking or altering the alcohol effect and containing at least 0.5% alcohol by volume, but not more than 4.211.9% of alcohol by weight, or 615% by volume, whichever is greater.

(3) "Person" means an individual, firm, partnership, limited partnership, corporation or voluntary association.

(4) "Public place" means any place, building or conveyance to which the public has, or is permitted to have access, including restaurants, soda fountains, hotel dining rooms, lobbies and corridors of hotels and any highway, street, lane, park or place of public resort or amusement; provided, that "public place" shall not mean or include any of the above-named places or any portion or portions thereof which qualify and are licensed under the

applicable provisions of the West Virginia Code to sell alcoholic liquor, wine or beer for consumption on the premises.

(5) "Wine" means any alcoholic beverage obtained by the fermentation of the natural content of fruits, or other agricultural products, containing sugar.

(c) No person shall:

(1) Appear in a public place in an intoxicated condition;

(2) Drink alcoholic liquor, wine or beer or have an open container of alcoholic liquor, wine or beer in or on any public sidewalk, walkway, entranceway, street, lane or other public place outside of a Private Outdoor Designated Area listed in Article 711 of this Code;

(3) Drink alcoholic liquor, wine or beer in a motor vehicle on any highway, street, alley or in any public garage. No person shall possess an open container of alcoholic liquor, wine or beer in a motor vehicle;

(4) Tender a drink of alcoholic liquor, wine or beer to another person in a public place outside of a Private Outdoor Designated Area listed in Article 711 of this Code;

(5) Possess alcoholic liquor in an amount in excess of one gallon, in containers not bearing stamps or seals of the state, without having first obtained written permission from the state; or

(6) Possess any alcoholic liquor, wine or beer which was manufactured or acquired in violation of the laws of the state.

(d) Notwithstanding the provisions of subsection (c) hereof, or any other section of this Code, the service and consumption of beer in a public place outside of a Private Outdoor Designated Area listed in Article 711 of this Code is strictly prohibited unless each of the requirements stated in subsections (d)(1) through (4) below are met:

(1) The person intending to serve beer or allow the consumption of beer on his or her premises has obtained a permit specifically for that purpose from the city.

(2) If the person obtaining the permit intends to serve beer, he or she shall have a valid nonintoxicating beer license from the state.

(3) The person shall have a valid business license from the city and shall not be delinquent in any taxes or service fees due the city.

(4) A permit application shall contain:

A. The applicant's name, address and other general information as the permit application shall require.

B. An accurate map or sketch showing all areas in which beer will be served and consumed.

C. A narration of the applicant's plan for enforcing the separation of drinking and nondrinking areas. The narration shall also include the applicant's plan for enforcing the observance of all applicable laws and to control the public consumption in order to avoid public intoxication and other nuisances.

(e) The application may be approved by the mayor. The application may be approved if, in his opinion, such approval would not adversely affect the health, safety and welfare of the residents of the city. ~~Upon approval, the applicant shall pay a permit fee of $100~~.

(f) For any permit granted under subsection (d) above, the following rules shall apply:

(1) The duration of the permit shall be limited by the mayor, and shall under no circumstances exceed 14 days. A permit may be renewed for one period of 14 days.

(2) The permit area shall not be located immediately adjacent to an established church or other place of worship that is at the time conducting a regularly scheduled worship service or other event.

(3) The applicant shall be a resident of the state and shall not have been convicted of any felony or crime of moral turpitude.

(4) The applicant shall assume all potential liability in writing and shall provide proof of insurance. As a condition to the issuance of a permit under this section, the applicant shall execute an agreement with the city which will hold the city harmless for any claim or suit arising out of the use of the permit.

(5) The city may add other conditions that are consistent with this article and the protection of the health, safety and welfare of the general public.

(g) Subsection (c) hereof notwithstanding, it shall be legal for adult persons to consume beer in public places if the beverage is consumed on the premises specified in an application filed with the city, and a permit has been granted pursuant to the application.

(h) Any applicant aggrieved by a decision on an application may appeal the decision to an appeal board created to determine such appeals. The board shall consist of five members with one to be a city employee appointed by the administration, one to be a member of council and appointed by the council chairperson and three residents of the city to be appointed by the administration with council approval. The term of each appointee shall be three years from the date of appointment. Persons serving on the board may be reappointed to two additional terms.

All appeals shall be filed within 30 days of the date of the decision. The board shall hear the aggrieved person's appeal and, within 14 days of such hearing, it shall either affirm or reverse the administration's decision.

(i) A police officer may transport any person arrested for a violation of section 521.06(c)(1) to a facility established for the treatment and recovery of substance abuse and there release a person upon the issuance of a citation to municipal court.

.....

ARTICLE 711
PRIVATE OUTDOOR DESIGNATED AREAS

711.01 Purpose and Intent

Pursuant to the provisions of West Virginia Code §8-12-26 and §60-7-8g, one or more private outdoor designated areas may be created within the City.

711.02 Definitions.

(a) "Commissioner" means the West Virginia Alcohol Beverage Control Commissioner.

(b) "Private Outdoor Designated Area" means public property that has become a legally demarcated area established by a municipal ordinance as set forth in §8-12-26 of this code for the consumption of liquor, wine, nonintoxicating beer, and nonintoxicating craft beer.

(c) "Qualified permit holder" means the holder of a Class A license issued under §60-7-1 et seq. of the West Virginia State Code.

711.03 Private Outdoor Designated Area

(a) There is hereby established Private Outdoor Designated Areas, hereinafter "PODAs," which shall be designated and managed as described herein and applicable state code.

(1) Downtown PODA. The Downtown PODA shall begin at the intersection of the eastern 8th Street sidewalk and the northern boundary of 4 1/2 Alley and shall continue northerly parallel to 8th Street to a point ±230 feet south/southeast of Veterans Memorial Boulevard, then continue northeast to a point on the western sidewalk of 10th Street that is ±185 feet south/southeast of the intersection of 10th Street and Veterans Memorial Boulevard, then continue southerly parallel to the western 10th Street sidewalk to the intersection with the southern 3rd Avenue sidewalk and 10th St, then continue easterly to a point ±160 feet east/northeast of the intersection of the eastern 10th Street sidewalk and the southern 3rd Avenue sidewalk, then continue southerly to a point ±160 feet east/northeast of the intersection of eastern 10th Street sidewalk and the southern boundary of 4 1/2 Alley, then shall continue westerly the intersection of western 10th Street sidewalk and the southern boundary of 4 1/2 Alley, then north to the intersection of western 10th Street sidewalk and the northern boundary of 4 1/2 Alley, then shall continue westerly to the beginning point. The Downtown PODA shall include the public rights-of-way within the boundary area and the buildings at or within the following addresses:

3-61 Pullman Square; 412-418 8th Street; 220-289 Ninth Street; 301-335 Ninth Street; 404-420 Ninth Street; 310-322 Tenth Street; 410-422 Tenth Street; 800-898 Third Avenue; 900-952 Third Avenue; 1001 Third Avenue; 801-848 Fourth Avenue; 900-999 Fourth Avenue; 1001-1019 Fourth Avenue.

A map of the Downtown PODA is made a part of this ordinance.

The Downtown PODA is, at the time of the passage of this ordinance, zoned C-3, Downtown Commercial, which permits the service and consumption of liquor, wine, nonintoxicating beer and nonintoxicating craft beer.

It is estimated that a minimum of two police officers and one public works employee will be needed to be available to ensure public safety and efficient operations in the Downtown PODA.

(2) RESERVED.

711.04 Special Exception Permit Required.

(a) Any restaurant, bar, or other business licensed by the State of West Virginia with a valid business license that authorizes the sale of liquor, wine, nonintoxicating beer, and nonintoxicating craft beer by the drink may apply for an annual Private Outdoor Designated Area Special

Exception Permit (PODA Permit) to allow service to patrons for on-premises consumption at a certain public property designated by ordinance as a private outdoor designated area.

(b) Requirements.

(1) Applicant must be located in an established PODA with a door for the safe ingress and egress of members, patrons, and guests to and from the PODA. The door shall comply with all building and fire codes.

(2) Applicant must submit an application to the City on the form that shall be provided.

(3) Applicant must submit a copy of the intended floor plan of any private outdoor area. The floor plan should indicate at minimum the placement of the door used for ingress and egress.

(4) Applicant must possess an active business license.

(5) No PODA permit shall be granted without approval of the City's Planning Division.

(6) Any applicant that intends to place tables, chairs, or other items on the public sidewalk and either does not have an active outdoor dining permit at the time of application or intends to expand an established outdoor service area must have approval from the fire marshal's office and the public works director or designee.

(7) Verification of zoning approval including a conditional use permit that includes any private outdoor area to be utilized for seating and serving patrons.

(c) Upon approval of the PODA Permit, the mayor or designee shall notify the commissioner of the identity of qualified permit holders that will be applying for permits set forth in West Virginia Code §60-7-8g.

(d) The mayor or designee may suspend a private outdoor designated area immediately when in the interest of public safety.

(e) Any business with a PODA Permit that also holds a valid outdoor dining area permit in accordance with Article 1340 *et seq.* of this code may continue to operate those areas in conjunction with the private outdoor designated area subject to the commissioner's requirements.

711.05 Signage.

At a minimum, every point where a pedestrian may exit the PODA by way of a public sidewalk shall have minimum of one sign placed designating the end of the PODA. The sign must be mounted in such a way and be made of a material that will ensure the sign will last for the entirety of the season the PODA is open.

711.06 Days/Hours of Operation.

Any PODA may operate from April through October. No PODA may be open except for the days and times listed herein.

(a) The hours of operation for the Downtown PODA shall be will be Thursday from 5:00 p.m. to 11:00 p.m., Friday from 5:00 p.m. to 11:00 p.m., and Saturday from 11:00 a.m. to 11:00 p.m.

(b) RESERVED.

711.07 Safety, Health, and Sanitation.

(a) All alcoholic beverages including, but not limited to, liquor, wine, nonintoxicating beer, and nonintoxicating craft beer shall be served in approved, non-glass containers, not greater than 18 fluid ounces.

(b) Public Waste Receptacles in the PODA.

(1) The mayor or designee shall make available to the public disposable waste receptacles the hours of PODA operation. This requirement may be modified by the mayor or designee when inclement weather or other outside factors make placement of disposable waste receptacles unsafe or unreasonable.

(2) Public waste receptacles, including both permanent and disposable receptacles, shall be placed no less than 1 per half-block.

(3) Public waste receptacles, including both permanent and disposable receptacles, shall be emptied as needed, but at a minimum of once per day of operation. The mayor or designee shall cause permanent public waste receptacles to be emptied every Thursday before the PODA hours of operation begin and at least once a day on all other days of operation.

(c) Participating businesses within the PODA shall make available adequate restroom facilities, whether permanent or portable, to serve their members and guests during all the hours of PODA operation in accordance with West Virginia Code §60-7-8g(c)(7).

(d) All businesses operating within the PODA must comply with all requirements of the Cabell-Huntington Health Department.

711.08 Rules Governing Patrons in Private Outdoor Designated Areas.

(a) Notwithstanding any prohibition in Article 521 of this code, a person may possess an opened container of liquor, wine, nonintoxicating beer, and nonintoxicating craft beer at an outdoor location within a PODA during the hours of operation authorized by this ordinance if all of the following apply:

(1) opened container of liquor, wine, nonintoxicating beer, and nonintoxicating craft beer was purchased from a PODA permit holder located in the PODA; and

(2) the liquor, wine, nonintoxicating beer, and nonintoxicating craft beer is in a container approved under this ordinance and by the West Virginia Alcohol Beverage Control Commissioner.

(b) Subsection (a) of this section does not authorize a person to do either of the following:

(1) Leave a PODA while possessing an open container of liquor, wine, nonintoxicating beer, and nonintoxicating craft beer

(2) Possess an opened container of liquor, wine, nonintoxicating beer, and nonintoxicating craft beer while being in or on a motor vehicle within a PODA.

711.99 Enforcement.

The City shall provide the commissioner copies of all non-compliance and violations including criminal violations. The commissioner shall enforce all qualified permit holders operate in

accordance with requirements set forth in West Virginia Code §11-16-1 *et seq.* and West Virginia Code chapter 60.

BE IT FURTHER ORDAINED that all other articles, sections and subsections of the Codified Ordinances of the City of Huntington, as revised, shall remain in full force and effect until further Ordinance of this Council.

BE IT FURTHER ORDAINED that the amendments to Articles 521 and 711 shall become effective upon its adoption by Council and approval by the Mayor.

SPONSORED BY COUNCILWOMAN TIA RUMBAUGH

APPROVED AS TO FORM BY SD

FIRST READING 5/22/2023 - ORDERED ADVERTISED

SECOND READING 6/12/20223 - ADOPTED (8 yeas, 0 nay and 3 absent - Bowen Rumbaugh and Sweeney)

DATE June 12, 2023

Lisa Adkins, Asst. City Clerk

BARBARA MILLER, CITY CLERK

DATE 6/13/2023

STEVE WILLIAMS, MAYOR

APPROVE

DATE 6/13/2023

VETO

Dear Business Owner,

I am excited to inform you that your business has the opportunity to participate in the the Private Outdoor Designated Area (PODA) in downtown Huntington. Effective June 9, 2023, Senate Bill 534 allows cities to designate a PODA in which alcohol may be sold and consumed.

To participate in the PODA, your business must complete the application with the requested documentation and submit it to the Business Services Advocate office. Once your application is reviewed, you will be contacted by Business Services Advocate who will guide you through the process and provide you with the necessary information.

Requirements for consideration:

- ☐ Be physically located within a PODA district with a door facing the district street
- ☐ Active and in Good Standing with City of Huntington private club business license

If you have any questions or concerns, please do not hesitate to contact me.

Sincerely,

Sarah Bostic
Business Services Advocate
City of Huntington
800 5th Avenue, Room 2
Huntington, WV 25701
304-696-5540 ext. 2339
Bostics@huntingtonwv.gov

FINANCE DIVISION

City of Huntington
Finance Division
P.O. Box 1659 | Huntington, WV 25717
(304) 696-5540, option 4
finance@huntingtonwv.gov

Class A License Holders Downtown District

21 AT THE FREDERICK | 940 4TH AVE
BACKYARD PIZZA & RAW BAR | 833 3RD AVE
BLACK SHEEP BURRITO AND BREWS | 279 9TH ST
BOOTS | 411 9TH ST
DELTA HOTELS BY MARRIOT DOWNTOWN HUNTINGTON | 800 3RD AVE
DOUBLETREE BY HILTON HUNTINGTON |1001 3RD AVE
HANK'S FOURTH AVENUE | 1019 4TH AVE
HIBACHI JAPANESE STEAKHOUSE | 839 4TH AVE
JOCKEY CLUB | 938 4TH AVE
KEITH ALBEE PERFORMING ARTS | 925 4TH AVE
LAFONTAINES ROOFTOP LOUNGE | 420 10TH ST
LE BISTRO & THE CELLAR DOOR | 905 3RD AVE
MARSHALL HALL OF FAME CAFE | 855 3RD AVE
MOUNTAIN HEALTH ARENA | 1 CIVIC CENTER PLAZA
OLD NORTH ARCADE | 16 PULLMAN SQ BLDG 2
RAPID FIRE PIZZA |900 3RD AVE
RED LOBSTER | 200 10TH AVE
RIO GRANDE | 914 4TH AVE
ROOSTERS | 26 PULLMAN SQ
SIP DOWNTOWN BRASSERIE |311 9TH ST
SIP WINE AND WHISKEY BAR | 911 9TH ST
ST MARKS LOUNGE | 932 4TH AVE
SUMMIT BEER STATION | 321 9TH ST
TAPS AT HERITAGE | 210 11TH ST
TAQUERIA 84 | 809 3RD AVE
TASTE OF ASIA HIBACHI | 821 3RD AVE
THE LANTERN | 817 4TH AVE

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Private Outdoor Designated Area (PODA) Special Permit Application

Business Name: _____ DBA, if any: _____

1. Do you intend to create new outdoor seating on the sidewalk? ☐Yes ☐No
2. If yes, will any tables and chairs be removed every night? ☐Yes ☐No
   A. If no to #2, you will need to apply for an outdoor dining permit.
   B. Additionally, if your business is a bar, you will need to apply to the Board of Zoning hearing for an expansion of your conditional use permit for permanent outdoor seating.
3. **Submit a Floor Plan indicating the following:**
   A. All areas open to the public
   B. Placement of the door used for ingress and egress to the PODA
   C. Number and location of restrooms available to patrons
   D. Outdoor seating area, if any, including placement of tables and chairs
   E. Indicate whether outdoor seating area is existing, new-permanent, or temporary

REQUIREMENTS AND RESPONSIBILITIES FOR OPERATION

Approval by the City is not the final approval.

1. You may not operate as a PODA permit holder without obtaining a Class S4 permit from the Alcohol Beverage Control Administration.
2. A copy of the ABCA S4 permit must be submitted to the City before the City PODA special permit will be issued.

Drinks must be served in approved PODA cups.

1. PODA cups may be purchased from any vendor after you have your ABCA S4 permit and City PODA special permit.
2. PODA cups will be 16 ounces in size, made of clear plastic, and bear the appropriate authorized City of Huntington PODA logo for the district in which the permit holder will operate.

PODA permits valid during authorized days and hours, with exceptions.

1. Authorized times include those listed for the permit holder's district in City of Huntington Ordinance §711.

Responsibilities:

1. To have restrooms open for their patrons during the PODA hours and days
2. To keep litter controlled around business property
3. To ensure patrons who participate for the PODA have only approved containers for their alcoholic beverage
4. Check with your liability insurance carrier to determine if you have coverage pursuant to the joint and several liability provisions of your insurance policy

FINANCE DIVISION

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Acknowledgments

(initial each)

_____ I acknowledge that, if I am granted as special permit by the City of Huntington and the West Virginia Alcohol Beverage Control Administration to participate in a City of Huntington Private Outdoor Designated Area, I and/or my business entity may be held jointly and severally liable for any improper acts or conduct committed in the operation of the _____ PODA pursuant to West Virginia Code §60-7-8g(c)(8).

_____ Further, I agree to indemnify, hold harmless and defend the City of Huntington and the West Virginia Alcohol Beverage Control Administration and each of its elected officials, officers, officials, employees, agents and volunteers from any and all claims, counterclaims, demands, all loss, liability, fines, penalties, forfeitures, costs and damages (whether in contract, tort or strict liability, including but not limited to personal injury, death at any time and property damage) incurred by City, the WVABCA, Permittee or any other person, including invitees, and from any and all claims, demands and actions in law or equity (including attorney's fees and litigation expenses), arising or alleged to have arisen directly or indirectly out of the special event. Permittee's obligations under the preceding sentence shall apply regardless of whether City, the WVABCA or any of its elected officials, officers, officials, employees, agents or volunteers are negligent, but shall not apply to any loss, liability, fines, penalties, forfeitures, costs or damages caused solely by the gross negligence, or caused by the willful misconduct, of City, the WVABCA, or any of its elected officials, officers, officials, employees, agents or volunteers.

_____ I acknowledge that I have the power and authority to bind the Applicant to the terms herein by signing this document.

Applicant Signature: _____
Applicant Print Name: _____
Relationship to Requesting Business: _____
Date: _____

OFFICE USE ONLY

DEPARTMENT APPROVALS *(Provide initial and any comments)*
1. Planning and Zoning:
2. Finance:
3. Public Works:
4. Fire:
5. Mayor:
WV ALCOHOL BEVERAGE CONTROL ADMINISTRATION ☐ Approved ☐ Denied Date: _____
PODA PERMIT Issued Date:_____ Account Number:_____ Reviewed By: _____

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PODA Permit Holders

Downtown District FAQ

WHO CAN BE A PERMIT HOLDER IN THE PODA DOWNTOWN DISTRICT?
Only bars and restaurants that have an active and good standing City of Huntington and WV Alcohol Beverage Control Administration (WV ABCA) private club business license and be physically located within a PODA district with a door facing the district street.

WHAT DO I NEED TO SUBMIT TO SEE IF I AM ELIGIBLE TO APPLY TO BE A PERMIT HOLDER?
This permit is only available to a certain business type in the PODA downtown district at this time. Contact: Sarah Bostic, Business Services Advocate for an application and permit requirements at bostics@huntingtonwv.gov.

WHAT DO I NEED FROM THE WV ABCA TO OPERATE IN THE PODA?
You may not operate as a PODA permit holder without obtaining a Class S4 permit from the WV ABCA. A copy of the WV ABCA S4 permit must be submitted to the City before the City PODA permit will be issued.

HOW DO I GET AN APPROVED CUP IF I AM A PERMIT HOLDER IN THE PODA?
The City of Huntington will provide initial 750 cups at no expense. PODA cups may be purchased from any vendor of your choosing after you have your WV ABCA S4 permit and City PODA special permit. PODA cups will be 16 ounces in size, made of clear plastic with lines designating 6 ounces, 9 ounces, and 12 ounce pours, and bear the appropriate authorized City of Huntington PODA logo for the district in which the permit holder will operate.

WHEN DOES THE PODA DISTRICT OPERATE?
Thursdays and Fridays from 5 p.m. to 11 p.m.
Saturdays from 11 a.m. to 11 p.m.

WHAT ARE MY BUSINESS OPERATION RESPONSIBILITIES?
Restrooms open for their patrons during the PODA hours and days
Litter controlled around business property
Patrons who participate for the PODA have only approved containers for their alcoholic beverages'
Patrons have no outside beverages within the PODA downtown district

HOW IS THE CITY HELPING GET THE WORD OUT ABOUT HOW THIS NEW DISTRICT WILL OPERATE?
The City will post street signage at the district boundaries, provide updates on this website link and approved businesses to an interactive PODA District map. It also will produce appropriate window storefront signage, posters and table cards at no charge to participating businesses to help educate patrons on how the PODA District operates. Contact: Bryan Chambers, Communications Director at chambersb@huntingtonwv.gov.

August 10, 2023

Re: Update to City of Huntington 2023 Policy on PODA stickers and PODA signs dated August 2, 2023

Dear Business Owner,

This is an official notification regarding a change to the City of Huntington 2023 Policy on PODA stickers and PODA signs. Mayor Steve Williams has authorized the City of Huntington to purchase cups with the PODA logo that will be given out to PODA permit holders. It will be the responsibility of the business owner to purchase the PODA cups with the PODA logo in a clear 16 oz plastic cup after inventory from the City of Huntington is depleted. On each clear 16 oz plastic cup, a PODA logo with a QR code that links to the Downtown PODA Map is displayed. It is the responsibility of the business to use the approved PODA cup when serving beverages that will be consumed in the PODA area. For good cause shown, the mayor or designee may approve a clear plastic cup of a size other than 16 ounces, but no greater than 18 ounces. The approved PODA cup design are attached.

The Downtown PODA will operate from 5 p.m. to 11 p.m. on Thursdays and Fridays and from 11 a.m. to 11 p.m. on Saturdays.

The City of Huntington PODA permit and PODA cups may be picked upon submission of an approved WV ABCA S4 permit in Business Services Advocate office in Room 2 of City Hall.

PODA permit holders shall be given items to help educate patrons on PODA. Businesses will be given several PODA posters and table top signs along with the appropriate window clings to place on the entrance of the establishment stating "PODA beverages served here." Other non-permitted businesses within the PODA may pick up a window cling that says "PODA Beverages Welcome", or "Please, no PODA beverages" at no cost. It is the responsibility of the business to display educational materials in their place of business. Images of PODA signs are attached.

If you have any questions or concerns, please contact the Business Services Advocate.

Sincerely,

Sarah Bostic
Business Services Advocate

PODA 16 oz Cup

12oz

Private Outdoor Designated Area
PODA
DOWNTOWN

PODA Beverage
Designated Areas Only

9oz

6oz

BLACK IMPRINT



SIDE 1



SIDE 2

Private Outdoor Designated Area PODA

The Private Outdoor Designated Area (PODA) in downtown Huntington allows patrons to grab a to-go drink in a designated cup from a participating establishment and explore the downtown within a defined geographic boundary.

The Downtown PODA District occurs between April 1 – October 31 Thursdays and Fridays from 5 – 11 p.m. and Saturdays from 11 a.m. – 11 p.m.

YOU CAN:

- ✓ Support local businesses by purchasing a drink at a participating PODA establishment and exploring the Downtown PODA during the designated hours and days of the week.
- ✓ Enjoy responsibly. Rules pertaining to public intoxication, indecency, noise and driving while intoxicated still apply.
- ✓ Finish your drink and throw away your cup in a trash receptacle when you see a sign that says you are leaving the PODA.

YOU CANNOT:

- ✗ Bring your own alcohol into the PODA. All to-go PODA drinks must be purchased from a participating establishment.
- ✗ Walk around with a drink that is not in a designated PODA cup (a clear cup with the PODA logo). Cans, glass bottles and to-go mugs that you brought from home are prohibited.
- ✗ Take a PODA drink from a participating PODA establishment into a non-participating PODA establishment.
- ✗ Throw your trash on the ground. There are plenty of trash receptacles within the PODA.

CITY OF HUNTINGTON West Virginia 1871

To view the Downtown PODA map and more information, scan the QR code.

Private Outdoor Designated Area

PODA



The Private Outdoor Designated Area (PODA) in downtown Huntington allows patrons to grab a to-go drink in a designated cup from a participating establishment and explore the downtown within a defined geographic boundary.

The Downtown PODA District occurs between April 1 – October 31 Thursdays and Fridays from 5 – 11 p.m. and Saturdays from 11 a.m. – 11 p.m.

see back for more details

YOU CAN:

- ✓ Support local businesses by purchasing a drink at a participating PODA establishment and exploring the Downtown PODA during the designated hours and days of the week.
- ✓ Enjoy responsibly. Rules pertaining to public intoxication, indecency, noise and driving while intoxicated still apply.
- ✓ Finish your drink and throw away your cup in a trash receptacle when you see a sign that says you are leaving the PODA.

YOU CANNOT:

- ✗ Bring your own alcohol into the PODA. All to-go PODA drinks must be purchased from a participating establishment.
- ✗ Walk around with a drink that is not in a designated PODA cup (a clear cup with the PODA logo). Cans, glass bottles and to-go mugs that you brought from home are prohibited.
- ✗ Take a PODA drink from a participating PODA establishment into a non-participating PODA establishment.
- ✗ Throw your trash on the ground.
  There are plenty of trash receptacles within the PODA.

To view the Downtown PODA map and more information, scan the QR code.


PODA
BEVERAGES
WELCOME


Private Outdoor Designated Area
PODA
PODA
BEVERAGES
SERVED HERE


PLEASE
NO PODA
BEVERAGES

Charleston

Bill No. 8013 Committee Substitute, As Amended

Introduced in Council:

September 18, 2023

Adopted by Council:

October 2, 2023

Introduced by:

Chad Robinson, Bruce King, Frank Annie, Mary Beth Hoover, Jennifer Pharr, Shawn Taylor, Joseph Jenkins, Sam Minardi and Patrick Salango

Referred to:

Ordinance & Rules

Bill No. 8013 Committee Substitute as Amended - A BILL to amend the Municipal Code of the City of Charleston, as amended by adding thereto a new Article IV within Chapter 6, consisting of 4 divisions, designated Sec. 6-151, 6-152, 6-153, 6-154, 6-155, 6-156, 6-157, 6-158, 6-159, 6-166, 6-167, 6-168, 6-171, 6-172, 6-173, 6-176, 6-177, 6-178, 6-181, 6-182, and 6-183, all relating to authorizing Private Outdoor Designated Areas; updating prohibitions on drinking in public places; providing details for the operation of Private Outdoor Designated Areas; creating certain requirements and prohibitions for businesses and individuals within Private Outdoor Designated Areas; creating criminal penalties for violations of the article; requiring certain signage be placed to demarcate Private Outdoor Designated Areas; authorizing the City Manager to take action to revoke permits or suspend Private Outdoor Designated Areas when public safety so requires; creating the City Center PODA, Bridge Road PODA, Elk City PODA, and Capitol Market PODA; and setting forth day, time, and personnel needed for the operation of each Private Outdoor Designated Area.

Now, therefore, be it ordained by the Council of the City of Charleston:

That the Municipal Code of the City of Charleston, as amended, is hereby amended by adding thereto a new Article IV within Chapter 6, consisting of 4 divisions, designated Sec. 6-151, 6-152, 6-153, 6-154, 6-155, 6-156, 6-157, 6-158, 6-159, 6-166, 6-167, 6-168, 6-171, 6-172, 6-173, 6-176, 6-177, 6-178, 6-181, 6-182, and 6-183, all to read as follows:

CHAPTER 6. – ALCOHOLIC BEVERAGES.
ARTICLE IV. – PRIVATE OUTDOOR DESIGNATED AREAS.
DIVISION 1. – GENERALLY.

Sec. 6-151. – Authorization for Private Outdoor Designated Areas.

Pursuant to West Virginia Code §8-12-26, the City of Charleston hereby adopts this ordinance establishing private outdoor designated areas, as described in West Virginia Code § 60-7-8g.

Sec. 6-152. – Private Outdoor Designated Area.

A Private Outdoor Designated Area includes the public property that has become a legally demarcated area established by a municipal ordinance as set forth in West Virginia Code §8-12-26 for the consumption of liquor, wine, nonintoxicating beer, and nonintoxicating craft beer. Notwithstanding the provisions of Section 78-211 of this Code, a person may possess and consume an approved open container of liquor, wine, nonintoxicating beer, or nonintoxicating craft beer sold from an approved Class S4 permit holder, as further detailed in this Article, outdoors within a Private Outdoor Designated Area. A business operating within a Private Outdoor Designated Area may choose whether or not to permit people to enter its business with an approved open container of liquor, wine, nonintoxicating beer, or nonintoxicating craft beer sold from an approved Class S4 permit holder.

Sec. 6-153. – Participation in a Private Outdoor Designated Area.

(a) Any Class A license holder under West Virginia Code §60-7-1 *et seq.* that operates in a Private Outdoor Designated Area may apply to the City Manager for the approval to operate in a Private Outdoor Designated Area. The City Manager shall review the application to ensure it is complete and meets the following requirements:

(1) The applicant is located in an established Private Outdoor Designated Area, pursuant to this Article, with a front door in compliance with all building and fire codes for the safe ingress and egress of members, patrons, and guests to and from the Private Outdoor Designated Area.

(2) The applicant has a valid city and state business license and is in good standing with the city.

(3) The applicant has a valid Class A private club license under West Virginia Code §60-7-1 *et seq.*

(b) Once approved by the City Manager, as indicated by a letter of approval to the applicant, the license holder may apply to the West Virginia Alcohol Beverage Control Administration ("WVABCA") for a special Class S4 permit, as detailed in West Virginia Code § 60-7-8g, to participate in a Private Outdoor Designated Area, as further detailed in this Article, in the West Virginia Code, and in any applicable rules of the WVABCA. Upon approval by the WVABCA, the Class S4 permit holder shall notify the City Manager's office. Any business that receives the approval of the City Manager and a Class S4 permit from the WVABCA may participate in a Private Outdoor Designated Area.

(c) Participation in a Private Outdoor Designated Area does not provide a business with any authority to operate outdoor dining on the public right of way. Any business interested in participating in outdoor dining shall follow the requirements of Chapter 102, Article VII of this Code. A business with an approved outdoor dining area that is within a Private Outdoor Designated Area may operate its outdoor dining area simultaneously with its participation in a Private Outdoor Designated Area.

Sec. 6-154. – Containers.

All beverages served from valid Class S4 permit holders for consumption in a Private Outdoor Designated Area shall be served in a non-glass container not greater than 16 fluid ounces, which has been approved by the City Manager and the WVABCA.

Sec. 6-155. – Signage and Prohibitions.

(a) Prior to the operation of a Private Outdoor Designated Area, the city shall erect conspicuous signage. The signs shall be located at every reasonable point where a pedestrian may exit the Private Outdoor Designated Area by way of a public sidewalk. The signs shall clearly state "No alcohol beyond this point." and provide clear notice that a person is leaving the Private Outdoor Designated Area.

(b) A person may not leave a Private Outdoor Designated Area while possessing an open container of liquor, wine, nonintoxicating beer, or nonintoxicating craft beer that contains liquid.

(c) A person may not possess an open container of liquor, wine, nonintoxicating beer, or nonintoxicating craft beer that contains liquid while being in, on, or operating a motor vehicle within a Private Outdoor Designated Area.

Sec. 6-156. – Public Health, Safety, and Sanitation.

(a) All Private Outdoor Designated Areas shall be operated in a manner consistent with all state and municipal laws. The Charleston Police Department shall be responsible for ensuring compliance and may issue citations within the Private Outdoor Designated Areas as necessary. The Charleston Police Department shall provide a copy of any citation issued within a Private Outdoor Designated Area to the WVABCA.

(b) In addition to any public restrooms in a Private Outdoor Designated Area, participating Class S4 permit holders shall make available adequate restroom facilities, whether permanent or portable, to serve their members and guests during all hours of operation of the Private Outdoor Designated Area.

(c) All businesses operating within a Private Outdoor Designated Area shall comply with all requirements of the Kanawha-Charleston Health Department.

(d) All participating businesses within a Private Outdoor Designated Area shall make waste receptacles available during the operating hours of the Private Outdoor Designated Area in a number sufficient to contain the waste generated within the area and which are emptied regularly by each participating business as needed to ensure availability. These waste receptacles are in addition to the City of Charleston public waste receptacles in the area.

Sec. 6-157. – Revocation of City Manager Approval; and General Policy Authority.

(a) The City Manager may revoke the letter of approval of any Class S4 permit holder when doing so is in the interest of public safety by sending a revocation letter to both the permit holder and the WVABCA.

(b) The City Manager is authorized to create policies and procedures as necessary for the efficient operation of the Private Outdoor Designated Areas, including but not limited to, signage language approval, container approval, identification of participating businesses and non-participating businesses, review of security plans proposed to the WVABCA, the interaction and interplay between a fair or festival and the Private Outdoor Designated Areas, and the duties and responsibilities of all participating businesses with respect to clean up and other sanitation matters.

Sec. 6-158. – Suspension of Private Outdoor Designated Area.

The City Manager has the authority to suspend the operation of a Private Outdoor Designated Area immediately when in the interest of public safety by providing notice to all Class S4 permit holders within the Private Outdoor Designated Area, City Council, any business association participating in the marketing or advertising of the Private Outdoor Designated Area, and the WVABCA.

Sec. 6-159. – Penalties.

(a) An individual who violates any provision of this article relating to Private Outdoor Designated Areas is guilty of a misdemeanor and, upon conviction, shall be fined not less than $5 and not more than $100.

(b) Any person who owns or operates a business within a Private Outdoor Designated Area or is employed by such a business and who violates any provision of this article is guilty of a misdemeanor and, upon conviction, shall be fined not less than $5 and not more than $1,000. Any owner, operator, or employee who violates a provision of this article and is convicted of a third such offense, upon conviction, may be confined for up to 30 days. These penalties for owners, operators, and employees of Private Outdoor Designated Areas are in addition to any penalty from the WVABCA.

DIVISION 2. – CITY CENTER PODA

Sec. 6-166. – Creation and Boundaries.

(a) City Council for the City of Charleston hereby establishes a Private Outdoor Designated Area known as "City Center PODA", which shall have the boundary as stated in subsection (b) of this section and which shall meet all of the requirements of this Article and applicable West Virginia Code.

(b) The City Center PODA shall begin at the southeastern corner of the intersection of Kanawha Boulevard and Laidley Street, then continue along Laidley Street in a northerly direction, including City Center at Slack Plaza, to Lee Street, then

continue in an easterly direction along Lee Street, including the structures on the northern side of Lee Street between Summers Street and Dickinson Street, but excluding Davis Park, to Dickinson Street, then continue in a southerly direction along Dickinson Street to Virginia Street, then continue in a westerly direction along Virginia Street to Capitol Street, then continue in a southerly direction along Capitol Street to Kanawha Boulevard, including the 800 block of Kanawha Boulevard and then continue in a westerly direction along Kanawha Boulevard to include all of Haddad Riverfront Park to the southeastern corner of the intersection of Laidley Street and Kanawha Boulevard. The City Center PODA shall include the public rights-of-way within the boundary area and the buildings at or within the following addresses: 600-900 Virginia Street East; 500-816 Kanawha Blvd East; 8-310 Capitol Street; 2-191 Summers Street; 100-235 Hale Street; 611-900 Lee Street East; 700-723 Brawley Walkway; 700-912 Quarrier Street.

(c) The attached map of the City Center PODA is incorporated herein and made a part of this ordinance.

(d) The area within the City Center PODA is in the Central Business District ("CBD"), which is a zoning area that allows for the sale and consumption of liquor, wine, nonintoxicating beer and nonintoxicating craft beer, and is in compliance with the zoning ordinance.

Sec. 6-167. – Days and Hours of Operation

The City Center PODA may operate year round on any Monday through Friday from 4:00 p.m. until 10:00 p.m., Saturday from 10:00 a.m. until 10:00 p.m., and Sunday from 10:00 a.m. until 10:00 p.m. Drinks may not be sold in PODA cups or consumed within the City Center PODA outside of the hours of operation.

Sec. 6-168. – Personnel Needed

The estimated number of City personnel needed to ensure public safety and efficient operations in the City Center PODA is four police officers and two public works employees. The City Council anticipates that these City employees will be working their regular shifts and generally assigned in this area of the City.

DIVISION 3. – BRIDGE ROAD PODA

Sec. 6-171. – Creation and Boundaries.

(a) City Council for the City of Charleston hereby establishes a Private Outdoor Designated Area known as "Bridge Road PODA", which shall have the boundary as stated in subsection (b) of this section and which shall meet all of the requirements of this Article and applicable West Virginia Code.

(b) The Bridge Road PODA shall begin on Bridge Road at a point 115 feet north of its intersection with Walnut Road and shall continue along Bridge Road in a southerly direction to a point 275 feet southwest of its intersection with Forest Road; it shall include the area along Forest Road between Bridge Road and Glen Road and the area

along Walnut Road between Pine Road and Bridge Road, along with the buildings and lots adjacent to these public rights-of-way. The Bridge Road PODA shall include the public rights-of-way within the boundary area and the buildings at or within the following addresses: 912-1040 Bridge Road; and 900-908 Walnut Road.

(c) The attached map of the Bridge Road PODA is incorporated herein and made a part of this ordinance.

(d) The area within the Bridge Road PODA is in a C-4 Neighborhood Commercial District, which is a zoning area that allows for the sale and consumption of liquor, wine, nonintoxicating beer and nonintoxicating craft beer, and is in compliance with the zoning ordinance.

Sec. 6-172. – Days and Hours of Operation

The Bridge Road PODA may operate year round on any Monday through Friday from 4:00 p.m. until 10:00 p.m., Saturday from 10:00 a.m. until 10:00 p.m., and Sunday from 10:00 a.m. until 10:00 p.m. Drinks may not be sold in PODA cups or consumed within the Bridge Road PODA outside of the hours of operation.

Sec. 6-173. – Personnel Needed

The estimated number of City personnel needed to ensure public safety and efficient operations in the Bridge Road PODA is two police officers and one public works employee. The City Council anticipates that these City employees will be working their regular shifts and generally assigned in this area of the City.

DIVISION 4. – ELK CITY PODA

Sec. 6-176. – Creation and Boundaries.

(a) City Council for the City of Charleston hereby establishes a Private Outdoor Designated Area known as "Elk City PODA", which shall have the boundary as stated in subsection (b) of this section and which shall meet all of the requirements of this Article and applicable West Virginia Code.

(b) The Elk City PODA shall begin at a point on Washington Street West that is 40 feet northwest of its intersection with Pennsylvania Ave. South and continues in a westerly direction along Washington Street West to a point that is 75 feet southeast of its intersection with Crescent Road; it shall include the first 300 feet of public rights-of-way off Washington Street West on Bigley Ave. and Tennessee Ave., along with the buildings and lots adjacent to these public rights-of-way. The Elk City PODA shall include the public rights-of-way within the boundary area and the buildings at or within the following addresses: 110-320 Washington Street West; 700-715 Bigley Ave.; 608-617 Tennessee Ave.

(c) The attached map of the Elk City PODA is incorporated herein and made a part of this ordinance.

(d) The area within the Elk City PODA is in either a C-10 General Commercial District or an Urban Corridor District ("UCD"), both of which are zoning areas that allow

for the sale and consumption of liquor, wine, nonintoxicating beer and nonintoxicating craft beer, and are in compliance with the zoning ordinance.

Sec. 6-177. – Days and Hours of Operation

The Elk City PODA may operate year round on any Monday through Friday from 4:00 p.m. until 10:00 p.m., Saturday from 10:00 a.m. until 10:00 p.m., and Sunday from 10:00 a.m. until 10:00 p.m. Drinks may not be sold in PODA cups or consumed within the Elk City PODA outside of the hours of operation.

Sec. 6-178. – Personnel Needed

The estimated number of City personnel needed to ensure public safety and efficient operations in the Elk City PODA is two police officers and one public works employee. The City Council anticipates that these City employees will be working their regular shifts and generally assigned in this area of the City.

DIVISION 5. – CAPITOL MARKET PODA

Sec. 6-181. – Creation and Boundaries.

(a) City Council for the City of Charleston hereby establishes a Private Outdoor Designated Area known as "Capitol Market PODA", which shall have the boundary as stated in subsection (b) of this section and which shall meet all of the requirements of this Article and applicable West Virginia Code.

(b) The Capitol Market PODA shall begin at the northwestern corner of Smith Street and Leon Sullivan Way and continue in a northwesterly direction along Smith Street to the point at which it meets the Interstate Overpass, then continuing in an easterly direction in line with the Interstate Overpass to the edge of the railroad right-of-way, then continuing in a southeasterly direction in line with the railroad right-of-way to Leon Sullivan Way, and then continuing in a southwesterly direction to the northwestern corner of Smith Street and Leon Sullivan Way, along with the buildings and lots adjacent to these public rights-of-way. The Capitol Market PODA shall include the public rights-of-way within the boundary area and the buildings and vendors at or within the following address: 800 Smith Street.

(c) The attached map of the Capitol Market PODA is incorporated herein and made a part of this ordinance.

(d) The area within the Capitol Market PODA is in a C-10 General Commercial District, which is a zoning area that allows for the sale and consumption of liquor, wine, nonintoxicating beer and nonintoxicating craft beer, and is in compliance with the zoning ordinance.

Sec. 6-182. – Days and Hours of Operation

The Capitol Market PODA may operate daily year round from 10:00 a.m. until 7:00 p.m. Drinks may not be sold in PODA cups or consumed within the Capitol Market

PODA outside of the hours of operation.

Sec. 6-183. – Personnel Needed

There are no estimated City personnel needed to ensure public safety and efficient operations in the Capitol Market PODA, as the Capitol Market will provide all personnel needed for such purpose.

Capital City Sip-N-Stroll (PODA) | Businesses

To help our local business owners navigate the processes and information related to the Private Outdoor Designated Area (PODA) – the Capital City Sip-N-Stroll – we have put together this informational page.

What are the benefits of having a PODA in Charleston?

Having a PODA or PODA's has the potential to:

1. Increase visitors to restaurants and bars;
2. Increase the time visitors spend in the area;
3. Increase retail sales; and
4. Adds to the unique visitor experience.

Do other communities have a PODA?

Huntington established the first PODA in West Virginia. While PODA is a relatively new concept in West Virginia, Designated Outdoor Refreshment Areas or DORA's have existed in Ohio for several years. DORA was established in Ohio in April 2015 [by Section 4301.82 of the O.R.C.] which allows patrons over the age of 21 to purchase alcoholic beverages from a permitted establishment and carry them within a clearly defined area within the city.

My business is located within a PODA, do I need specific licenses and/or permits to apply to be an approved PODA-licensed establishment?

Businesses selling alcohol must have a current private club liquor license pursuant to West Virginia Code **§60-7-1 et seq (https://code.wvlegislature.gov/60-7-1/)**., and be in good standing with the City of Charleston on all taxes, fees, licenses, and permits in order to participate in the PODA. Businesses located in the PODA that do not sell or distribute alcohol may decide whether to allow people to enter with PODA beverages—see next question for more information.

In addition, businesses granted a permit by the City and the ABCA to participate in a PODA must execute an agreement between all qualified permit holders within the PODA, stating that each qualified permit holder may be held jointly and severally liable for any improper acts or conduct committed in the operation of the PODA pursuant to West Virginia Code **§60-7-8g(c)(8) (https://code.wvlegislature.gov/60-7-8G/).**

How will folks know if my business sells / welcomes / does not welcome PODA beverages?

PODA-licensed establishments and retail businesses who welcome / do not welcome PODA beverages will be provided signage indicating their preference.

PODA beverages [in an approved PODA cup] may be taken into businesses that display the official green "Capital City Sip-N-Stroll | Beverages Welcome" decal in their window.

PODA beverages may not be taken into businesses that display the official red "Capital City Sip-N-Stroll | Please, No Beverages" decal or have no decal.

PODA-licensed establishments will display the official black "Capital City Sip-N-Stroll | Beverages Sold Here" decal.

Who do I need approval from to participate in a PODA?

Businesses must obtain approval from the City of Charleston (via an application process), obtain a Class S4 permit through the **WV ABCA (https://abca.wv.gov/Pages/default.aspx)**, and submit a copy of the Class S4 permit to the City.

Who is eligible to apply for a Class S4 permit?

Businesses must have a private club license to apply for an S4 permit as per the ABCA.

WV Code Sec. 60-7-8g(c)(11), says that to be eligible for an S4 permit, the class A license must "[m]eet and be subject to all other private club license type requirements[.]" Furthermore, WV Code Sec. 60-7-8g(a) defines the PODA as a space "where multiple private club license type licensees who apply and obtain a qualified permit holder permit shall share liability and responsibility."

Am I required to use the approved PODA cups or can I use my own cups and/or sell reusable cups?

Drinks must be served in approved PODA cups [that include the approved PODA logo, are no larger than 16 ounces in size, and are made of clear plastic or similar non-glass material]. Businesses may not obtain PODA cups until after receiving its ABCA Class S4 permit and City approval.

When am I permitted to sell PODA beverages?

Sale of PODA beverages is permitted only during authorized days and hours; except when alcohol is available as part of a festival located within the PODA. In addition, the City has the authority to suspend the operation of a PODA immediately when in the best interest of public safety by providing notice to all Class S4 permit holders and the WVABCA.

City Center, Elk City, and South Hills PODAs: Year-round schedule; Monday-Friday from 4P to 10P; Saturday-Sunday from 10A to 10P.

Capitol Market PODA: Year-round schedule; Seven days a week from 10A-7P.

I am a business allowing PODA beverages into my establishment. Am I allowed to refill PODA beverage cups?

No. Anyone who wants to obtain another PODA beverage must visit a PODA-licensed establishment to purchase.

Can the City revoke my approval to participate in the PODA?

Yes, the City may revoke the letter of approval of any Class S4 permit holder--when doing so is in the best interest of public safety or because the business is in violation of City ordinances--by sending a revocation letter to both the permit holder and the WV ABCA.

If a person purchases a PODA beverage at my business, am I required to make restroom facilities available?

Yes, approved PODA-licensed establishments are responsible for making available adequate restroom facilities to members / guests during all operating hours of the PODA.

Do I have to provide waste receptacles if there is a city waste receptacle near my business?

Yes, approved PODA-licensed establishments are responsible for making waste receptacles available during the operating hours of the PODA in a number sufficient to contain the waste generated in the area and which are emptied regularly / as needed.

Who do I contact to request a permit application / and or for more information?

Please email PODA@cityofcharleston.org.

Resource Links

1. **Bill No. 8013 Committee Substitute, As Amended (https://library.municode.com/wv/charleston/ordinances/code_of_ordinances?nodeId=1241587) (via Municode Library)**
2. **Senate Bill 534 (https://www.charlestonwv.gov/sites/default/files/non-departmental-documents/2023-10/SB_534.pdf)**

Contact Us



City Hall

501 Virginia St. East
Charleston, WV 25301
304.348.8000

City Departments

- All Departments (http://www.charlestonwv.gov/government/city-departments)
- Clerk's Office (http://www.charlestonwv.gov/government/city-departments/city-clerk)
- Collector's Office (http://www.charlestonwv.gov/government/city-departments/city-collector)
- Human Resources (http://www.charlestonwv.gov/government/city-departments/human-resources)
- Mayor's Office (http://www.charlestonwv.gov/mayor)
- Parks and Recreation (http://www.charlestonwv.gov/government/city-departments/parks-recreation)

Emergency

- Fire Department (http://charlestonfire.org/)
- Kanawha Sheriff's Department (http://www.kanawhasheriff.us/)
- Metro 911 (https://www.metro911.org/)
- Police Department (http://charlestonwvpolice.org/)
- West Virginia State Police (http://www.wvsp.gov/Pages/default.aspx)

Local Media

- 58 WCHS Radio (http://58wchs.com/)

- Charleston Gazette (http://www.wvgazettemail.com/)
- WCHS ABC 8 (https://wchstv.com)
- WOWK 13 News (http://www.tristateupdate.com/)
- WSAZ News Channel 3 (http://www.wsaz.com/)
- WTSQ 88.1FM (https://wtsq.org/)

Local Attractions

- Charleston Coliseum & Convention Center (https://www.chaswvccc.com/)
- Charleston Municipal Auditorium (http://www.charlestonwvciviccenter.com/p/getconnected/246)
- Clay Center (http://www.theclaycenter.org/)
- Spring Hill Cemetery (https://www.charlestonwv.gov/government/city-departments/springhill-cemetery)

Outdoors

- Carriage Trail (http://www.charlestonlandtrust.org/featured.html)
- Coonskin Park (http://www.kcprc.com/Parks/Coonskin-Park.aspx)
- Kanawha State Forest (http://www.kanawhastateforest.com/)
- Magic Island (http://www.charlestonwv.gov/government/city-departments/parks-recreation)

Upcoming

- Charleston Area Alliance (http://charlestonareaalliance.org/)
- Charleston CVB (http://charlestonwv.com/default.aspx)
- Charleston Main Streets (https://www.cwvmainstreets.org/)
- Live on the Levee (http://liveontheleveecharleston.com/)

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Private Outdoor Designated Areas (PODA)

What is a PODA?

In 2023, the West Virginia Legislature enabled cities to create Private Outdoor Designated Areas, or PODAs, through Senate Bill 534 (https://www.charlestonwv.gov/sites/default/files/non-departmental-documents/2023-10/SB_534.pdf).

PODA Locations & Hours

Sale of PODA beverages is permitted only during authorized days and hours; except when alcohol is available as part of a festival located within the PODA. In addition, the City has the authority to suspend the operation of a PODA immediately when in the best interest of public safety by providing notice to all Class S4 permit holders and the WVABCA.

City Center, Elk City, and South Hills PODAs: Year-round schedule; Monday-Friday from 4P to 10P; Saturday-Sunday from 10A to 10P

Capitol Market PODA: Year-round schedule; Seven days a week from 10A-7P.

PODA-Licensed Establishments

(updated 11/20/2023)

- Adelphia Sports Bar and Grill
- Black Sheep Burrito and Brews
- Dem 2 Brothers and a Grill
- Fife Street Brewing
- Hale House
- Hale Street Center
- Sam's Uptown Cafe
- Vino's Bar and Grill
- Whiskey Glasses

Signage

- Green Decal - Indicates a retail or service establishment permits PODA beverages to enter.



- Black Decal - Indicates an establishment designated to serve PODA beverages.



- Red Decal - Indicates no PODA beverages are permitted on the establishment's premises.



- No Decal - Indicates no PODA beverages are permitted / not a participating PODA business.

As you enter and exit the PODA, you will encounter welcome and thank you for visiting signs. Please responsibly dispose of your beverage before exiting.





FAQ

Do other communities have a PODA? Huntington established the first PODA in West Virginia. While PODA is a relatively new concept in West Virginia, Designated Outdoor Refreshment Areas or DORA's have existed in Ohio for several years. DORA was established in Ohio in April 2015 [by Section 4301.82 of the O.R.C.] which allows patrons over the age of 21 to purchase alcoholic beverages from a permitted establishment and carry them within a clearly defined area within the city.

What are the benefits of having a PODA in Charleston? Having a PODA or PODA's has the potential to: 1.) Increase visitors to restaurants and bars; 2.) Increase the time visitors spend in the area; 3.) Increase retail sales; and 4.) Adds to the unique visitor experience.

I am a business with a location in one of Charleston's PODA's, where do I find more information? You can visit the Capital City Sip-N-Stroll business page (https://www.charlestonwv.gov/poda/business) or email PODA@cityofcharleston.org (mailto:PODA@cityofcharleston.org) for more information.

Can I carry my PODA beverage/cup from one PODA to another? No. You cannot carry a beverage/cup between PODA's. A beverage/cup must be disposed of at the boundaries of the PODA in which it was purchased.

How will I know the PODA boundaries? PODA boundaries are marked with signs. Please obey pedestrian laws. PODA beverages must stay within PODA boundaries. Leaving the PODA with an alcoholic beverage is a violation of applicable open container laws.

Can I take my PODA beverages anywhere in the PODA? PODA beverages in an approved PODA cup may be taken into businesses that display the official green "Capital City Sip-N-Stroll Beverages Welcome" decal in their window. PODA cups/beverages must be disposed of before exiting the PODA and/or entering a business that displays the official red "Capital City Sip-N-Stroll Please, No Beverages" or no official PODA signage

Can I use my own cup in the PODA? No. Beverages must be in an approved PODA cup purchased from a licensed, participating PODA establishment.

Can I bring my own alcohol in the PODA? No. Beverages must be purchased from a licensed, participating PODA establishment in an approved PODA cup.

For Assistance / More Information (mailto: PODA@cityofcharleston.org)

Capital City Sip-N-Stroll (PODA) Businesses (https://www.charlestonwv.gov/poda/business)

Capital City Sip-N-Stroll (PODA Districts)

The City of Charleston is excited to welcome you to Charleston's PODA, also known as the Capital City Sip-N-Stroll.

Switch To Full Page View (https://gisweb.charlestonwv.gov/public/poda/app.html)

Contact Us



City Hall

501 Virginia St. East
Charleston, WV 25301
304.348.8000

City Departments

- All Departments (http://www.charlestonwv.gov/government/city-departments)

- Clerk's Office (http://www.charlestonwv.gov/government/city-departments/city-clerk)
- Collector's Office (http://www.charlestonwv.gov/government/city-departments/city-collector)
- Human Resources (http://www.charlestonwv.gov/government/city-departments/human-resources)
- Mayor's Office (http://www.charlestonwv.gov/mayor)
- Parks and Recreation (http://www.charlestonwv.gov/government/city-departments/parks-recreation)

Emergency

- Fire Department (http://charlestonfire.org/)
- Kanawha Sheriff's Department (http://www.kanawhasheriff.us/)
- Metro 911 (https://www.metro911.org/)
- Police Department (http://charlestonwvpolice.org/)
- West Virginia State Police (http://www.wvsp.gov/Pages/default.aspx)

Local Media

- 58 WCHS Radio (http://58wchs.com/)
- Charleston Gazette (http://www.wvgazettemail.com/)
- WCHS ABC 8 (https://wchstv.com)
- WOWK 13 News (http://www.tristateupdate.com/)
- WSAZ News Channel 3 (http://www.wsaz.com/)
- WTSQ 88.1FM (https://wtsq.org/)

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Morgantown

Ordinance No. 2024-___

AN ORDINANCE AUTHORIZING AND REGULATING PRIVATE OUTDOOR DESIGNATED AREAS IN THE CITY OF MORGANTOWN

WHEREAS, the West Virginia legislature has enacted 2023 Senate Bill 534 which included provisions authorizing municipalities to establish Private Outdoor Designated Areas, as defined by *W. Va. Code* §§ 8-12-26 and 60-7-8g, where customers of West Virginia Alcohol and Beverage Control Administration Class A license holders can carry their drinks with them outside of the bar, restaurant, or other establishment where it was purchased and socialize and visit other businesses within the area; and

WHEREAS, similar programs, such as the Designated Outdoor Refreshment Area program in Ohio, have been implemented successfully to encourage community activities and promote local businesses; and

WHEREAS, the City of Morgantown intends to establish a designated area for these purposes;

NOW, THEREFORE, The City of Morgantown hereby ordains that a new Article 953 is established within the City Code entitled "Private Outdoor Designated Areas," as follows:

Sec. 953.01. Purpose and Intent.

Pursuant to the provisions of West Virginia Code sections 8-12-26 and 60-7-8g, one or more private outdoor designated areas may be created within the City.

Sec. 953.02. Definitions.

Commissioner means the West Virginia Alcohol Beverage Control Commissioner.

PODA Permit means the permit issued by the City to Class A Licensees allowing them to participate in the Private Outdoor Designated Area and to apply for an S4 license from the Commissioner.

Private Outdoor Designated Area means public property that has become a legally demarcated area established by a municipal ordinance as set forth in W. Va. Code § 8-12-26 for the consumption of liquor, wine, nonintoxicating beer, and nonintoxicating craft beer.

Qualified Permit Holder means the holder of a Class A license issued under W. Va. Code §§ 60-7-1 et seq.

Sec. 953.03. Private Outdoor Designated Areas.

(a) The following area(s) is/are established as Private Outdoor Designated Areas (PODAs) in accordance with applicable state law and the provisions of this Article:

(1) Downtown/Wharf District Private Outdoor Designated Area ("PODA").

(A) Boundary. The PODA consists of the area depicted and described in Table 953.03.1. and generally bounded on the North by the Northern boundary of the Willey Street public right of way; on the East by the Eastern boundary of the Spruce Street public right of way; on the South by the Southern boundary of the Foundry Street public right of way; and on the West by the Western boundary of the Chestnut Street public right of way between Willey Street and Walnut Street and by the Monongahela River between Walnut Street and Deckers Creek, extending South from that point between the Monongahela River on the West and Don Knotts Boulevard on the East to the Southern boundary of Tax Parcel ID 09 37A000300000000 on the South, inclusive of all buildings or structures directly adjoining the public right of way boundaries and the City of Morgantown rail trail property, except any building or structure on the Western side of Chestnut Street between Willey Street and Walnut Street, any building or structure on the Eastern side of Don Knotts Boulevard between Deckers Creek and the Southern terminus of the PODA, and excluding Parcel ID 11 26024900000000. In the event of apparent conflict between the description in this subsection and the property show in Table 953.03.1, the table provides the legal demarcation of the PODA.

(B) Map. A map of the PODA, including the street addresses of all included structures, is Table 953.03.1 of this Article.

(C) Zoning. The zoning classification for all properties within the PODA is B-4 Downtown Business District, and consumption of liquor, wine, nonintoxicating beer, or nonintoxicating craft beer is consistent with the zoning ordinances applicable to this area.

(D) Personnel. The PODA is regularly patrolled by one police officer, one deputy fire marshal, and one City Ambassador. In addition, Public Works employees regularly collect waste or debris left in public areas in the PODA and operate a street sweeper in the area.

(E) Sanitation. Republic Services is the solid waste hauler for the Downtown PODA, with collection services daily in the downtown area, weekly in the Wharf District, and with dumpster service available to all commercial customers, along with several dumpsters available at City properties. Regular waste collection includes 73 public trash receptacles within the PODA. Participating businesses within the PODA will make available adequate restroom facilities, permanent or portable, to serve their members and guests during all hours the area is open, consistent with W. Va. Code § 60-7-8g(c)(7). All businesses operating within the PODA must comply with all requirements of the Monongalia County Health Department.

(F) Operating Times. The PODA will operate Thursday and Friday from 4 p.m. to 10 p.m. and Saturday and Sunday from 10 a.m. to 10 p.m. The City Manager is authorized to limit or expand the operating hours when appropriate to address events, public safety, or other business or community needs, but all expansions or limitations must be made in writing and delivered to the City Clerk to be kept with the official records of the City, and the City will

make reasonable efforts to advise the public of any such changes by taking measures such as posting information on its website and/or posting signs in public areas noting the change.

Sec. 953.04. Permit Required for Class A Licensees.

(a) Any restaurant, bar, or other business with a valid Class A license issued under W. Va. Code §§ 60-7-1 et seq. may apply for a PODA Permit to participate in the Private Outdoor Designated Area by submitting an application on forms supplied by the City.

(b) Applicants for a PODA Permit must meet the following minimum requirements:

(1) Located in a Private Outdoor Designated Area;

(2) Submit a floor plan showing the Class A license area for the operator;

(3) Possess a valid City business license;

(4) Possess a valid Class A license from WVABCA;

(5) Agree to participate in a joint and several liability agreement consistent with W. Va. Code § 60-7-8g(c)(8). The City may, but shall not be required to, provide a required form of agreement;

(6) Agree to use cups and/or other indicators such as wristbands to identify permitted PODA patrons, which may include purchasing authorized merchandise from the City or its affiliate;

(7) Identify all areas from which you propose to serve drinks that may be consumed in the PODA, and the entrances and exits to your Class A license area;

(8) Identify the location of all tables, chairs, or other items you propose to place in any public right of way or on any City property in connection with PODA operations and, upon request, provide dimensions of the area and location of nearby facilities such as curbs and fire hydrants, as well as a plan to place and remove the items during and after PODA operating hours.

(c) Applications will be reviewed by a committee composed as follows: one representative of Main Street Morgantown, designated by Main Street Morgantown, Inc.; one member of City Council, designated by City Council; two representatives of businesses that serve alcohol and are located within the PODA, appointed by City Council; and two representatives of businesses that do not serve alcohol and are located within the PODA, appointed by City Council. Each member of the committee shall serve a two-year term beginning January 1 and ending December 31 of the following year; provided that the initial term of each member shall begin on the date of appointment and end on December 31, 2024. Members shall continue in office after expiration of their term until a new member is appointed except in the event of their resignation, death, or removal. Members may be removed by City Council for failure to vote on two or more consecutive applications for PODA permit. The committee shall determine whether to grant or deny applications in its reasonable discretion by majority vote of the members then serving. In determining whether to grant or deny an application, the committee may review the application materials and other materials relevant to participation in the PODA including records of the West Virginia Alcohol Beverage Control Administration and/or criminal citations, if available to the committee.

Sec. 953.05. Signs.

At minimum, every point where a pedestrian may exit the PODA by way of a public sidewalk shall have one sign placed designating the end of the PODA. The sign must be mounted in such a way and be made of a material that will ensure it is clearly visible to patrons of the PODA.

Sec. 953.06. Rules.

(a) The rules in this section, and all other provisions of this Article, establish requirements for the purpose of ensuring compliance with all state and municipal laws, and public health and safety within a private outdoor designated area. All persons entering and/or participating in a private outdoor designated area shall comply with applicable laws.

(b) Liquor, wine, nonintoxicating beer, and nonintoxicating craft beer that is taken outside of a Class A licensed premises into the private outdoor designated area shall be served in non-glass containers, not greater than 18 fluid ounces, approved by the City and the Commissioner in accordance with W. Va. Code § 60-7-8g.

(c) Notwithstanding any other provision of this Code to the contrary, a person may possess an opened container of liquor, wine, nonintoxicating beer, or nonintoxicating craft beer within a private outdoor designated area during the operating hours of the area when (1) the open container was purchased from a Qualified Permit Holder duly licensed to operate in the private outdoor designated area; and (2) the beverage is in a container authorized by this ordinance, except that this provision does not authorize possession or consumption of any liquor, wine, nonintoxicating beer, or nonintoxicating craft beer while operating or traveling in a motor vehicle.

(d) No liquor, wine, nonintoxicating beer, or nonintoxicating craft beer may be taken outside of the private outdoor designated area.

(e) All cups, containers, and other trash or litter must be disposed of in trash, recycling, or compost receptacles available within the private outdoor designated area.

(f) Businesses in the private outdoor designated area may choose to allow or prohibit alcohol consumption in their business. Liquor, wine, nonintoxicating beer, or nonintoxicating craft beer may only be brought into structures or businesses that have indicated by a posted sign that they are participating in the private outdoor designated area, whether or not they hold a Class A license from the Commissioner.

(g) Establishment of a Private Outdoor Designated Area does not authorize any establishment to create or maintain an Outdoor Dining area on the public right-of-way except with a permit issued pursuant to Article 906 of this Code.

(g) The City Manager is authorized to adopt any and all regulations necessary and convenient in implementing this Article, and to issue authoritative interpretations of any

questions or inquiries regarding application of this Article to a particular situation. Any such regulations or interpretations shall become effective upon being filed in writing with the City Clerk, who shall maintain such records along with the other public records of the City.

(h) The City Manager may, at any time, suspend the operation of a private outdoor designated area, or portion thereof, when determined necessary in the interest of public safety or convenience.

This ordinance shall become effective on May 15, 2024.

FIRST READING: _____

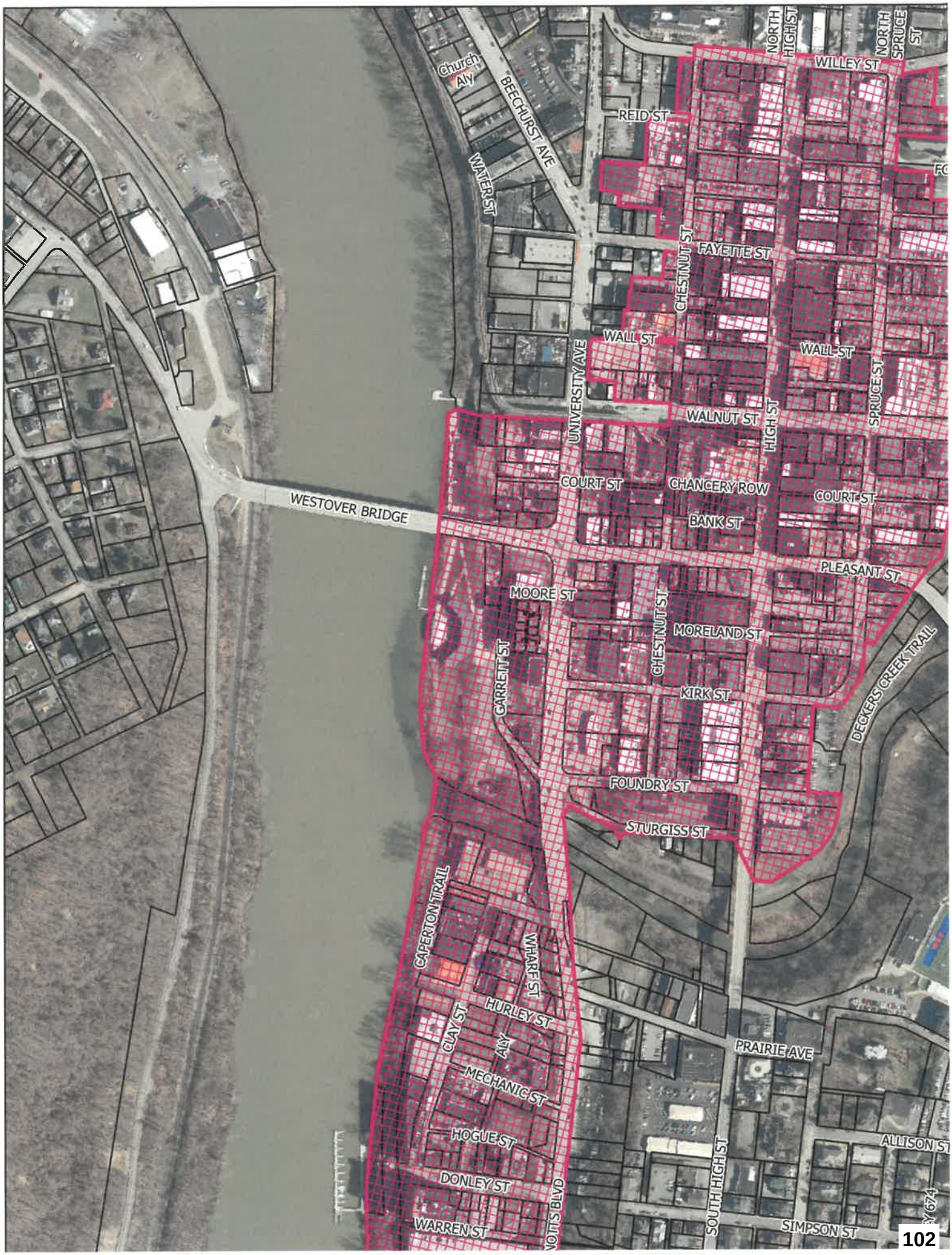
SECOND READING: _____

ADOPTED: _____

FILED: _____

_____
Mayor

_____
City Clerk


Church Aly
BEECHURST AVE
WATER ST
REID ST
NORTH HIGH ST
NORTH SPRUCE ST
WILLEY ST
FAYETTE ST
CHESTNUT ST
WALL ST
UNIVERSITY AVE
WALNUT ST
HIGH ST
SPRUCE ST
COURT ST
CHANCERY ROW
BANK ST
WESTOVER BRIDGE
PLEASANT ST
MOORE ST
MORELAND ST
GARRETT ST
KIRK ST
DECKERS CREEK TRAIL
FOUNDRY ST
STURGISS ST
CAPERTON TRAIL
WHARF ST
HURLEY ST
CLAY ST
ALY
MECHANIC ST
HOGUE ST
DONLEY ST
WARREN ST
VOTTS BLVD
PRAIRIE AVE
SOUTH HIGH ST
ALLISON ST
SIMPSON ST

Parkersburg 036

RESOLUTION

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF PARKERSBURG that the Mayor, or his designee, be authorized to revise the Adopted Budget for 2023-2024 Fiscal Year to reflect the following changes:

SANITATION FUND

Account	Description	Current Budget	Proposed Adjustment	Revised Budget	Comments
REVENUE					
369-000-000	TRANSFERS IN - OTHER FUNDS	100,000	200,000	300,000	GENERAL FUND XFER IN
			200,000		
EXPENDITURES					
800-103-008	OVERTIME EXPENSE	60,000	5,000	65,000	REVISED ESTIMATE
800-215-000	MAINT & REPAIR BUILDINGS	5,000	2,000	7,000	REVISED ESTIMATE
800-222-000	DUES & SUBSCRIPTIONS	500	400	900	REVISED ESTIMATE
800-341-000	DEPARTMENTAL SUPPLIES	52,500	10,000	62,500	REVISED ESTIMATE
			17,400		
			182,600		

The above resolution proposes to revise the FY24 Sanitation Fund budget to reflect revised estimates and a transfer in from the General Fund as a fund balance infusion, totaling $300,000 on the fiscal year.

RESOLUTION

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF PARKERSBURG that the Mayor, or his designee, be authorized to revise the Adopted Budget for 2023-2024 Fiscal Year to reflect the following changes

PARKS & RECREATION CAPITAL PROJECTS

Account	Description	Current Budget	Proposed Adjustment	Revised Budget	Comments
REVENUE					
369-000-000	TRANSFERS IN - OTHER FUNDS	4,126,496	650,000	4,776,496	GENERAL FUND XFER IN
			650,000		
EXPENDITURES					
900-458-040	CAPITAL - ACTIVITY & REC CENTER	4,045,496	650,000	4,695,496	ADDITIONAL FUNDING RESOURCES
			650,000		

The above resolution proposes to revise the FY24 Parks & Recreation Capital Project Fund budget to a transfer in from the General Fund in the amount of $650,000 to provide additional resources for the Activity & Recreation Center.

MOTION – Ms. Kuhl moved, seconded by Mr. Rexroad, to adopt the resolution.

MOTION TO AMEND – Mr. Stanley moved, seconded by Ms. Kuhl, to amend the resolution on page one of the resolution and move $200,000.00 from Parks Cap Projects to the demo fund, and the amendment was adopted by unanimous vote.

The motion, as amended, was adopted by unanimous vote.

ORDINANCE, FINAL READING:

AN ORDINANCE AMENDING PART FIVE, ARTICLE 521.05, WITH THE ADDITION OF CLARIFYING LANGUAGE, AND PART 13 WITH THE ADDITION OF ARTICLE 1358 – PRIVATE OUTDOOR DESIGNATED AREAS.

WHEREAS, in compliance with §8-12-26 and §60-7-8g of the West Virginia State Code, the City of Parkersburg has prepared a Private Outdoor Designated Areas ordinance, to be amended to the current Planning and Zoning Code; and

WHEREAS, the City of Parkersburg City Council has recognized the necessity of an interactive and engaging downtown district, as described within the City of Parkersburg Comprehensive Plan; and

Sponsors:

WHEREAS, City Council has recognized that local businesses within the City of Parkersburg are a pillar of economic vitality throughout the Mid-Ohio Valley and understands the need to provide appropriate support to such businesses, and

WHEREAS, City Council has evaluated the health and safety requirements regarding the establishment of a Private Outdoor Designated Area, having solicited the input of the Mid-Ohio Valley Health Department and the State of West Virginia Alcohol Beverage Control Administration.

It is therefore hereby ordained that the Council of the City of Parkersburg that Part Five, Article 521.05 be revised in accordance with the attached documentation, and that Part 13 be amended to include Article 1358 in accordance with the attached documentation.

ARTICLE 1358
Private Outdoor Designated Areas
1358.01 – Purpose and Intent
1358.02 – Definitions
1358.03 – Private Outdoor Designated Area
1358.04 – Participation in a Private Outdoor Designated Area
1358.05 – Containers, Signage, and Prohibitions
1358.06 – Public Health, Safety, and Sanitation
1358.07 – Revocation of Approval; General Policy Authority; Suspension
1358.08 – Market Street PODA: Creation and Boundaries
1358.09 – Market Street PODA: Days and Hours of Operation
1358.10 – Market Street PODA: Personnel Needed
1358.11 – Penalties
CROSS REFERENCES
City of Parkersburg Codified Ordinances:
Part Five – Article 521
Part Seven – Chapter One – Articles 701, 753, 757, 771
Part Seven – Chapter Three – Article 785
Part Eleven – Article 1101
Part Thirteen – Article 1367
State of West Virginia Code:
§8-12-26
§60-7-8g
§11-16-1

1358.01 – Purpose and Intent
Pursuant to West Virginia Code §8-12-26, the City of Parkersburg hereby adopts this ordinance establishing Private Outdoor Designated Areas, as described in West Virginia Code §60-7-8g.

1358.02 – Definitions
(a) "Approved Container" means a single-use, non-glass container not greater than 16 fluid ounces, which has been approved by both the Mayor and the WVABCA.
(b) "Commissioner" means the West Virginia Alcohol Beverage Control Commissioner.
(c) "Designated Area" see: (e) Private Outdoor Designated Area.
(d) "Permitted Alcoholic Drinks" means liquor, wine, nonintoxicating beer, and nonintoxicating craft beer sold by a Class A Private Club & S4 license holder located within the Private Outdoor Designated Area. All permitted alcoholic drinks must be in an approved container (see: (a)) for consumption within the Designated Area.
(e) "Private Outdoor Designated Area" means public property that has become a legally demarcated area for the consumption of liquor, wine, nonintoxicating beer, and nonintoxicating craft beer, and **Article 1358 – Private Outdoor Designated Areas** having been established by ordinance and as set forth in Article 1358 of this Code, in conformance with West Virginia Code §8-12-26. Also referred to in this Article as a Designated Area.
(f) "Qualified Permit Holder" means the holder of a Class A Private Club license issued under §60-7-1 et seq. of the West Virginia State Code.
(g) "WVABCA" means the State of West Virginia Alcohol Beverage Control Administration

1358.03 – Private Outdoor Designated Area
A Private Outdoor Designated Area is public property that allows for the consumption of liquor, wine, nonintoxicating beer, and nonintoxicating craft beer, under conditions set forth by this Article and in conformance with West Virginia Code §8-12-26. Notwithstanding the provisions of Article 521.05 of this Code, a person may purchase from an approved Class S4 permit holder a permitted alcoholic drink within an approved container for consumption outdoors, on public property, within a Designated Area. A business operating within a Designated Area may choose whether to permit people to enter its business with an approved open container of a permitted alcoholic drink sold from an approved Class S4 permit holder within the Designated Area

1358.04 – Participation
(a) Any Class A Private Club license holder under West Virginia Code §60-7-1 *et seq* that operates in a Designated Area may apply to the office of the Mayor for approval to operate as a Class S4 permit holder. The Mayor and/or their designated staff will review the application for completeness and following requirements:
(1) The applicant is in an established Private Outdoor Designated Area, pursuant to this Article, with a front door in compliance with all building and fire codes for the safe ingress and egress of members, patrons, and guests to and from the Private Outdoor Designated Area.
(2) The applicant has a valid business license from both the City of Parkersburg and the State of West Virginia and is in good standing with both the City of Parkersburg and the State of West Virginia.
(3) The applicant has a valid Class A private club license under West Virginia Code §60-7-1 *et seq.*
(b) Once approved by the City of Parkersburg, as indicated by a letter of approval to the applicant, the license holder may apply to the West Virginia Alcohol Beverage Control Administration for a special Class S4 permit to participate in a Private Outdoor Designated Area, as detailed in West Virginia Code §60-7-8g and further detailed in this Article, the West Virginia Code, and any applicable rules of the WVABCA. Upon approval by the WVABCA, the Class S4 permit holder shall notify the Mayor's

Sponsors:

Office and the City of Parkersburg Development Department. Any business that receives the approval from the City of Parkersburg and has a Class S4 permit from the WVABCA may participate in a Private Outdoor Designated Area.
(c) Participation in a Private Outdoor Designated Area does not provide a business with any authority to operate outdoor dining within the public right of way. Any business interested in participating in outdoor dining shall follow the requirements of Article 1367 of this Code. A business with an approved outdoor dining area that is within a Private Outdoor Designated Area may operate its outdoor dining area simultaneously with its participation in a Private Outdoor Designated Area. **Article 1358 – Private Outdoor Designated Areas** (d) Nonparticipating businesses, Class A Private Club license holders without an S4 permit, and Class B license holders may choose to not permit alcohol on their premises.

1358.05 – Containers, Signage, and Prohibitions

(a) All beverages served from approved Class S4 permit holders for consumption in a Private Outdoor Designated Area shall be served in a non-glass container not greater than 16 fluid ounces, which has been approved by the Office of the Mayor and the WVABCA.
(b) Approved Containers are single use and must be recycled appropriately after the beverage has been consumed. No participating Class S4 permit holder may refill an approved container.
(c) Prior to the operation of a Private Outdoor Designated Area, the city will erect conspicuous signage. The signs will be located at every reasonable point where a pedestrian may exit the Private Outdoor Designated Area by way of a public right of way. The signs shall clearly state "NO ALCOHOL BEYOND THIS POINT" and provide clear notice that a person is leaving the Private Outdoor Designated Area.
(d) A person may not leave a Private Outdoor Designated Area while possessing an open container of liquor, wine, nonintoxicating beer, or nonintoxicating craft beer that contains liquid.
(e) A person may not possess an open container of liquor, wine, nonintoxicating beer, or nonintoxicating craft beer that contains liquid while being in, on, or operating a motor vehicle within a Private Outdoor Designated Area.

1358.06 – Public Health, Safety, and Sanitation

(a) All Private Outdoor Designated Areas shall be operated in a manner consistent with all state and city laws. The City of Parkersburg Police Department will be responsible for compliance and can issue citations within the Designated Areas as necessary. The City of Parkersburg Police Department will provide a copy of any citation issued within a Designated Area to the WVABCA.
(b) In addition to any public restrooms in a Designated Area, participating Class S4 permit holders shall make available adequate restroom facilities, whether permanent or portable, to serve their patrons during all hours of operation of the Private Outdoor Designated Area.
(c) All businesses operating within a Designated Area must comply with all requirements of the Mid-Ohio Valley Health Department.
(d) All participating businesses within a Designated Area must have waste receptacles available during the operating hours of the Private Outdoor Designated Area, in a number sufficient to contain the waste generated within the area and which are emptied regularly by each participating business as needed to ensure availability. These waste receptacles are in addition to the City of Parkersburg public waste receptacles in the Designated Areas.
(e) Approved Containers are single use and must be recycled appropriately after the beverage has been consumed. No participating Class S4 permit holder may refill an approved container.

1358.07 – Revocation of Approval; General Policy Authority; Suspension

(a) The Mayor may revoke the letter of approval of any Class S4 permit holder, when doing so is in the interest of public safety, by sending a revocation letter to both the permit holder and the WVABCA. **Article 1358 – Private Outdoor Designated Areas**
(b) The Mayor is authorized to create policies and procedures as necessary for the efficient operation of the Private Outdoor Designated Areas, including but not limited to, signage language approval, container approval, identification of participating businesses and non-participating businesses, review of security plans proposed to the WVABCA, and the duties and responsibilities of all participating businesses with respect to clean up and other sanitation matters.
(c) The Mayor has the authority to suspend the operation of a Designated Area immediately when in the interest of public safety by providing notice to all S4 permit holders within the Designated Area, any business association participating in the marketing or advertising of the Designated Area, and the WVABCA.
(d) Private Outdoor Designated Areas within the City of Parkersburg will follow all WVABCA rules and regulations regarding the operation of Class S Fairs and Festivals within the footprint of an approved Private Outdoor Designated Area.

1358.08 – Creation and Boundaries of the Market Street Designated Area

(a) The City Council of the City of Parkersburg hereby establishes a Private Outdoor Designated Area, known as the "Market Street Designated Area", which has the boundaries as stated in subsection (b) of this section and which shall meet all the requirements of this Article and applicable West Virginia Codes.
(b) The Market Street PODA consists of the City of Parkersburg's Right of Way on Market Street situated between the intersection of Market Street & South 3rd Street and the intersection of Market Street and 9 ½ Street.
(c) Any business whose primary point of ingress/egress is adjacent to the portion of the City of Parkersburg Right of Way on Market Street described in subsection (b) can participate in the Market Street Designated Area. Under no circumstances is a business required to participate; the City of Parkersburg will make available signage, free of charge to the business, to be posted at the main point of ingress/egress that states either (1) The Business Allows Market Street Designated Area Approved Containers, (2) The Business Does Not Allow Market Street Designated Area Approved Containers, or (3) The Business is an approved Class A Private Club S4 permit holder and sells Market Street Designated Area Approved Container beverages.

1358.09 – Days and Hours of Operation

(a) The Market Street Designated Area may operate between April 1st through October 31st, Monday through Friday from 4pm to 11pm and Saturday from 11am to 11pm.
(b) Permitted alcoholic drinks may not be sold in approved containers or consumed within the Market Street Designated Area outside of the times listed in subsection (a).
(c) The Mayor has the authority to decrease the hours of operation for the Market Street Designated Area when in the interest of public safety by providing notice to all S4 permit holders within the Designated Area, any business association participating in the marketing or advertising of the Designated Area (including, but not limited to, Downtown PKB), and the WVABCA.
(d) The Market Street Designated Area will follow all WVABCA rules and regulations regarding the operation of Class S Fairs and Festivals within the footprint of the Market Street Designated Area.

1358.10 – Personnel Needed Article 1358 – Private Outdoor Designated Areas (a) The estimated number of City of Parkersburg personnel needed to ensure public safety, sanitary conditions, and efficient operations in the Market Street Designated Area are:
Two (2) police officers
Two (2) public works/sanitation employees
At the time of adoption of this Article, the City of Parkersburg City Council anticipates that these City employees will be working their regular shifts and generally assigned in the area of the City. At any time, the Mayor has the authority to reassess

Sponsors:

U366 personnel needs through consultation with the Director of Public Works, the Sanitation Supervisor, and the Chief of the City of Parkersburg Police Department.

1358.11 – Penalties

(a) An individual who violates any provision of this Article relating to Private Outdoor Designated Areas is guilty of a misdemeanor and, upon conviction, will be fined not less than $5 and not more than $100.

(b) Any person who owns or operates a business within a Private Outdoor Designated Area or is employed by such a business who violates any provision of this article is guilty of a misdemeanor and, upon conviction, will be fined not less than $5 and not more than $1,000. Any owner, operator, or employee who violates a provision of this article and is convicted of a third such offense, upon conviction, may be confined for up to 30 days. These penalties for owners, operators, and employees of businesses operating within a Designated Area are in addition to any penalty from the WVABCA.

(c) These penalties are in addition to, and do not take the place of, any other applicable penalties either within this Code, the West Virginia Code, or rules and regulations promulgated by the WVABCA and any other governing body.

MOTION – Mr. Mercer moved, seconded by Ms. Tuck, to adopt the ordinance on final reading, and the motion was adopted by unanimous vote.

ORDINANCE, FIRST READING:

AN ORDINANCE AMENDING ARTICLE 135.01 OF THE CODIFIED ORDINANCES OF THE CITY OF PARKERSBURG BY RAISING THE THRESHOLD FOR WRITTEN NOTICES INVITING PROPOSALS

MOTION – Mr. Stanley moved, seconded by Ms. Kuhl, to adopt the ordinance on first reading.

Mr. Carpenter stated that he was not in favor of the ordinance because he thinks it would create room for vendor favoritism. Mayor Joyce explained that this was correcting three sections of the ordinance that were missed when they amended the ordinance December 2022. At that time, the amount was increased from $15,000.00 to $25,000.00, and we missed changing the $15,000.00 amount in other parts of the ordinance.

VOTE – the motion was adopted by majority vote with all members voting "yes" with the exemption of Mr. Carpenter, who voted "no."

The meeting adjourned at 8:00 PM.

Catherine Skinner

City Clerk

Council President

Sponsors:

City Council
101 East Washington Street
Charles Town, WV 25414

Meeting: 04/01/24
Department: City Council
Category: Ordinance
Initiator:

SCHEDULED

AGENDA ITEM (ID #)

2024-340: First Reading and Consideration of Amendment to the Codified Ordinance of the City of Charles Town, West Virginia with Regard to Part 17 Building and Housing Code Article 1759 Vacant Properties and Vacant Structures

August 21, 2023 - the First Reading of Article 1759 was passed.

September 18, 2023 - a public hearing was held, and the second reading was tabled.

October 16, 2023 - Article 1759 was tabled again for staff to provide to Council examples of vacant structure ordinances from other West Virginia municipalities.

This item needs to be removed from the Table.

ATTACHMENTS:

- Article_1759_red-lined_17463035.2_SJDOCS_.pdf
- Article_1759_clean_-_second_reading__17463035.2_SJDOCS_.docx
- Vacant Structure Information.pdf

ARTICLE 1759
~~Vacant Properties and~~ Vacant ~~Structures~~Buildings

1759.01 Purpose and scope.

1759.02 Definitions.

1759.03 Registration of ~~vacant property and~~ vacant ~~structures~~buildings; enforcement.

1759.04 ~~Inspection of vacant properties and~~ Maintenance of vacant ~~structures~~buildings.

1759.05 ~~Uninhabitable status; corrective actions~~Appeals.

~~1759.06 Enforcement of corrective action.~~

~~1759.07 Use of registry fees.~~

1759.0~~8~~6 Schedule of registry fees.

1759.07 Severability.

1759.08 Transition Provisions.

1759.01 PURPOSE AND SCOPE.

This Article is enacted pursuant to W. V. Code Chapter 8, Article 12, Section~~s 16, 16a &~~ 16c for the purpose of ensuring that each ~~Vacant Property and each~~ Vacant ~~Structure~~Building in the City is properly monitored and maintained~~, does not pose a hazard to persons or property, is suitable for occupancy and use,~~ so as to provide for public health, safety, and welfare, including being ~~and is~~ safe for entry by police officers, fire fighters, and other emergency personnel in times of emergency. This article provides for registration and inspection of ~~Vacant Properties and~~ Vacant ~~Structures~~Buildings~~, and corrective action to address deficient structures that pose a hazard to life, limb, health, property, safety, or welfare of the general public, and renovation, restoration and reuse of such vacant structures. However, because circumstances may not exist whereby a structure may temporarily be uninhabitable, not all non-code compliant structures will be declared "uninhabitable" under this Ordinance. A Vacant Properties Board is created under this Article as the enforcement agency under W. V. Code Section 8-12-16 (b) to supplement, but not supplant, the official duties of the Code Official under the State Building Code~~.

1759.02 DEFINITIONS.

When used in this article, the following capitalized words and phrases shall have the meanings indicated:

(a) "Alternative Means of Service" means, when service of notice or process under this Article is required to be made by Certified Mail but cannot be obtained, service of the notice

or process by all of the following: (i) regular U.S. mail addressed as specified in subsections (i) or (ii) of the definition of Certified Mail; (ii) publication as a Class II legal advertisement (as defined in W. Va. Code § 59-3-2); and (iii) posting on the front door or other conspicuous location on the subject Building. Service of notice or process by Alternative Means of Service shall be deemed made on the third (3rd) day following the earliest date on which such mailing, publishing, and posting have all occurred.

(b) "Building" means a structure having a roof supported by walls or columns that stands more or less permanently in one place and is utilized or intended for the shelter, housing, or enclosure of persons, animals, or personal property.

(c) "Building Code" means, collectively, the West Virginia State Fire Code, as adopted by the City under Article 1511 of the Codified Ordinances, and the West Virginia State Building Code, ~~each~~ as adopted and amended by the City under Article 1705 of the Codified Ordinances.

(~~b~~d) "Certified Mail" means U.S. certified mail, return receipt requested, addressed to: (i) in all cases except where a Non-resident Owner has designated a Local Agent pursuant to Section 1759.03(c) of this Article, the name and last known address of the ~~property o~~Owner ~~or the owner's designated agent at the address provided on the owner's registration in accord with this Article or, in absence of such registration,~~ according to the records of the Jefferson County Tax Office; and (ii) in the case where a Non-resident Owner has designated a Local Agent pursuant to Section 1759.03(c) of this Article, the name and address of the designated Local Agent. ~~Where service of notice by certified mail is required by this Ordinance but cannot be obtained, service may be perfected by publication as a class III-0 legal advertisement in a newspaper of general circulation in Jefferson County and by posting notice on the front door or other conspicuous location on the subject property.~~ Service of notice or process by Certified Mail shall be deemed made upon delivery, as evidenced by the return receipt.

~~(c) "Code Official" is used synonymously with "Building Official" and means the City official or employee charged with the administration and enforcement of the IPMC and shall include any City employee possessing ICC IPMC Certification who has been delegated such authority by the Building Official with the concurrence of the City Manager.~~

~~(d) "IPMC" means the ICC International Property Maintenance Code, as adopted and amended by the City as part of the Building Code.~~

~~(e) "Notice" shall be defined in the various applicable sections on this Article, and such notice as defined herein shall be given to the owner(s) of property as owner is defined herein.~~

(~~f~~e) "Non-resident ~~o~~Owner" means an ~~o~~Owner of a Vacant Building whose legal residence is outside the State of West Virginia.

(~~g~~f) "Owner" ~~or "Property Owner"~~ means a person who individually or jointly with others:

(1) Has legal title to the property, with or without actual possession of the property;

(2) Has charge, care or control of the property as owner or agent of the owner;

(3) Is an executor, administrator, trustee, or guardian of the estate of the owner;

(4) Is the agent of the owner for the purpose of managing, controlling, or collecting rents; or

(5) Is entitled to control or direct the management or disposition of the property.

(g) "Staff" means the Vacant Buildings Official and any of his or her staff or other City employees to which the Vacant Buildings Official delegates duties.

~~(h) "Uninhabitable" means a structure which is unfit for human occupancy as determined by the Code Official under the provisions of this Ordinance.~~

(~~i~~h) "Vacant Building" ~~- to be used herein interchangeably with "Vacant Structure" -~~ means any residential ~~b~~Building that has not been occupied lawfully as a residence, or any non-residential ~~b~~Building ~~or other structure~~ that has not been occupied lawfully for its ordinary expected use, during the immediately preceding six (6) consecutive months or, in the case of seasonal ~~structures~~Buildings, such as vacation homes, one (1) year.

(1) Occupancy will be determined by the status and use of the utilities, property condition, and similar factors, including, but not limited to, the following:

(~~1~~A) A ~~structure~~Building shall not be considered occupied merely due to entry for purposes not consistent with its ordinary expected use.

(~~2~~B) A ~~structure~~Building that is unsecured and occupied by one or more unauthorized persons shall not be considered occupied lawfully for purposes of the above definition.

(2) Notwithstanding anything to the contrary above, the following shall not be considered a Vacant Building:

(~~3~~A) A new ~~structure~~Building under construction ~~shall not be considered a Vacant Structure~~ while a building permit for the construction is issued, the work is proceeding on schedule with appropriate inspection requests, and the permit is unexpired.

~~(B) A Building owned or then actively leased by an individual in active-duty service with the Unted States Armed Forces while stationed or deployed at a location in excess of one hundred (100) miled from the Building. The Vacant Buildings Official may require a copy of orders or other satisfactory evidence of such situation.~~

(3) When this Article refers to a Vacant Building with respect to filing a lien thereon, or registering the same in the Vacant Buildings Registry, or otherwise as the context requires, such reference shall include the real property upon which the Vacant Building is located.

~~(j) "Vacant Property" means real estate on which no building is erected and no routine activity occurs, provided, however, that proper routine maintenance of a vacant lot~~

~~whereon no property violations exist shall constitute "routine activity" for the purposes of this ordinance, regardless of whether or not the vacant lot is used in conjunction with improved adjacent real estate.~~

(~~k~~i) "Vacant ~~Properties Board~~Buildings Official" ~~or "Board"~~ means the City Building Official designated under Article 1705 of the Codified Ordinances~~agency charged with enforcing this Article, which shall consist of the Mayor, the Code Official, and one (1) individual member at-large selected by and to serve at the will and pleasure of the Mayor. The Fire Chiefs of the Independent Fire Company No. 1, Inc., and Citizens Fire Company and a representative from the Jefferson County Health Department are nonvoting members. The term "Vacant Properties Board" shall have the same meaning as "code enforcement agency" as defined in West Virginia State Code~~.

1759.03 REGISTRATION OF ~~VACANT PROPERTY AND~~ VACANT ~~STRUCTURES~~BUILDINGS; ENFORCEMENT.

(a) Registry. There shall be established and maintained a Vacant ~~Properties~~Buildings Registry, in which ~~shall include~~ all Vacant Buildings in the City shall be registered~~vacant property and vacant structures~~.

(b) Notice of Requirement to Register. Prior to the last day of April in each year, the Vacant Buildings Official shall cause a Notice of Requirement to Register to be published as a Class II legal advertisement (as defined in W. Va. Code § 59-3-2) and mailed by regular U.S. mail to: the name and address of the Owner, as appearing in the Vacant Buildings Registry, of each Vacant Building then registered in such registry; and the name and last known address of the Owner, according to the records of the Jefferson County Tax Office, of each Building that Staff has determined to be, or reasonably suspects to be, a Vacant Building. The Notice of Requirement to Register shall provide notice that: (i) the Owner of any Vacant Building within the City is required to register that Vacant Building in the Vacant Buildings Registry by submission of a completed Vacant Building Registration no later than the first day of July in the subject year; (ii) upon the initial registration of a Vacant Building in such registry, or in the event of re-registration of a Vacant Building that previously was registered but later removed from the registry, payment of a registry fee in the specified applicable amount must accompany submission of the Vacant Building Registration; (iii) in the event that a Vacant Building Registration is not timely submitted with respect to a Building then or subsequently determined to be a Vacant Building pursuant to Section 1759.03(e), such Vacant Building shall be involuntary registered pursuant to Section 1759.03(e) and the Owner of the Vacant Building shall be charged a registry fee in the specified applicable amount whether or not the subject Vacant Building is then registered in the Vacant Buildings Registry pursuant to registration in a prior year; (iv) if any applicable registry fee is not timely paid, the City may bring a civil action against the Owner to collect such registry fee and/or file a lien against the subject real property for the amount of such registry fee; and (v) a Non-resident Owner of a Vacant Building is required to designate a Local Agent to accept service of process and certain notices on behalf of the Non-Resident Owner. Publication of the Notice of Requirement to Register

shall state where a person may obtain a blank Vacant Building Registration, and a blank Vacant Building Registration shall be sent with any mailed Notice of Requirement to Register.

(1) Neither the failure of the Vacant Buildings Official to mail a Notice of Requirement to Register to any Owner of a Vacant Building nor the non-receipt of a Notice of Requirement to Register by any Owner of a Vacant Building will relieve the Owner of the requirements under this Article.

(c) Non-resident Owners. Each Non-resident Owner is required to provide to the Vacant Buildings Official signed and notarized document designating the name and address of a person who resides within the State of West Virginia and who the Non-resident Owner authorizes to accept service of process and notices of fees due under this section on behalf of the Non-resident Owner and who is designated as the Non-resident Owner's responsible agent for the purposes of receipt of notification in the event of an emergency affecting the public health, safety, or welfare (a "Local Agent"). Once provided, such document shall remain in effect until cancelled in writing by the Owner; *provided that*, the Owner shall be responsible for notifying the Vacant Buildings Official of any changes in the name or address of a Local Agent. Failure to provide such document by July 1 of the first year following enactment of this Article in which a Non-resident Owner owns a Vacant Building is a violation of this Ordinance subject to the General Penalty fine specified in Section 101.99 of the Codified Ordinances. Any provision herein requiring notice to or service upon an Owner shall be satisfied by notice to or service upon the Owner's designated Local Agent.

(d) Voluntary Registration. By July 1 of each year, ~~T~~the ~~o~~Owner of any ~~Vacant Property and the owner of any real property containing a~~ Vacant ~~Structure~~Building within the City is required to ~~shall~~ register the Vacant Building ~~real property~~ in the Vacant Building Registry by submitting a completed Vacant Building Registration to the Vacant Buildings Official~~by filing a notice with the City on the form available at City Hall~~. A Vacant Building Registration will not be considered effective unless and until any registry fees required under Section 1759.03(g) are received by the Vacant Buildings Official.~~Nonresident owners must designate a resident agent who shall execute the registration form with the owner(s), agreeing to accept, on behalf of such owner, service of process and notices of fees due under this Ordinance on behalf of the owner and who is designated as a responsible, local party or agent for the purposes of notification in the event of an emergency affecting the public health, safety or welfare by the City pertaining to such real estate under this Article.~~

(~~c~~e) Involuntary Registration. Staff shall investigate ~~properties~~any Building that is suspected to be a Vacant Building~~may be eligible for possible placement of the Property on the Registry~~ and determine whether it shall be considered a Vacant Building. ~~If inspection of a structure is necessary to an investigation, the provisions of Section 1759.04 shall apply.~~ Upon Staff's determination that a ~~property or structure~~Building is a ~~v~~Vacant Building, ~~the~~ Staff shall: (i) set forth in a written statement its findings supporting the determination; (ii) place the Owner of such Vacant Building on the list of persons to receive Notice of Requirement to Register pursuant to Section 1759.03(b); (iii) notify the Owner of the Vacant Building in writing by Certified Mail or Alternative Means of Service of Staff's

determination that the Building is a Vacant Building that the Owner must register in the City's Vacant Buildings Registry by submission of a completed Vacant Building Registration by the following July 1, after which the City will involuntarily register the Vacant Building, with all applicable fees due; and (iv) in the event the Owner fails to register the Vacant Building by timely submitting a completed Vacant Building Registration, involuntarily register the Vacant Building in the Vacant Building ~~and issue a notice that the real property be placed on the Vacant Properties~~ Registry and assess against the Owner any~~that~~ registry fees required under Section 1759.03(g) whether or not the subject Vacant Building is then registered in the Vacant Buildings Registry pursuant to voluntary or involuntary registration in a prior year~~specified in Subsection (e) below be assessed against the owner of the real property~~. ~~Staff shall cause a copy of the Order to be Served upon the owner of the subject real property and posted on the front door or another conspicuous location on the structure or property. If the owner of record disagrees with Staff's finding that the property is a Vacant Structure, the owner has the right to appeal that determination to the Vacant Properties Board. Such appeal shall be filed on an appeal form, available at City Hall. If no appeal is received within 30 days, from the date of the notice to the property owner, or as posted on the property, the right to an appeal shall expire.~~

(~~d~~f) Exemption from Registration. The ~~o~~Owner of ~~real property containing~~ a Vacant ~~Structure~~Building may submit in writing to the ~~Board~~Vacant Buildings Official, for presentation to and consideration by City Council, a request for exemption from registration of such Vacant Building in the Vacant Buildings Registry due to inability to occupy the ~~structure~~Building for a period stated and for reasons stated in the request. Upon a finding of good cause shown, ~~the Board~~City Council may exempt the ~~real property~~Building from registration for a time specifie~~d~~~~c~~ in City Council's decision. Examples of circumstances when good cause for an exemption may exist include when ~~real property~~the Vacant Building is being actively marketed for sale following the ~~o~~Owner's move to other property, or when ~~a resident is deployed on active military duty~~the Vacant Building is being offered for lease following a prior tenant's vacation of the property.

(~~e~~g) Registry Fees.

(1) ~~When real property is placed on the Vacant Properties Registry, a~~ The voluntary registry fee ~~as~~ set forth in Section 1759.0~~8~~6(a) ~~of this Article~~ for the applicable type of Building shall be assessed to the O~~o~~wner of ~~the property~~a Vacant Building upon its initial voluntary registration by the Owner and also in the instance that the Vacant Building is voluntarily re-registered in the Vacant Buildings Registry after previously having been registered and later removed from such registry. Thereafter, the voluntary registry fee shall not be further assessed for so long as the Owner continues to voluntarily register the Vacant Building annually. The voluntary registry fee shall be submitted with the Owner's submission of the Vacant Building Registration by which the Vacant Building is first registered (or first re-registered in the case of a prior registration and removal from the registry) and due at that time.

(2) The involuntary registry fee set forth in Section 1759.06(b) for the applicable type of Building shall be assessed to the Owner of a Vacant Building in each year that it is involuntarily registered pursuant to Section 1759.03(e). In addition to the involuntary

registry fee, the Owner shall reimburse the City for all its costs incurred in notifying the Owner of Staff's determination of Vacant Building status and of the registry fee due. The Owner shall be notified in writing of the involuntary registry fee due, together with all costs reimbursable to the City hereunder, by Certified Mail or Alternative Means of Service, which amounts are due when service of the notice is deemed made under Section 1759.02(a) or Section 1759.02(d), as the case may be. ~~Thereafter, while the real property remains on the Vacant Properties Registry, an annual registry fee as also set forth in Section 1759.08 of this Article shall be assessed on each anniversary of the date that the property was placed on the registry, provided that properties placed on the registry between January 1 and June 31 of that year shall be deemed placed on the registry as of January 1 of that year and properties placed on the registry between July 1 and December 31 of any year shall be deemed placed on the registry as of July 1 of that year.~~

(~~1~~3) The City may take the following actions in order to collect any registry fees and costs reimbursable to the City that are not paid in full within thirty (30) days of when due~~shall have a lien for all registration assessments and for any legal fees and expenses incurred in enforcing same. If a registry fee is delinquent, the City may~~:

(A.) After providing the Owner the notice specified below, file in the Office of the Clerk of the County Commission of Jefferson County a~~File notice of~~ lien against the ~~subject real property in the Office of the Clerk of the County Commission of Jefferson County~~ Vacant Building for the full amount of the delinquent registry fees and reimbursable costs, plus filing fees. Prior to filing such lien, the Vacant Buildings Official shall notify the Owner of the Vacant Building in writing by Certified Mail or Alternative Means of Service that the City may file said lien unless all delinquent amounts are paid by a date stated in the notice, which stated date shall be no less than thirty (30) days following the date on which service of the notice is deemed made under Section 1759.02(a) or Section 1759.02(d), as the case may be ~~and serve owner(s) with a copy of same after first giving notice of its intent to do so 30 days after the date of receipt of said notice sent by certified mail as specified in this Ordinance~~.

(B.) Institute a civil action in the Circuit Court of Jefferson County against the ~~real property owner(s)~~Owner for the delinquent registry fees, reimbursable costs, and reasonable attorney fees and court costs incurred relative to the civil action.

(~~2~~4) A registry fee paid shall be refunded if, on timely appeal, ~~the Board's decision~~Staff's determination requiring registration as a Vacant ~~Structure~~Building is reversed.

(~~f~~h) Removal from Registry. ~~It shall be the obligation of the owner(s) of a Vacant Structure to notify the Staff in writing once the Vacant Structure has been~~In the event a Building in the Vacant Buildings Registry becomes lawfully occupied or is removed from the ~~premises~~subject real property, the Owner of the Building is required to provide to the Vacant Buildings Official a written notice explaining the situation, together with evidence thereof (such as a copy of a lease of the property, photographs of demolition, etc.), and

requesting removal of the Building from the Vacant Buildings Registry. Upon Staff's verification of lawful occupation or removal of the Building, the Building shall be removed from the Vacant Buildings Registry ~~and provide written verification to the Staff on a form available at City Hall~~. In the event Staff is unable to verify lawful occupation or removal of the Building, the Vacant Buildings Official shall notify the Owner of the Building in writing by Certified Mail or Alternative Means that Staff has determined that it is unable to verify lawful occupation or removal of the Building and that the Building shall continue to be considered a Vacant Building and remain registered in the Vacant Buildings Registry. ~~It shall be the obligation of the owner(s) of Registered Vacant Property to provide like notice and verification once it has been put to routine use and activity.~~

1759.04 ~~INSPECTION OF VACANT PROPERTIES AND~~ MAINTENANCE OF VACANT ~~STRUCTURES~~BUILDINGS.

~~(a) Maintenance of Vacant Properties Registry. The Code Official shall investigate Vacant Properties and Vacant Structures and as applicable advise the Board on cases requiring action by the Board. Violations of the Nuisance Code (Article 1101 of the City Code of Ordinances) may be referred for proceedings thereunder.~~

~~(b) Inspection. Upon identification of a Vacant Property or Vacant Building, the Code Official is charged with the responsibility of inspecting the real property within the City to determine whether the real property violates the applicable Building Codes of the City. The Code Official shall have the right of entry on any Vacant Property and any Vacant Structure for the purposes of making inspections under this Ordinance but, unless emergency circumstances dictate otherwise, shall make reasonable efforts to notify persons in possession of the property prior to entry, and may also avail himself/herself of an administrative search warrant from the municipal judge when appropriate.~~

~~(c) Uninhabitability Criteria. A structure is uninhabitable, if, in the determination of the Code Official:~~

~~(1) It is dangerous to the life, health, property or safety of the public or the occupants of the structure because:~~

~~A. It does not provide minimum safeguards to protect or warn occupants in the event of a fire;~~

~~B. It contains any equipment (including without limitation, any boiler, heating equipment, elevator, moving stairway, electrical wiring or device, flammable liquid containers, or other equipment) that is in such disrepair or condition that such equipment is a hazard to life, health, property or safety of the public or occupants of the structure; or~~

~~C. It is so damaged, decayed, dilapidated, structurally unsafe, or of such faulty construction or unstable foundation that partial or complete collapse is possible;~~

(2) It is occupied by more persons than permitted under the IPMC, or it was erected, altered or occupied contrary to law;

(3) It is in disrepair or lacks maintenance, is unsanitary, is vermin or rat infested, contains filth and contamination, or lacks ventilation, illumination, sanitation or heating facilities, or other essential equipment required by the IPMC;

(4) The location of the structure constitutes a hazard to the occupants of the structure or to the public; or

(5) It has any or all of the conditions or defects described below:

A. Any door, aisle, passageway, stairway, exit, or other means of egress that does not conform to the Building Code as related to the requirements for existing buildings;

B. The walking surface of any aisle, passageway, stairway, exit or other means of egress is so warped, worn, loose, torn or otherwise unsafe as to not provide safe and adequate means of egress;

C. Any portion of the structure has been damaged by fire, earthquake, wind, flood, deterioration, neglect, abandonment, vandalism, or by any other cause to such an extent that it is likely to partially or completely collapse, or to become detached or dislodged;

D. Any portion of the structure, or any member, appurtenance, or ornamentation on the exterior thereof, is not of sufficient strength or stability, or is not so anchored, attached, or fastened into place, so as to be capable of resisting natural or artificial loads of one and one-half the original designed value;

E. The structure, or part of the structure, because of dilapidation, deterioration, decay, faulty construction, the removal or movement of some portion of the ground necessary for the support, or for any reason, is likely to partially or completely collapse, or some portion of the foundation or underpinning of the building or structure is likely to fail or give way;

F. The structure, or any portion thereof, is clearly unsafe for its use and occupancy;

G. The structure is neglected, damaged, dilapidated, unsecured, or abandoned so as to become an attractive nuisance to children who might play in the structure to their danger, or so as to become a harbor for vagrants, criminals, or immoral persons, or so as to enable persons to resort to the building or structure for committing a nuisance or an unlawful act;

H. The structure has been constructed, exists, or is maintained in violation of any specific requirement or prohibition applicable to such structure provided by the Building Code, or any other applicable law or ordinance, to such an extent as to present wither a substantial risk of fire, building collapse, or any other threat to life and safety;

I. The structure, if used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction of arrangement, inadequate light, ventilation, or mechanical or plumbing system, or otherwise, is unsanitary or in a condition that is likely to cause sickness or disease;

J. The structure, because of a lack of sufficient or proper fire-resistance-rated construction, fire protection systems, electrical system, fuel connections, mechanical system, plumbing system, or other cause is a threat to life or health; or

K. Any portion of the structure remains on a site after the partial demolition or destruction of the remainder of the structure, or the structure is abandoned so as to constitute the structure or a portion thereof as an attractive nuisance or hazard to the public.

(d) Further Uninhabitability Considerations. The following shall be considered in any determination of uninhabitability:

(1) No structure shall be determined Uninhabitable unless it violates a provision of the Building Code.

(2) All determinations shall be made with due consideration of the ordinary expected lawful use of the subject structure (for example, a garage for vehicles would not be expected to contain sanitary facilities).

(3) Structures under active construction or ongoing renovations, as evidenced by a valid and current and actively pursued building permit, shall not be deemed Uninhabitable merely due to conditions that will be rectified by such construction or renovation.

(e) Determination of Code Official. If the Code Official determines the property is Uninhabitable and violates the Building Code, then:

(1) The Code Official shall post a written notice on the property using forms provided by the Board, which shall include:

A. An explanation of the violation(s);

B. A description of the registration process as set forth in §1759.03 of this Ordinance;

C. The date the fee will be assessed;

D. An explanation of how to be removed from the registration;

E. An explanation of the appeals process; and

F. A statement that if the fee is not paid, then the property is subject to forfeiture.

(2) Within five (5) business days of the inspection and the posting of the property with the notice described above, and by a placard easily visible from the curb, the Code

~~Official shall, by certified mail, send a copy of the notice that was posted to the owner(s) of the property at the last known address according to the county property tax records.~~

~~(3) Within forty-five (45) days of receipt of the notification by the owner(s), the property owner must:~~

~~A. Obtain the required building permit(s) and complete any repairs to the property that violate the Building Code; or~~

~~B. Provide written information to the Code Official, demonstrating to the Code Official's satisfaction, that repairs will be forthcoming in a reasonable period of time. Such showing must include a timely application for necessary building permits and active progress under any permit that has been issued.~~

~~(4) After the repairs are made, the owner may request a re-inspection of the property to ensure compliance with the Building Code. If the Code Official finds the violations are fixed, the owner is not subject to the registration and no fee will be incurred.~~

~~(5) The Code Official may re-inspect the property at any time to determine where in the process the repairs fall.~~

~~(6) Within ninety (90) days of the receipt of the notification by the owner(s), the property owner has the right to appeal the decision of the Code Official to the Vacant Structures Board.~~

~~(7) If an appeal is not filed within ninety (90) days, the property is registered and the fee assessed to the owner(s) on the date specified in the notice. The notice of the fee shall be recorded in the Office of the Clerk of the County Commission of Jefferson County.~~

~~(8) If the Board affirms the registration and assessment of the registration fee, the property owner has the right to appeal the decision of the Board to the Circuit Court of Jefferson County within thirty days of the decision. Any decision not timely appealed will become final and the property will be registered and the fee assessed on the date specified in the notice.~~

~~(9) A fee assessed under this section shall be recorded in the same manner as a lien is recorded in the Office of the Clerk of the County Commission of Jefferson County.~~

~~(10) If the fee is paid subsequent to recordation, then the City shall record a release of the fee in the said Clerk's office.~~

~~(11) If an owner fails to pay the fee, then the Code Official shall annually post the written notice on the property and send the written notice to the owner(s) or registered resident agent by certified mail.(12) If a registration fee remains delinquent for two (2) years from the date it was placed on record in the Office of the Clerk of the Jefferson County Commission, the City may take action to receive the subject property by means of forfeiture. Should the City take the steps necessary to receive the subject property, the City then becomes the owner of record and takes the property subject to all senior liens and real and personal property taxes.~~

~~(12) If a registration fee remains delinquent for two (2) years from the date it was placed on record in the Office of the Clerk of the Jefferson County Commission, the City may take action to receive the subject property by means of forfeiture. Should the City take the steps necessary to receive the subject property, the City then becomes the owner of record and takes the property subject to all senior liens and real and personal property taxes.~~

(a) Required Maintenance. The Owner of a Vacant Building is required to maintain the Vacant Building in accordance with all applicable provisions of the Building Code and so as not to constitute a public nuisance prohibited by Article 1101 of the Codified Ordinances.

(b) Enforcement. In the event an Owner fails to maintain a Vacant Building as required by Section 1759.04(a) as determined by the Vacant Buildings Official, the Vacant Buildings Official may notify the Owner of the Vacant Building in writing by Certified Mail or Alternative Means of Service of such determination and the specifics of the identified failure and that the City may elect to take specified actions, which may include repairs, maintenance, and/or demolition, at the Owner's cost to bring the Vacant Building into compliance with the Building Code and/or eliminate the public nuisance, as the case may be, if the Owner does not take and complete the specified actions within a specified number of days following the date on which service of the notice is deemed made under Section 1759.02(a) or Section 1759.02(d), as the case may be, which number of days shall be determined by the Vacant Buildings Official considering the urgency for the action in light of the potential harm to public health, safety, and welfare due to the condition of the Vacant Building. If the Owner fails to take and complete the specified actions within the number of days specified in such notice, the City may, in its discretion and notwithstanding any provision of Article 1101 or Article 1705 of the Codified Ordinances to the contrary, thereafter take such actions and the Owner shall be responsible for the costs of such actions, as well as all related legal and administrative costs incurred by the City. The City may bring a civil action against the Owner to collect all such costs.

(c) Alternative Enforcement. Nothing in this Section 1759.04 shall be considered to affect or limit the City's authority or actions to enforce any other provisions of the Codified Ordinances pertaining to a Vacant Building or its condition, including without limitation provisions of Articles 1101 and 1705.

1759.05 ~~UNINHABITABLE STATUS; CORRECTIVE ACTIONS~~APPEALS.

~~(a) Vacant and Uninhabitable Structures Declared a Public Nuisance. Structures that are both vacant and uninhabitable are hereby declared Public Nuisances within the meaning of Article 1101 of this Code, provided however, that the provisions of Article 1101 notwithstanding, where it is reasonable and feasible to do so, the Board may Order that corrective action in regard to such structures may be taken under this Article, and further provided, that as an alternative to the corrective actions authorized by this Article, the~~

~~Board may refer any such property for abatement action by the City Manager and City Council under Article 1101.~~

~~(b) Orders of the Board. All orders issued by the Board shall be served in accord with the West Virginia Rules of Civil Procedure, Rule 4, governing service of process of civil actions and posted in a conspicuous place on the subject property.~~

~~(c) Building Permits. No building permit shall be issued or renewed with respect to any real property on the Registry of Uninhabitable Properties unless the work authorized by the contemplated building permit will timely rectify all property violations. Provided however, that this Section will not prevent the Board from entering into written agreements-including but not limited to setting benchmarks for work progress-with the property owner, as a condition precedent for the issuance of a permit for remediation, provided that such agreement will further the City's objective for obtaining compliance with this Article. Such agreements are permitted to be administratively issued by Staff for any structure which is on the Vacant Properties Registry.~~

~~(d) Owner's Injunctive Relief from Enforcement. An owner(s) subject to any order requiring corrective action may apply to the Circuit Court of Jefferson County for a temporary injunction retraining the enforcement of the Board's order pending final disposition of the cause.~~An Owner adversely affected by a determination made pursuant to this Article (excepting a determination regarding a request for exemption from registration made pursuant to Section 1759.03(f)) may appeal such determination to City Council by filing with the City Clerk a written notice of appeal within thirty (30) days of the date on which service of the notice of the subject determination is deemed made under Section 1759.02(a) or Section 1759.02(d), as the case may be, after which 30 day period the right to an appeal shall expire. The decision of City Council on any such appeal, as well as a determination by City Council regarding a request for exemption from registration made pursuant to Section 1759.03(f), may be appealed by an Owner to the Circuit Court of Jefferson County within thirty (30) days of the Owner's receipt of the subject decision or determination, after which 30-day period the right to an appeal shall expire.

~~1759.06 ENFORCEMENT OF CORRECTIVE ACTION~~

~~(a) Remediation by City. If specified corrective actions have not been completed within the time specified in an order of corrective action, the City may have the required corrective actions performed and assess the costs thereof against the owner(s).~~

~~(1) After having required corrective actions performed, the City shall serve the real property owner with written notice summarizing all costs and expenses incurred with respect to such actions, which amounts the real property owner shall reimburse to the City.~~

~~(2) The City shall have a lien against the subject real property for an amount that reflects all costs incurred by the City for repairing, altering or improving, or vacating and closing, removing or demolishing any dwelling or building. The City may perfect said lien~~

by filing notice of same in the Office of the County Commission of Jefferson County. A copy of the filed notice of lien shall be sent by Certified Mail to the real property owner.

(3) The City may institute a civil action in the Circuit Court of Jefferson County against the owner and/or other responsible party for all costs and expenses incurred by the City with respect to the subject property, including reasonable attorney fees and court costs incurred in the prosecution of the civil action.

(4) Not less than ten (10) days prior to instituting a civil action as provided in this section, the Code Official shall send notice to the Owner by certified mail, return receipt requested, advising the Owner of the Code Official's intention to institute such action.

(5) The notice shall be sent to the most recent address of the Owner in the Office of the Tax Assessor of Jefferson County. If, for any reason, such certified mail is returned without evidence of proper receipt thereof, then in such event, the Code Official shall cause a Class III-0 legal advertisement to be published in a newspaper of general circulation in Jefferson County and post notice on the front door or other conspicuous location on the subject property.

(6) If any Owner desires to contest any demand brought forth pursuant to this section, the Owner may seek relief in the Circuit Court of Jefferson County within thirty (30) days of the order or notice of demand.

(b) Joint Owners. Each person possessing an ownership interest in real property, whether as joint tenants, tenants in common, or as otherwise defined in this ordinance, shall be jointly and severally liable for all fees and obligations provided for in this article.

(c) General Penalty. Each day for which a violation of any provision of this Ordinance exists shall constitute a separate offense subject to a fine for each first offense of $100.00, for each second offense, $200.00 and for each third and subsequent repeat offense $500.00. Any penalty imposed for a violation of this Article shall constitute a lien against all real estate owned by the person(s) fined in favor of the City of Charles Town, together with a lien for all costs and attorney fees incurred in the enforcement of such lien. Such penalties are exclusive of any registry fees that may have been assessed.

(d) Notices. All notices of violations and orders issued under this Article which are not otherwise specifically provided for in this article shall be Served in accordance with the laws of West Virginia concerning service of process in civil actions and shall be Served on the owner(s), posted on the subject real estate in a conspicuous place and subject to recordation in the Office of the Clerk of the County Commission of Jefferson County among the land books and shall have the effect of a Notice of Lis Pendens against said real estate.

1759.07 USE OF REGISTRY FEES.

All registry fees assessed under Section 1759.03 or Section 1759.04 shall, when collected, be deposited in a separate account and be used for only the following purposes, as City Council shall determine from time to time:

~~(a) To improve public safety efforts, especially for police and fire personnel, who most often contend with dangerous situations manifested in Vacant Properties;~~

~~(b) To monitor and administer this Article; and~~

~~(c) To repair, close or demolish Vacant Structures and Vacant Properties as authorized by this Article.~~

1759.0~~8~~6 SCHEDULE OF REGISTRY FEES.

(a) Voluntary Registry Fee. The following voluntary registry fee, as specified for the type of Building at issue based upon its use when last occupied, shall be charged upon the voluntary registration of a Vacant Building pursuant to Section 1759.03(d) as provided in Section 1759.03(g)(1)~~The registration fees for Vacant Properties and Vacant Structures will be charged each year and are as follows~~:

(1) ~~Less than one year~~Residential Building: $~~100~~250

(2) ~~One year, an additional~~Non-Residential Building: $~~200~~500~~(3) Two years, an additional: $400~~

~~(4) Three years, an additional: $600~~

~~(5) Four years, an additional: $800~~

~~(6) Five years, an additional: $1600~~

~~(7) Plus, an additional $1,000 per year for each year thereafter.~~

(b) ~~Involuntarily Registration. Any vacant property existing upon the registry, and not voluntarily registered pursuant to Article 1759.03(b), will be subject to registration fees each year in accordance with the schedule above, with the exception of the initial fee, which shall be assessed at twice the rate.~~Involuntary Registry Fee. The following involuntary registry fee, as specified for the type of Building at issue based upon its use when last occupied, shall be charged upon the involuntary registration of a Vacant Building pursuant to Section 1759.03(e) as provided in Section 1759.03(g)(2):

(1) Residential Building: $500

(2) Non-Residential Building: $1,000

(c) ~~In addition to the above registration fees, there shall be added the following fees for uninhabitable vacant structures, which will be charged each year in the amounts as follows:~~Use of Registry Fees. All registry fees assessed under this Article shall, when collected, be deposited in a separate account and be used for only the following purposes, as City Council shall determine from time to time:

(1) ~~Less than 200 days: $0~~To improve public safety efforts, especially for police and fire personnel, who most often contend with dangerous situations manifested in Vacant Buildings; and

(2) ~~More than 200 days: $2,000~~To monitor and administer this Article.

~~(3) One year, an additional: $4,000~~

~~(4) Plus, an additional $2,000 per year for each year thereafter.~~

~~(d) Provided however, that if within forty-five days of the receipt of notification, as described above under 1759.04(e)(3), the property owner works in good faith and a reasonably timely fashion, as determined by the Code Official, said fees may be waived, however, failure to comply, or failure to achieve reasonable progress, thereafter will result in the immediate reinstatement of all applicable fees.~~

1759.07 SEVERABILITY.

If any provision of this Article is held to be invalid or unconstitutional by any court of competent jurisdiction, such invalidity or unconstitutionality shall not otherwise affect or invalidate the other provisions hereto, all of which are hereby declared, and shall be construed, to be separate and severable.

1759.08 TRANSITION PROVISIONS.

All registry fees, fines, penalties, liens, notices, letters, communications, orders, remedies, or other enforcement actions assessed, charged, imposed, placed, filed, issued, or otherwise instituted or taken under any prior version of this Article shall remain fully effective and enforceable notwithstanding the revision of this Article and nothing herein shall be deemed to modify, negate, limit, or otherwise affect such items.

ARTICLE 1759
Vacant Buildings

1759.01 Purpose and scope.

1759.02 Definitions.

1759.03 Registration of vacant buildings; enforcement.

1759.04 Maintenance of vacant buildings.

1759.05 Appeals.

1759.06 Schedule of registry fees.

1759.07 Severability.

1759.08 Transition Provisions.

1759.01 PURPOSE AND SCOPE.

This Article is enacted pursuant to W. V. Code Chapter 8, Article 12, Section 16c for the purpose of ensuring that each Vacant Building in the City is properly monitored and maintained so as to provide for public health, safety, and welfare, including being safe for entry by police officers, fire fighters, and other emergency personnel in times of emergency. This article provides for registration and inspection of Vacant Buildings.

1759.02 DEFINITIONS.

When used in this article, the following capitalized words and phrases shall have the meanings indicated:

(a) "Alternative Means of Service" means, when service of notice or process under this Article is required to be made by Certified Mail but cannot be obtained, service of the notice or process by all of the following: (i) regular U.S. mail addressed as specified in subsections (i) or (ii) of the definition of Certified Mail; (ii) publication as a Class II legal advertisement (as defined in W. Va. Code § 59-3-2); and (iii) posting on the front door or other conspicuous location on the subject Building. Service of notice or process by Alternative Means of Service shall be deemed made on the third (3rd) day following the earliest date on which such mailing, publishing, and posting have all occurred.

(b) "Building" means a structure having a roof supported by walls or columns that stands more or less permanently in one place and is utilized or intended for the shelter, housing, or enclosure of persons, animals, or personal property.

(c) "Building Code" means, collectively, the West Virginia State Fire Code, as adopted by the City under Article 1511 of the Codified Ordinances, and the West Virginia State

Building Code, as adopted and amended by the City under Article 1705 of the Codified Ordinances.

(d) "Certified Mail" means U.S. certified mail, return receipt requested, addressed to: (i) in all cases except where a Non-resident Owner has designated a Local Agent pursuant to Section 1759.03(c) of this Article, the name and last known address of the Owner according to the records of the Jefferson County Tax Office; and (ii) in the case where a Non-resident Owner has designated a Local Agent pursuant to Section 1759.03(c) of this Article, the name and address of the designated Local Agent. Service of notice or process by Certified Mail shall be deemed made upon delivery, as evidenced by the return receipt.

(e) "Non-resident Owner" means an Owner of a Vacant Building whose legal residence is outside the State of West Virginia.

(f) "Owner" means a person who individually or jointly with others:

(1) Has legal title to the property, with or without actual possession of the property;

(2) Has charge, care or control of the property as owner or agent of the owner;

(3) Is an executor, administrator, trustee, or guardian of the estate of the owner;

(4) Is the agent of the owner for the purpose of managing, controlling, or collecting rents; or

(5) Is entitled to control or direct the management or disposition of the property.

(g) "Staff" means the Vacant Buildings Official and any of his or her staff or other City employees to which the Vacant Buildings Official delegates duties.

(h) "Vacant Building" means any residential Building that has not been occupied lawfully as a residence, or any non-residential Building that has not been occupied lawfully for its ordinary expected use, during the immediately preceding six (6) consecutive months or, in the case of seasonal Buildings, such as vacation homes, one (1) year.

(1) Occupancy will be determined by the status and use of the utilities, property condition, and similar factors, including, but not limited to, the following:

(A) A Building shall not be considered occupied merely due to entry for purposes not consistent with its ordinary expected use.

(B) A Building that is unsecured and occupied by one or more unauthorized persons shall not be considered occupied lawfully for purposes of the above definition.

(2) Notwithstanding anything to the contrary above, the following shall not be considered a Vacant Building:

(A) A new Building under construction while a building permit for the construction is issued, the work is proceeding on schedule with appropriate inspection requests, and the permit is unexpired.

(3) When this Article refers to a Vacant Building with respect to filing a lien thereon, or registering the same in the Vacant Buildings Registry, or otherwise as the context requires, such reference shall include the real property upon which the Vacant Building is located.

(i) "Vacant Buildings Official" means the City Building Official designated under Article 1705 of the Codified Ordinances.

1759.03 REGISTRATION OF VACANT BUILDINGS; ENFORCEMENT.

(a) Registry. There shall be established and maintained a Vacant Buildings Registry, in which all Vacant Buildings in the City shall be registered.

(b) Notice of Requirement to Register. Prior to the last day of April in each year, the Vacant Buildings Official shall cause a Notice of Requirement to Register to be published as a Class II legal advertisement (as defined in W. Va. Code § 59-3-2) and mailed by regular U.S. mail to: the name and address of the Owner, as appearing in the Vacant Buildings Registry, of each Vacant Building then registered in such registry; and the name and last known address of the Owner, according to the records of the Jefferson County Tax Office, of each Building that Staff has determined to be, or reasonably suspects to be, a Vacant Building. The Notice of Requirement to Register shall provide notice that: (i) the Owner of any Vacant Building within the City is required to register that Vacant Building in the Vacant Buildings Registry by submission of a completed Vacant Building Registration no later than the first day of July in the subject year; (ii) upon the initial registration of a Vacant Building in such registry, or in the event of re-registration of a Vacant Building that previously was registered but later removed from the registry, payment of a registry fee in the specified applicable amount must accompany submission of the Vacant Building Registration; (iii) in the event that a Vacant Building Registration is not timely submitted with respect to a Building then or subsequently determined to be a Vacant Building pursuant to Section 1759.03(e), such Vacant Building shall be involuntary registered pursuant to Section 1759.03(e) and the Owner of the Vacant Building shall be charged a registry fee in the specified applicable amount whether or not the subject Vacant Building is then registered in the Vacant Buildings Registry pursuant to registration in a prior year; (iv) if any applicable registry fee is not timely paid, the City may bring a civil action against the Owner to collect such registry fee and/or file a lien against the subject real property for the amount of such registry fee; and (v) a Non-resident Owner of a Vacant Building is required to designate a Local Agent to accept service of process and certain notices on behalf of the Non-Resident Owner. Publication of the Notice of Requirement to Register shall state where a person may obtain a blank Vacant Building Registration, and a blank Vacant Building Registration shall be sent with any mailed Notice of Requirement to Register.

(1) Neither the failure of the Vacant Buildings Official to mail a Notice of Requirement to Register to any Owner of a Vacant Building nor the non-receipt of a Notice of Requirement to Register by any Owner of a Vacant Building will relieve the Owner of the requirements under this Article.

(c) Non-resident Owners. Each Non-resident Owner is required to provide to the Vacant Buildings Official signed and notarized document designating the name and address of a person who resides within the State of West Virginia and who the Non-resident Owner authorizes to accept service of process and notices of fees due under this section on behalf of the Non-resident Owner and who is designated as the Non-resident Owner's responsible agent for the purposes of receipt of notification in the event of an emergency affecting the public health, safety, or welfare (a "Local Agent"). Once provided, such document shall remain in effect until cancelled in writing by the Owner; *provided that*, the Owner shall be responsible for notifying the Vacant Buildings Official of any changes in the name or address of a Local Agent. Failure to provide such document by July 1 of the first year following enactment of this Article in which a Non-resident Owner owns a Vacant Building is a violation of this Ordinance subject to the General Penalty fine specified in Section 101.99 of the Codified Ordinances. Any provision herein requiring notice to or service upon an Owner shall be satisfied by notice to or service upon the Owner's designated Local Agent.

(d) Voluntary Registration. By July 1 of each year, the Owner of any Vacant Building within the City is required to register the Vacant Building in the Vacant Building Registry by submitting a completed Vacant Building Registration to the Vacant Buildings Official. A Vacant Building Registration will not be considered effective unless and until any registry fees required under Section 1759.03(g) are received by the Vacant Buildings Official.

(e) Involuntary Registration. Staff shall investigate any Building that is suspected to be a Vacant Building and determine whether it shall be considered a Vacant Building. Upon Staff's determination that a Building is a Vacant Building, Staff shall: (i) set forth in a written statement its findings supporting the determination; (ii) place the Owner of such Vacant Building on the list of persons to receive Notice of Requirement to Register pursuant to Section 1759.03(b); (iii) notify the Owner of the Vacant Building in writing by Certified Mail or Alternative Means of Service of Staff's determination that the Building is a Vacant Building that the Owner must register in the City's Vacant Buildings Registry by submission of a completed Vacant Building Registration by the following July 1, after which the City will involuntarily register the Vacant Building, with all applicable fees due; and (iv) in the event the Owner fails to register the Vacant Building by timely submitting a completed Vacant Building Registration, involuntarily register the Vacant Building in the Vacant Building Registry and assess against the Owner any registry fees required under Section 1759.03(g) whether or not the subject Vacant Building is then registered in the Vacant Buildings Registry pursuant to voluntary or involuntary registration in a prior year.

(f) Exemption from Registration. The Owner of a Vacant Building may submit in writing to the Vacant Buildings Official, for presentation to and consideration by City Council, a request for exemption from registration of such Vacant Building in the Vacant Buildings Registry due to inability to occupy the Building for a period stated and for reasons stated in the request. Upon a finding of good cause shown, City Council may exempt the Building from registration for a time specified in City Council's decision. Examples of circumstances when good cause for an exemption may exist include when the Vacant Building is being actively marketed for sale following the Owner's move to other

property, or when the Vacant Building is being offered for lease following a prior tenant's vacation of the property.

(g) Registry Fees.

(1) The voluntary registry fee set forth in Section 1759.06(a) for the applicable type of Building shall be assessed to the Owner of a Vacant Building upon its initial voluntary registration by the Owner and also in the instance that the Vacant Building is voluntarily re-registered in the Vacant Buildings Registry after previously having been registered and later removed from such registry. Thereafter, the voluntary registry fee shall not be further assessed for so long as the Owner continues to voluntarily register the Vacant Building annually. The voluntary registry fee shall be submitted with the Owner's submission of the Vacant Building Registration by which the Vacant Building is first registered (or first re-registered in the case of a prior registration and removal from the registry) and due at that time.

(2) The involuntary registry fee set forth in Section 1759.06(b) for the applicable type of Building shall be assessed to the Owner of a Vacant Building in each year that it is involuntarily registered pursuant to Section 1759.03(e). In addition to the involuntary registry fee, the Owner shall reimburse the City for all its costs incurred in notifying the Owner of Staff's determination of Vacant Building status and of the registry fee due. The Owner shall be notified in writing of the involuntary registry fee due, together with all costs reimbursable to the City hereunder, by Certified Mail or Alternative Means of Service, which amounts are due when service of the notice is deemed made under Section 1759.02(a) or Section 1759.02(d), as the case may be.

(3) The City may take the following actions in order to collect any registry fees and costs reimbursable to the City that are not paid in full within thirty (30) days of when due:

(A) After providing the Owner the notice specified below, file in the Office of the Clerk of the County Commission of Jefferson County a lien against the Vacant Building for the full amount of the delinquent registry fees and reimbursable costs, plus filing fees. Prior to filing such lien, the Vacant Buildings Official shall notify the Owner of the Vacant Building in writing by Certified Mail or Alternative Means of Service that the City may file said lien unless all delinquent amounts are paid by a date stated in the notice, which stated date shall be no less than thirty (30) days following the date on which service of the notice is deemed made under Section 1759.02(a) or Section 1759.02(d), as the case may be.

(B) Institute a civil action in the Circuit Court of Jefferson County against the Owner for the delinquent registry fees, reimbursable costs, and reasonable attorney fees and court costs incurred relative to the civil action.

(4) A registry fee paid shall be refunded if, on timely appeal, Staff's determination requiring registration as a Vacant Building is reversed.

(h) Removal from Registry. In the event a Building in the Vacant Buildings Registry becomes lawfully occupied or is removed from the subject real property, the Owner of the Building is required to provide to the Vacant Buildings Official a written notice explaining the situation, together with evidence thereof (such as a copy of a lease of the property, photographs of demolition, etc.), and requesting removal of the Building from the Vacant Buildings Registry. Upon Staff's verification of lawful occupation or removal of the Building, the Building shall be removed from the Vacant Buildings Registry. In the event Staff is unable to verify lawful occupation or removal of the Building, the Vacant Buildings Official shall notify the Owner of the Building in writing by Certified Mail or Alternative Means that Staff has determined that it is unable to verify lawful occupation or removal of the Building and that the Building shall continue to be considered a Vacant Building and remain registered in the Vacant Buildings Registry.

1759.04 MAINTENANCE OF VACANT BUILDINGS.

(a) Required Maintenance. The Owner of a Vacant Building is required to maintain the Vacant Building in accordance with all applicable provisions of the Building Code and so as not to constitute a public nuisance prohibited by Article 1101 of the Codified Ordinances.

(b) Enforcement. In the event an Owner fails to maintain a Vacant Building as required by Section 1759.04(a) as determined by the Vacant Buildings Official, the Vacant Buildings Official may notify the Owner of the Vacant Building in writing by Certified Mail or Alternative Means of Service of such determination and the specifics of the identified failure and that the City may elect to take specified actions, which may include repairs, maintenance, and/or demolition, at the Owner's cost to bring the Vacant Building into compliance with the Building Code and/or eliminate the public nuisance, as the case may be, if the Owner does not take and complete the specified actions within a specified number of days following the date on which service of the notice is deemed made under Section 1759.02(a) or Section 1759.02(d), as the case may be, which number of days shall be determined by the Vacant Buildings Official considering the urgency for the action in light of the potential harm to public health, safety, and welfare due to the condition of the Vacant Building. If the Owner fails to take and complete the specified actions within the number of days specified in such notice, the City may, in its discretion and notwithstanding any provision of Article 1101 or Article 1705 of the Codified Ordinances to the contrary, thereafter take such actions and the Owner shall be responsible for the costs of such actions, as well as all related legal and administrative costs incurred by the City. The City may bring a civil action against the Owner to collect all such costs.

(c) Alternative Enforcement. Nothing in this Section 1759.04 shall be considered to affect or limit the City's authority or actions to enforce any other provisions of the Codified Ordinances pertaining to a Vacant Building or its condition, including without limitation provisions of Articles 1101 and 1705.

1759.05 APPEALS.

An Owner adversely affected by a determination made pursuant to this Article (excepting a determination regarding a request for exemption from registration made pursuant to Section 1759.03(f)) may appeal such determination to City Council by filing with the City Clerk a written notice of appeal within thirty (30) days of the date on which service of the notice of the subject determination is deemed made under Section 1759.02(a) or Section 1759.02(d), as the case may be, after which 30 day period the right to an appeal shall expire. The decision of City Council on any such appeal, as well as a determination by City Council regarding a request for exemption from registration made pursuant to Section 1759.03(f), may be appealed by an Owner to the Circuit Court of Jefferson County within thirty (30) days of the Owner's receipt of the subject decision or determination, after which 30-day period the right to an appeal shall expire.

1759.06 SCHEDULE OF REGISTRY FEES.

(a) Voluntary Registry Fee. The following voluntary registry fee, as specified for the type of Building at issue based upon its use when last occupied, shall be charged upon the voluntary registration of a Vacant Building pursuant to Section 1759.03(d) as provided in Section 1759.03(g)(1):

(1) Residential Building: $250

(2) Non-Residential Building: $500

(b) Involuntary Registry Fee. The following involuntary registry fee, as specified for the type of Building at issue based upon its use when last occupied, shall be charged upon the involuntary registration of a Vacant Building pursuant to Section 1759.03(e) as provided in Section 1759.03(g)(2):

(1) Residential Building: $500

(2) Non-Residential Building: $1,000

(c) Use of Registry Fees. All registry fees assessed under this Article shall, when collected, be deposited in a separate account and be used for only the following purposes, as City Council shall determine from time to time:

(1) To improve public safety efforts, especially for police and fire personnel, who most often contend with dangerous situations manifested in Vacant Buildings; and

(2) To monitor and administer this Article.

1759.07 SEVERABILITY.

If any provision of this Article is held to be invalid or unconstitutional by any court of competent jurisdiction, such invalidity or unconstitutionality shall not otherwise affect or

invalidate the other provisions hereto, all of which are hereby declared, and shall be construed, to be separate and severable.

1759.08 TRANSITION PROVISIONS.

All registry fees, fines, penalties, liens, notices, letters, communications, orders, remedies, or other enforcement actions assessed, charged, imposed, placed, filed, issued, or otherwise instituted or taken under any prior version of this Article shall remain fully effective and enforceable notwithstanding the revision of this Article and nothing herein shall be deemed to modify, negate, limit, or otherwise affect such items.

Revitalization and vacant structures analysis

QUESTIONS

1. Do you have a progressive fee structure? We were advised by our legal counsel when we wanted to enact this, that it would not be supported in a court of law. Did you get other direction or have been successful if challenged?

2. How did you navigate personal property rights vs the drive for the City's comprehensive plan and revitalization? I know it is tricky, so any guidance is appreciated.

3. Did you offer incentives for positive action as well as fees for inaction and if so, was that a successful catalyst?

City	Respond Yes	No	Comment
Clarksburg	X		This is John Whitmore with the City of Clarksburg's Economic Development Department. I have attached Article 1730 Vacant Building Registration Program. While the City does have a progressive fee structure, there are some exceptions. I would recommend contacting Rickie Yeager or Emily Muzzarelli with the City of Morgantown, as they abandoned their vacant property registry progressive fee structure and are in a litigious environment similar to Charles Town. Clarksburg, like many WV Class II cities, employs the use of an Urban Renewal Authority and soon to be operational Land Reuse Agency to actively compete against bad actors in the real property space and promote redevelopment. Given the scale of blight, people actively want demolition and for properties to be taken by the municipality, which in many instances may not be justifiable from a professional engineering/code enforcement standpoint. I would highly recommend that Charles Town investigate Urban Renewal Authority legislation, as the URA provides a level of separation from the governing body and can also use eminent domain. Jesse Ricardson with the WVU Land Use Law Clinic can provide a lot of information on the peculiarities on WV development regs. One final through would be the drug house ordinance, but to my knowledge has not been used for acquisition in Clarksburg. In terms of carrots to the stick, the City offers a Facade improvement grant, loan packages through the Harrison County Economic Development Corporation (HCEDC), and a number of B&O tax credits to spur property occupancy. These incentives help, but generally our developers just want liquid capital with little to no hoops to jump through or strings attached. We attempted a small business assistance program using ARPA funds via a giving circle model to fill spaces, but that became very unpopular and had mixed results. Opiate settlement monies will probably be investigated to incentivize development in commercial or residential spaces as well. Finally, there is the day-to-day property sales and rental assistance requiring the city to actively market properties to perspective tenants, as there are next to no commercial real estate brokerages in NCWV. **Comments from Clarksburg legal council** None of the people in this chain were involved in enacting the original ordinance in 2016 so we can't comment on how the progressive fee structure came to be. We have not had anyone challenge it. I'd be happy to compare notes and thoughts with your city attorney. I think a number of other cities do a progressive fee structure, including Huntington Regarding the personal property rights vs. redevelopment, I think the main argument, when you look at the controlling ordinance, 8-12-16c, is that vacant properties are a drain on the community. They are more likely to attract squatters, which in turn raises the need for police/fire response; they are often unkempt and infringe on other property owners' benefits. It's not something I've looked at closely but I think it would generally fall within the City's police powers the same as zoning. If someone brought a challenge, we'd have to do a much more in-depth review. We also recently put in a B&O tax credit ordinance for vacant properties or properties used as office space that are converted to retail sales. I don't believe anyone has taken advantage of it yet but it was an idea to try and spur restaurant and shop type business. We are also looking at the tax structure for contractor B&O taxes regarding the renovations.
Elkins	X		I handle the vacant structures in the City of Elkins. I have attached our registration form for vacant structures, and it has the fee schedule at the bottom. I have also attached our full ordinance for you to go over and look at. As far as enforcement, we have had this ordinance for quite a few years now. It isn't hard to get people to either sign the paper and register it themselves or if they don't respond to the letter I send them within 30 days, our ordinance states that I can register the structure for them. The person in this position didn't enforce this ordinance very well, so as far as taking someone to court, I have no experience on how that would go. Most people so far either pay the fee in advance or they pay it when they are billed. We do not offer incentives for anyone that does not have a vacant structure or anyone that makes sure that all their structures are occupied. As far as personal property rights, our city code is written well as far as what is expected out of you if you live within city limits. However, a good city code is only as good as the person or people enforcing it. You must have someone willing to stick to your code and the International property maintenance code which the state and our municipality have adopted. Sometimes this enforcement is not fun (who really wants to order someone not to live in their house) but it is necessary to keep people safe. This ensures that people have a right to their home, but it must be safe, sanitary, and protect the property of others. Look up our city code on the website and read through some of it. With adopting these things, I can walk anywhere a mailman, or the public can walk or drive. I can condemn houses for poor maintenance or if they do not have water, sewer, or heat. I can tow junk vehicles off of private property and I can order them to clean up by use of fines.
New Martinsville	X		I've heard it said that if you throw enough mud against the wall, some of it will stick. Charles Town is a lovely community and as with New Martinsville, you have plenty of strengths and assets to work with. We have worked diligently for the last several years to change the culture of our downtown - to make it more inviting and energetic - to become the type of place where you want to spend time. We still have a ways to go but we are definitely making progress. Our last empty storefront was just recently spoken for as an expansion for our museum. We do not have any regulations against vacant buildings, only if they are deteriorating and become unfit. WV is very protective of personal property rights so we honor those as well. Here's what I've seen - Once you show what can work, and what does work, people will want to get involved. It will still be only a handful of people, but it's another handful instead of the one you already have. Our transformation started with fireworks on the 4th of July. Before I became Mayor, I was working in tourism as President of the CVB. While monitoring Facebook, citizens kept asking why we didn't have fireworks. I saw this over and over again. After a couple of years (yes, sometimes I'm slow) I worked with the City and the CVB to have fireworks. OMG! The whole town turned out. OK, that worked, what's next? And it has grown from there What we have been successful with is collaboration and community engagement. We have worked with the WV Community Development Hub through some of their programs - we are a Blueprint Community and now a HubCAP community. That has helped us increase capacity and taught us how to better engage our community. And also how to celebrate the small wins, the small successes. The West Virginia Municipal League is a great place to discover how other communities are dealing with their problems, and get assistance in designing ordinances that have been proven As a city, we collaborate with the County Commission, the Convention and Visitors Bureau, the Chamber of Commerce, our Regional Economic Development Partner and I belong to multiple organizations that work within our community. And those partners support each others' activities. Those relationships have been key to our success. So celebrate what's going well, and continue to work on the rest. It takes time, but it is so worth it! It is about building those relationships and knowing who you can work with and who will try to be a roadblock. And take advantage of every opportunity that you can to work alongside those who are better at your job than you are !!!

PS I know your question was about structuring an ordinance, but filling our storefronts had nothing to do with an ordinance. Having said that, we recently passed an HLC ordinance because we have two historic districts with no one minding the regulations. We also passed a Land Reuse Authority ordinance but I am waiting on our Planning Commission to finalize a comprehensive land use plan before seating that board. We are looking at a registration for rental properties as well as vacant structures. We have had more of an issue with absentee owners of residential property, compared to commercial property, which affects access to affordable housing. What I would like to see more of in our downtown is rental apartments - we have 2nd and 3rd floors in some of these historic buildings that would be wonderful rentals. A few do that, but there could be more.

Fairmont	X	I am responding to your email you sent to our Interim City Manager, Janet Keller, for the City of Fairmont. I am the Program Manager for Vacant Buildings for the City of Fairmont. I am going to attempt to answer your questions by giving you a brief overview of how we operate our dilapidated building program. The following are the usual steps taken to deal with dilapidated structures: 1. We identify a structure that is dilapidated 2. We identify the owner or responsible party(s) for the property 3. We send a notice of violation letter to the owner or responsible party(s) advising them they need to raze or repair the structure 4. If the party(s) fail to respond or comply, we issue a criminal complaint and summons to our municipal court. 5. If the party(s) contact us prior to the criminal complaint and summons being issued, we give them 3 options. Those options are (a) They can bring the structure into compliance by either fixing it up or tearing it down within a reasonable amount of time, (b) They can sign a right of entry giving the City the authority to take whatever steps necessary to demolish the structure and the City will then place a lien against the property for all costs associated with the demolition, (c) They can sign the property over to the City and the City will take care of the demolition and then either sell the property or repurpose it (assuming the City would be in agreement to take the property) 6. If step 4 has occurred, step 5 is still an option while in the court process. 7. If the structure is in danger of collapse, you can take the necessary steps and declare imminent danger on the structure and have it demolished.
Weirton	X	I took a quick look at our ordinances and I don't think that we even have an ordinance for vacant buildings. If we do, it is not enforced. I have heard talk about it before, but the biggest hurdle probably be manpower if it was enacted. We wouldn't be able start a program with our current manning. Not sure what it is like in Charles Town, but we have a hard time finding people to fill positions and retaining them. We did have a member of Council try to get an Urban Renewal Authority Board started a few years ago. The main reason why it didn't really get started because some there may not have been probable cause for a search warrant to enter those buildings. The lack of probable cause stopped that program. So far anyway.
City of St Albans		
Morgantown	X	
Wheeling	X	
Huntington	X	
Keyser	X	
Parkersburg	X	
Beckley	X	
Moundsville	X	
	X	

City Council
101 East Washington Street
Charles Town, WV 25414

Meeting: 04/01/24
Department: City Council
Category: Report
Initiator:

SCHEDULED

AGENDA ITEM (ID #)

2024-354: Property Acquisition - Executive Session

ATTACHMENTS:

City Council
101 East Washington Street
Charles Town, WV 25414

Meeting: 04/01/24
Department: City Council
Initiator:

SCHEDULED

AGENDA ITEM (ID #)

2024-73: Presentation of the Jefferson County 2023 Hazard Mitigation Plan

ATTACHMENTS:

City Council
101 East Washington Street
Charles Town, WV 25414

Meeting: 04/01/24
Department: City Council
Category: Ordinance
Initiator:

SCHEDULED

AGENDA ITEM (ID #)

2024-320: Article 147 - Utility Board

Possible referral to the Ordinance Committee

ATTACHMENTS:

- Ord. 2022-001 - Article 147 Utility Board.pdf

ARTICLE 147
Utility Board

147.01 Established.
147.02 Board of Directors composition.
147.03 Board of Director terms; vacancies; compensation.
147.04 Board of Directors organization; quorum; records; funds.
147.05 Powers and duties.
147.06 Budget; employees; bonds.
147.07 Financial reports and administrative supervision.
147.08 Amendment; repeal.
147.09 Severability.

147.01 ESTABLISHED.

(a) Upon the issuance of the bonds and reissuance of the combined Waterworks and Sewerage System Revenue Bonds, but only upon such issuance and reissuance, the Waterworks Board and the Sewer and Sanitation Board shall be simultaneously repealed and rescinded, the City of Charles Town Utility Board ("CTUB") shall be created and the heretofore separate Waterworks System and Sewerage System of the City of Charles Town ("City") shall be combined into a single undertaking (the "System").

(b) The governance and oversight of the System shall be vested in a Charles Town Utility Board of Directors ("Board of Directors").

(c) The supervision, management, control and operation of the System shall be vested in a CTUB Manager ("Manager") who shall be accountable to the Directors. The Manager will hire staff to operate and maintain the System.

147.02 BOARD OF DIRECTORS COMPOSITION.

(a) The Charles Town Utility Board of Directors shall consist of five members with full voting powers, four (4) of whom shall be appointed by the Charles Town City Council ("City Council") (such appointed directors being referred to herein as "Appointed Directors") and the other of whom shall be the then-serving Charles Town City Manager on an *ex officio* basis (the "Ex Officio Director"). No officer or employee of the City or CTUB, other than the City Manager, whether holding a paid or unpaid office, shall be eligible to be appointed a Director except as expressly provided in Section 147.02(a)(1) below. The Board of Directors structure shall be configured as follows:

(1) The Chair of the Board of Directors shall be the Charles Town City Manager. In the event of a vacancy in the position of Charles Town City Manager, City Council may appoint an individual to serve as the interim Director and Chair of the Board of Directors in the place and stead of the Ex Officio Director (the "Interim Director and Chair") until such time as a City Manager is duly appointed and has taken the oath of office. Notwithstanding any other provision to the contrary in this Article 147 and without limitation of who may be appointed, City Council may appoint any

member of City Council or other officer or employee of the City, excluding any officer or employee of CTUB, as the Interim Director and Chair. City Council may remove a person serving as Interim Director and Chair at any time and substitute another person meeting the criteria of this section in such role.

(2) Not less than one Director should possess a professional background and/or experience in water and/or sewer utilities that would benefit the Board of Directors. Such background includes but is not limited to: engineering with a background in water and/or sewer utilities; land development; construction; accountant; legal; or environmental protection.

(3) Not less than one Director shall be a resident of Charles Town and a ratepayer in the System.

(4) Since CTUB has acquired the Ranson sewer system and as such provides services to the City of Ranson, the City Council will consider the City of Ranson's recommendation(s) for an individual to serve as one of the Directors, using the following process:

A. The City of Ranson shall have the right to nominate not more than three (3) individuals who are residents of Ranson and who reside within the service territory of Ranson; or an individual who is employed by the City of Ranson, to serve as a Director.

B. The City Council may select one (1) of the individuals so nominated by the process in the preceding paragraph, or the City Council may request the City of Ranson to nominate not more than three (3) additional individuals, each of whom shall satisfy all of the preceding paragraph's criteria, who have not previously been so nominated, for consideration by the City Council to serve as Director for the current vacancy.

C. Although the City Council is not obligated to appoint any of the nominees as Director using the above method, it is the intention of this section to provide a seat on the Board of Directors that best represents the interests of the City of Ranson. City Council retains the discretion to appoint a Director at will if a suitable nominee is not presented.

(5) Since CTUB has acquired the Jefferson County Public Service District (JCPSD) system and as such provides services to those areas previously serviced by the JCPSD, the City Council will consider the Jefferson County Commission's ("Commission") recommendation(s) for an individual to serve as one of the Directors, using the following process:

A. The Commission shall have the right to nominate not more than three (3) individuals to serve as a Director, each of whom shall satisfy all of the following criteria:

1. Resident of Jefferson County, West Virginia;

2. Customer of the CTUB served by the assets of the former JCPSD Sewer System, or extensions thereof; and

3. Customer of the CTUB paying the same prevailing sewer rate charged to the customers of the former JCPSD Sewer System.

B. The City Council may select one (1) of the individuals so nominated by the process in the preceding paragraph, or the City Council may request the Commission to nominate not more than three (3) additional individuals, each of whom shall satisfy all of the preceding paragraph's criteria, who have not previously been so nominated, for consideration by the City Council to serve as Director for the current vacancy.

C. Although the City Council is not obligated to appoint any of the nominees as Director using the above method, it is the intention of this section to provide a seat on the Board of Directors that best represents the interests of Jefferson County residents who are former JCPSD rate payers and are currently served by CTUB. City Council retains the discretion to appoint a Director at will if a suitable nominee is not presented.

D. The Commission shall then have the right to appoint an individual to serve as the County Liaison ("Liaison") to the Board of Directors, the identity of which individual shall be at the sole and exclusive discretion of the Commission, and such individual as Liaison:

1. Shall not be voting member of the Board of Directors, nor have the right to make or second any motion at a meeting of the Board of Directors;

2. Shall have the right to engage in all discussion and debate at meetings of the Board of Directors, with the exception of any executive session under W.V. Code Section 6- 9A-1, et seq., as would any Director, and such right to engage in discussion and debate of the Board of Directors shall not be limited as would a member of the public; and

3. Shall receive all notices of meetings and documents and other materials provided to the Board of Directors either in anticipation of, or prior to, any meeting of the Directors, except to the extent any such documents or other materials relate to, or are in connection with, any issue which could be considered in executive session by the Board of Directors pursuant to W.V. Code Section 6-9A-1, et seq.

147.03 BOARD OF DIRECTORS TERMS; VACANCIES; COMPENSATION.

(a) The Mayor of the City shall notify all appointees of their appointment.

(b) In the event of a vacancy, and also within thirty (30) days after the expiration of the term of office of any Director, a successor shall be appointed by City Council. With respect to Appointed Directors, all vacancies shall be filled for the unexpired term only and all other appointments shall be for a term of four (4) years, to commence on the date following the scheduled expiration date of the previous term. The Board of Directors shall have the power to adopt bylaws, rules and regulations for its own governance. Any Appointed Director shall be eligible for reappointment upon the expiration of their term.

(c) The Appointed Directors (and any Interim Director and Chair that is then not serving as a member of City Council or other officer or employee of the City) shall each receive compensation for their services at the rate of fifty dollars ($50.00) per meeting attended, not to exceed one hundred fifty dollars ($150.00) per month, and in addition, shall be reimbursed for any and all actual expenses incurred in the performance of duties as ordered by the Directors. These amounts may be raised by an affirmative vote of seventy-five percent (75%) of the members of City Council, but any such change shall not take effect for a Director position until the beginning of the next full term following the effective date of the change in compensation.

(d) In the event that any Appointed Director is unable to fulfill the duties of his or her office for a period exceeding six (6) months, a majority of the remainder of the Directors will declare the office of such Director vacant and the City Council will thereupon fill such vacancy as otherwise provided for herein.

(e) Each Appointed Director shall be subject to removal by City Council by the recorded vote of a majority of City Council after a public hearing thereon. The decision of City Council as to such removal shall be final and not subject to review by any court, arbitrator, or other body, and each Director accepting such appointment shall acknowledge the finality of such decision. The Ex Officio Director shall be subject to removal only by removal from the position of City Manager.

147.04 BOARD OF DIRECTORS ORGANIZATION; QUORUM; RECORDS; FUNDS.

(a) As a critical link with City Council, the City Manager shall be the Chair of the Board of Directors except as expressly provided in Section 147.02(a)(1) above. Annually the Board of Directors shall organize by selecting one Director to act as Vice Chair. The Directors will also annually select a Secretary and Treasurer, who need not be a Director. The Secretary and Treasurer may be the same person. The Chair shall preside at all meetings when present and may call special meetings on their motion or shall when requested to do so by any two (2) Directors. The Vice Chair shall preside in the absence of the Chair.

(b) Three (3) Directors members shall constitute a quorum, but any action to be taken by the Directors must be approved by not less than three (3) members.

(c) The Secretary shall keep a certified or approved written record of the proceedings which shall be available for inspection as other municipal records.

(d) The Treasurer shall receive and disburse the funds of the System as directed by the Board of Directors.

147.05 POWERS AND DUTIES.

(a) The Board of Directors shall have the power to set all policies related to the governance, oversight, and operations of the System. The Board of Directors shall also have the power to recommend to City Council tariff changes, capital projects, and borrowings. The Manager and staff will assist the Board of Directors by providing technical advice on such matters to City Council. The Manager and staff will also be responsible for implementing policies and developing procedures to carry out the directives established by the Board of Directors.

(b) The Manager, accountable to the Board of Directors, will have full and complete authority for the supervision, management, control and operation of the System.

(c) All bills for water and sewer service shall be collected and accounted for by the Manager in the manner and form required by law, the Public Service Commission of West Virginia and the ordinances of the City, and all disbursements and accounts of the System shall be ordered paid out only upon approval of said Board of Directors; provided, however, that all such supervision, management and control of the System and the collection and accounting for bills for water and sewer service shall be consistent and in accordance with any ordinances pursuant to which the City may have authorized and issued any bonds from time to time outstanding, which by their terms are payable from and secured by the revenues of the System.

(d) After consultation with the Board of Directors, the Manager or staff designee shall have the power and authority to prepare, evaluate, and negotiate all contracts, agreements and other matters for the final review and approval of the Board of Directors as is necessary or proper for the effective governance, oversight, and operation of the System.

(e) Personnel policies, practices, and other matters affecting the Manager and staff shall, to the extent practicable and unless otherwise approved by City Council, be the same as those undertaken by the City, subject to the provisions of Section 147.06.

147.06 BUDGET; EMPLOYEES; BONDS.

(a) The Board of Directors shall employ, discharge, and fix the compensation of the Manager.

(b) The Board of Directors shall approve an annual budget for the efficient and effective operation of the System.

(c) The Chair and Treasurer, upon their appointment and taking office, shall furnish and file with the Charles Town City Clerk, a bond in an amount to be set by the Board of Directors from time to time, the cost of such bond to be payable from revenues of the System and such bond to be payable to the City and conditioned as to the faithful performance of their respective duties as are fixed by the Board of Directors.

147.07 FINANCIAL REPORTS AND ADMINISTRATIVE SUPERVISION.

(a) The Manager shall provide reports, at least annually, or as otherwise required by law, to the Mayor, the City Manager and City Council, indicating the System's financial condition. City Council may, from time to time, request more current financial statements showing the most recent quarterly financial condition of the System.

(b) The Manager shall also provide to the City Council audited financial statements of the System that have been reviewed with the Board of Directors, minutes of meetings of the Board of Directors, an annual budget for the System, and other information as may reasonably be requested. The Manager shall also make themself available to answer questions from City Council.

147.08 AMENDMENT; REPEAL.

(a) The City Council enacts this article for the assurance and protection of the ratepayers and for the purpose of assuring the holders of debt payable from the income and revenues of the System of an efficient operation and maintenance thereof.

(b) No amendment or repeal of this article shall be enacted unless approved by seventy-five percent (75%) of the members of City Council. Any such amendment or repeal shall otherwise be enacted in accordance with the rules and regulations of City Council.

147.09 SEVERABILITY.

If any provision of this article is held to be invalid or unconstitutional by any court of competent jurisdiction, such invalidity or unconstitutionality shall not otherwise affect or invalidate the other provisions hereto, all of which are hereby declared, and shall be construed, to be separate and severable.

Passed on First Reading: February 14, 2022

Passed on Second Reading: February 22, 2022
(following Public Hearing)

ATTEST:

Robert M. Trainor
Mayor

Daryl Hennessy
City Manager/Clerk

City Council
101 East Washington Street
Charles Town, WV 25414

Meeting: 04/01/24
Department: City Council
Category: Appointment
Initiator:

SCHEDULED

AGENDA ITEM (ID #)

2024-321: Advertising for candidates to fill the Jefferson County Public Service District (JCPSD) seat on Charles Town Utility Board (CTUB).

ATTACHMENTS:

City Council
101 East Washington Street
Charles Town, WV 25414

Meeting: 04/01/24
Department: City Council
Category: Ordinance
Initiator:

SCHEDULED

AGENDA ITEM (ID #)

2024-343: First Reading and Consideration of Amendments to the Codified Ordinances of the City of Charles Town, West Virginia with Regard to Part One Administrative Code, Article 101, Part 3 Traffic Code, Article 301, 361, 373, and Part 5 General Offenses Code, Article 521 and 545 as a result of adopted State Code Changes.

Attachments included: (*State Code changes or amendments are highlighted in yellow)

Part 1 Administrative Code
Article 101 Codified Ordinances
*101.02 General Definitions - amended

Part 3 Traffic Code
Article 301 - Definitions
*301.02 Authorized Emergency Vehicle - amended
*301.083 Electric Bicycles - amended

Article 361 Parking Generally - 2021 Ordinance attached
*361.07 Accessible Parking - added section

Article 373 Bicycles
*373.11 Electric Bicycles - amended

Part 5 General Offenses Code
Article 521 Liquor Control - 2021 Ordinance attached
*521.01 Liquor Control Definitions - amended
*521.09 Acts Prohibited by Private Club Licensee - amended

Article 545 Weapons and Explosives - 2022 Ordinance attached
*545.01 Weapons and Explosives Definitions - amended - 2022 Ordinance attached

ATTACHMENTS:
- State Changes Article 101.02 General Definitions - Codified Ordinances.pdf
- State Changes Article 301 - Traffic Code Definitions.pdf
- Ord. #2021-007 - Article 361 Parking Generally.pdf
- State Changes Article 361 - Traffic Code - Parking Generally.pdf
- State Changes Article 373 - Traffic Code - Bicycles.pdf
- Ord. 2022 -011 - Article 521 Liquor Control.pdf
- State Changes Article 521 - General Offenses Code - Liquor Control.pdf
- Ord. 2022-008 - Article 545 Weapons and Explosives.pdf
- State Changes Article 545 - General Offenses Code - Weapons and Explosives.pdf

CHARLES TOWN, WV
STATE LAW CHANGES
2023

(New State Law changes are highlighted. A block of highlight indicates material was deleted. When new text is added additional pages may have been changed to accommodate text being bumped to next page.)

101.02 GENERAL DEFINITIONS.

As used in the Codified Ordinances, unless otherwise expressly provided or the context otherwise requires:

(a) Council means the legislative authority of the Municipality.

(b) County means Jefferson County, West Virginia.

(c) Land or lands and real estate or real property include lands, tenements and hereditaments, and all rights thereto and interests therein except chattel interests.

(d) Laws of the State includes the Constitution of the State and the Constitution of the United States, and treaties and laws made in pursuance thereof. (WVaC 2-2-10)

(e) Municipality or City means the City of Charles Town, West Virginia.

(f) Offense includes every act or omission for which a fine, forfeiture or punishment is imposed by law. (WVaC 2-2-10)

(g) Owner, when applied to property, includes any part owner, joint owner or tenant in common of the whole or part of such property.

(h) Person or whoever includes corporations, societies, associations and partnerships, and other similar legal business organizations.

(i) Personal estate or personal property includes goods, chattels, real and personal, money, credits, investments and the evidences thereof. (WVaC 2-2-10)

(j) Preceding, succeeding or following used in reference to any section or sections of an article means next preceding, next succeeding or next following that in which such reference is made. (WVaC 2-2-10)

(k) Premises, as applied to property, includes land and building.

(l) Property or estate embraces both real and personal estate. (WVaC 2-2-10)

(m) Public place includes any street, sidewalk, park, cemetery, school yard, body of water or watercourse, public conveyance or any other place for the sale of merchandise, public accommodation or amusement.

(n) Registered mail includes certified mail.

(o) State means the State of West Virginia or any department, division, commission, board, educational or other institution of the State.

(p) Street includes alleys, avenues, boulevards, lanes, roads, highways, viaducts and all other public thoroughfares within the Municipality.

(q) Tenant or occupant, as applied to premises, includes any person holding a written or oral lease, or who actually occupies the whole or any part of such premises alone or with others.

(r) Written or in writing includes any representation of words, letters or figures, whether by printing, engraving, writing or otherwise. But when the signature of any person is required, it must be in his or her own proper handwriting, or his or her mark, attested, proved or acknowledged. Unless a provision of this code specifically provides otherwise, an electronic signature satisfies this signature requirement if the electronic signature meets the requirements of West Virginia Code 39A-1-2.(WVaC 2-2-10)

301.02 AUTHORIZED EMERGENCY VEHICLE.

"Authorized emergency vehicle" means vehicles of the Fire Department, duly chartered rescue squad, Police Department, ambulance service, hospital police department, state, county or municipal agency and such privately owned ambulances, tow trucks, wreckers, flag car services, vehicles providing road service to disabled vehicles, service vehicles of a public service corporation, postal service vehicles, snow removal equipment, Class A vehicles of firefighters, Class A vehicles of members of ambulance services, Class A vehicles of members of duly chartered rescue squads, emergency management and operations vehicles operated by airports and designated pursuant to West Virginia Code 17C-15-26 and all other emergency vehicles as are designated by the agency responsible for the operation and control of these persons or organizations. Class A vehicles are as defined by West Virginia Code 17A-10-1. Agency authorization and emergency equipment are provided in West Virginia Code 17C-15-26. Agencies responsible for issuing authorization for emergency vehicle permits may promulgate such regulations that are necessary for the issuance of permits for emergency vehicles. In the event that emergency medical technician's ("EMTs") or paramedics on the scene of an emergency are unable to drive an ambulance in the course of administering patient care, firefighters on the scene shall be permitted to drive an ambulance: provided, that the Fire Department with which the firefighters are associated or members and the emergency medical services provider that owns the ambulance have previously entered into a memorandum of understanding or other agreement authorizing such action and the firefighter driving the ambulance has completed an Emergency Vehicle Operations Course ("EVOC") otherwise required by the West Virginia Code or legislative rule promulgated thereunder. (WVaC 17C-1-6)

301.083 ELECTRIC BICYCLES.

(a) For the purpose of this section, the term "electric bicycle" means a two or three wheeled vehicle with fully operable pedals and an electric motor of fewer than 750 watts. There is a "three-class system" to differentiate between the models and top-assisted speeds of electric bicycles.

(1) "Class 1" electric bicycles have a motor that provides assistance only when the rider is pedaling, and that ceases to provide assistance when the e-bike reaches 20 mph.

(2) "Class 2" electric bicycles have a motor that may be used exclusively to propel the bicycle, and that is not capable of providing assistance when the e-bike reaches 20 mph.

(3) "Class 3" electric bicycles have a motor that provides assistance only when the rider is pedaling, and that ceases to provide assistance when the e-bike reaches 28 mph.

(b) "Throttle" refers to a device that controls the flow of power to the electric motor on an electric bicycle for the purpose of propelling the electric bicycle.
(WVaC 17C-1-70)

ARTICLE 361
Parking Generally

361.01 Definitions
361.02 Stopping, standing, or parking on streets and highways
361.03 Registered owner prima-facie liable for unlawful parking
361.04 Parking time limit
361.05 Temporary no parking zones
361.06 Severability
361.99 Penalties and Appeals

CROSS REFERENCES
Applicable West Virginia State Codes to this Article include: WV Code 17-24A-2; 17C-13; 17C-14-13. See sectional histories for similar State law.

361.01 DEFINITIONS
For the purposes of this article, the words or terms defined in this article have the meanings ascribed to them:

(a) Commercial vehicle shall mean any motor vehicle, truck, bus, tractor-trailer, or other tandem vehicle licensed or used for the transportation of property and/or people, delivery of goods, wares, merchandise or any other commercial-related service upon any street of the City.
(b) Recreational vehicle shall mean any motor home, travel trailer, truck camper, or camping trailer with or without motive power designed for human habitation for recreational or emergency occupancy.

361.02 STOPPING, STANDING, OR PARKING ON STREETS AND HIGHWAYS
In addition to those prohibitions cited in WV Code 17C-13 & 14 the following sections apply:

(a) Parking for certain purposes prohibited. No person shall park any vehicle upon any street within the Municipality for the principal purpose of:
(1) Displaying such vehicle for sale.
(2) Displaying advertising.
(3) Washing, greasing or repairing such vehicle, except repairs made necessary by an emergency.
(4) Relieving the crowded condition of any parking lot, automobile sales lot, repair garage, or automobile rental lot.

(b) Loading and unloading zones. No person shall stop, stand or park a vehicle for any purpose or length of time other than for the expeditious unloading and delivering or pickup and loading of materials in any place marked as a loading and unloading zone during the hours of 8:00 AM and 5:00 PM, on all weekdays, except legal holidays as specified in West Virginia Code §2-2-1, official acts or court proceedings and as revised, amended or modified from time to time by the

State Legislature. One additional holiday will be recognized for City Election Day. In no case shall the stop for loading and unloading of materials exceed fifteen minutes.

(c) Bus Stops

(1) No person shall stop, stand or park a vehicle other than a bus in a bus stop when any such stop or stand has been officially designated and appropriately posted, except that the driver of a passenger vehicle may temporarily stop therein for the purpose of and while actually, engaged in loading or unloading passengers when such stopping does not interfere with any bus waiting to enter or about to enter such zone, and then only for a period not to exceed three minutes if such stopping is not prohibited therein by posted signs.

(2) The operator of a bus shall not stop, stand or park such vehicle upon any street at any place for the purpose of loading or unloading passengers or their baggage other than at a bus stop so designated and posted as such, except in case of an emergency.

(3) The operator of a bus shall enter a bus stop on a public street in such a manner that the bus when stopped to load or unload passengers or baggage shall be in a position with the right front wheel of such vehicle not further than eighteen inches from the curb and the bus approximately parallel to the curb so as not to unduly impede the movement of other vehicular traffic.

(d) Painted curbs or streets. No person shall park a vehicle where signs explicitly prohibit stopping, standing, or parking or where the curbing or street is painted yellow or red.

(e) Posted signs. No person shall park a vehicle at any place in excess of the maximum time limited by signs. The vehicle must completely vacate the space after the time limit or will be cited for a violation.

(f) Parking in alleys and narrow streets. No person shall stop, stand or park any vehicle upon a street, other than an alley, in such a manner or under such conditions as to leave available less than ten feet of the width of the roadway for free movement of vehicular traffic, except that a driver may stop temporarily during the actual loading or unloading of passengers or when directed to by a police officer or traffic control signal. Except as otherwise provided by law, no person shall stop, stand or park a vehicle within an alley except while actually loading and unloading, and then only for a period not to exceed thirty minutes.

(g) Parking between sidewalk and curb. When a portion of any street is paved no person shall park any vehicle between the sidewalk and curb or drive such vehicle between the sidewalk and curb.

(h) Parking of commercial and recreational vehicles.

(1) No person shall park any commercial or recreational vehicle as defined in this article on any street of the City except for the purpose of loading or unloading, and then only for the period of time which is spent in the actual loading or unloading of such vehicle.

(2) No person shall park, under the exception cited in 361.01(h)(1), any commercial or recreational vehicle on any street within the residential districts of the City between one hour after sunset and one hour before sunrise.

(3) No person shall park the trailer of any tractor-trailer, the property-carrying unit of any tandem vehicle, or any utility trailer upon any street in the City unless the same is fully connected to the tractor or other regular propelling unit so that the same can be immediately moved when required.

361.03 REGISTERED OWNER PRIMA-FACIE LIABLE FOR UNLAWFUL PARKING

In any hearing on a charge of illegally parking a motor vehicle, testimony that a vehicle bearing a certain license plate was found unlawfully parked as prohibited by the provisions of this Traffic Code, and further testimony that the records of the Department of Motor Vehicles shows that the license plate was issued to the defendant, shall be prima-facie evidence that the vehicle which was unlawfully parked was so parked by the defendant. A certified copy of registration from the Department of Motor Vehicles shall be proof of such ownership.

361.04 PARKING TIME LIMIT.

(a) No person shall leave any vehicle continuously parked on any street, road, highway, thoroughfare, alley, or municipal parking lot within the Charles Town parking district (including all parking zones established therein), as specified in Sections 365.01 and 365.02, with or without a valid parking permit, for a period of more than seventy-two (72) consecutive hours. Violation of this subsection (a) shall subject the vehicle to fines and impoundment at the owner's expense pursuant to Section 303.07(l).

(b) No person shall leave any vehicle continuously parked on any street, road, highway, thoroughfare, alley, any other City property or right-a-way within the Charles Town city limits but outside the Charles Town parking district, with or without a valid parking permit, for a period of more than five (5) consecutive days. Any vehicle parked in violation of this subsection (b) for a period of more than five (5) consecutive days shall be deemed and considered an "abandoned motor vehicle," as such term is defined in West Virginia Code Section 17-24A-1(3), for the purposes of Section 303.07(b) and West Virginia Code Section 17-24A-3 and shall be subject to fines and impoundment at the owner's expense pursuant to such provisions.

(c) In the event any police officer observes, or any member of the public certifies to a police officer, that a vehicle appears to have been parked in violation of either of subsection (a) or (b) above, the police officer shall place upon the vehicle a written notice that: (i) the vehicle is believed to have been parked in violation of the relevant subsection, as specified; (ii) that the vehicle is subject to impoundment if not moved within the period of the next consecutive seventy-two (72) hours, in the case of an apparent violation of subsection (a), or the next consecutive one hundred twenty hours (120), in the case of an apparent violation of subsection (b); and (iii) the owner or operator of the vehicle should contact the Charles Town Police Department prior to expiration of the specified period for moving the vehicle. Failure of the

owner or operator to move the vehicle prior to expiration of the specified period may result in its impoundment.

(d) Exceptions to this section; to facilitate demolition, construction, repair, or similar operations, must be requested in writing not less than seven (7) days prior to the start of the requested exception period. The approval authority for the aforementioned exception shall be both the City Manager or designated representative and the Charles Town Police Chief or designated representative. The maximum time period for an approved exception to this section is seven (7) days, which may be renewed at the discretion of the approval authority. Exception requests under this section that include paid parking spaces will be subject to parking rates per Article 365.03.

361.05 TEMPORARY NO PARKING ZONES

(a) No person shall stop, stand, park or leave any vehicle in a designated temporary or emergency no parking zone.

(b) Temporary No Parking Zones may be established for special events, parades, or planned construction. These zones will be posted by employees of the City of Charles Town, no less than twenty-four (24) hours prior to the parking restriction taking effect. Signs noticing the No Parking Zone will display the dates and times that the No Parking Zone will be in effect. Any vehicle in violation of this section will be subject to impoundment at the vehicle owner's expense.

(c) Emergency No Parking Zones may be established for public safety, emergency repairs, or disaster recovery efforts without prior notice. Any vehicle in these zones may be subject to towing or impoundment as required.

361.06 SEVERABILITY

The provisions of this article shall be liberally construed to accomplish its objective and purposes. If any provision of this article is held to be invalid or unconstitutional by any court of competent jurisdiction, such invalidity or unconstitutionality shall not otherwise affect or invalidate the other provisions hereto, all of which are hereby declared, and shall be construed, to be separate and severable.

361.99 PENALTIES AND APPEALS

(a) General Article Penalty. Whoever violates any provision of this article shall be assessed fines and penalties. according to the following:
    (1) The following violations will result in a fine of ten dollars ($10) if paid within five (5) days; if paid after five (5) days but before thirty (30) days an additional twenty dollars ($20) penalty will apply for a total fine amount of thirty dollars ($30); if paid after thirty (30) days an additional thirty dollars ($30) penalty will apply for a total fine and penalty amount of sixty dollars ($60):
        A. Expired meter;

B. Failure to display a valid parking permit or pay via an applicable mobile pay app at the Liberty Street Parking Lot;
C. Parking permit violation;
D. Exceeding the two (2) hour free parking;
E. Improper manner of parking;
F. Exceeding time in a ten minute take away parking space.

(2) Accessible parking violations (WV Code 17C-13-6): first conviction is two hundred dollars ($200); second conviction is three hundred dollars ($300); and subsequent convictions are five hundred dollars ($500).
(3) Violation of section 361.04(a) is sixty dollars ($60).
(4) Abandoned or junked motor vehicles: not more than five hundred dollars ($500) or imprisonment of not more than thirty (30) days, or both.
(5) Other violations not otherwise listed in this section will result in a fine of sixty dollars ($60).

(b) To appeal a ticket, a person must notify the Charles Town Municipal Court within five (5) calendar days of the date and time the parking ticket was originally issued. At the time an appeal is made, the required fines and/or penalties will be fixed until a resolution is reached by a municipal judge. If the ticket is upheld as valid, the owner/operator will satisfy the fixed cost of the citation and may be subject to additional court costs.

First Reading: SEPTEMBER 20, 2021

Second Reading: OCTOBER 4, 2021

Enacted this 12th day of October, 2021

City of Charles Town

Robert M. Trainor
Mayor

Attest:

Daryl Hennessy
City Manager/Clerk

(2) An employee or contractor of a utility services provider acting within the scope of his or her employment while responding to a utility emergency;

(3) A driver operating a commercial vehicle while using a mobile data terminal that transmits and receives data;

(4) A law-enforcement officer, firefighter, emergency medical services personnel, ambulance driver, or other similarly employed public safety first responder during the performance of his or her official duties; or

(5) While in a motor vehicle that is lawfully parked.

(m) This section does not supersede the provisions of West Virginia Code 17B-2-3a or any more restrictive provisions for drivers of commercial motor vehicles prescribed either by the provisions of West Virginia Code 17E-1-1 et seq. or by federal law or rule. (WVaC 17C-14-15)

361.07 ACCESSIBLE PARKING.

(a) As used in this section, the following terms have the meanings ascribed to them in this subsection:

(1) A person or applicant with a "mobility impairment" means a person who is a citizen of West Virginia and as determined by a physician, allopath or osteopath chiropractor, advanced nurse practitioner or physician's assistant licensed to practice in West Virginia:

A. Cannot walk two hundred feet without stopping to rest;

B. Cannot walk without the use of or assistance from a brace, cane, crutch, prosthetic device, wheelchair, other assistive device or another person;

C. Is restricted by lung disease to such an extent that the person's force (respiratory) expiratory volume for one second, when measured by spirometry, is less than one liter or the arterial oxygen tension is less than sixty mm/hg on room air at rest;

D. Uses portable oxygen;

E. Has a cardiac condition to such an extent that the person's functional limitations are classified in severity as Class III or Class IV according to standards established by the American heart association; or

F. Is severely limited in his or her ability to walk because of an arthritic, neurological, or other orthopedic physical condition.

(2) "Special registration plate" means a registration plate that displays the international symbol of access, as adopted by the Rehabilitation International Organization in 1969 at its Eleventh World Congress on Rehabilitation of the Disabled, in a color that contrasts with the background, in letters and numbers the same size as those on the plate, and which may be used in lieu of a regular registration plate;

(3) "Removable windshield placard" (permanent or temporary) means a two-sided, hanger style placard measuring three inches by nine and one half inches, with all of the following on each side:

A. The international symbol of access, measuring at least three inches in height, centered on the placard, in white on a blue background for permanent designations and in white on a red background for temporary designations;

B. An identification number measuring one inch in height;
C. An expiration date in numbers measuring one inch in height for a temporary placard; and
D. The seal or other identifying symbol of the issuing authority.

(4) "Regular registration fee" means the standard registration fee for a vehicle of the same class as the applicant's vehicle;

(5) "Public entity" means state or local government or any department, agency, special purpose district or other instrumentality of a state or local government.

(6) "Public facility" means all or any part of any buildings, structures, sites, complexes, roads, parking lots or other real or personal property, including the site where the facility is located.

(7) "Place(s) of public accommodation" means a facility or facilities operated by a private entity whose operations affect commerce and fall within at least one of the following categories:

A. Inns, hotels, motels and other places of lodging;
B. Restaurants, bars or other establishments serving food or drink;
C. Motion picture houses, theaters, concert halls, stadiums or other places of exhibition or entertainment;
D. Auditoriums, convention centers, lecture halls or other places of public gatherings;
E. Bakeries, grocery stores, clothing stores, hardware stores, shopping centers or other sales or rental establishments;
F. Laundromats, dry cleaners, banks, barber and beauty shops, travel agencies, shoe repair shops, funeral parlors, gas or service stations, offices of accountants and attorneys, pharmacies, insurance offices, offices of professional health care providers, hospitals or other service establishments;
G. Terminals, depots or other stations used for public transportation;
H. Museums, libraries, galleries or other places of public display or collection;
I. Parks, zoos, amusement parks or other places of recreation;
J. Public or private nursery, elementary, secondary, undergraduate or post-graduate schools or other places of learning and day care centers, senior citizen centers, homeless shelters, food banks, adoption agencies or other social service establishments; and
K. Gymnasiums, health spas, bowling alleys, golf courses or other places of exercise or recreation.

(8) "Commercial facility" means a facility whose operations affect commerce and which are intended for nonresidential use by a private entity.

(9) "Accessible parking" formerly known as "handicapped parking" is the present phrase consistent with language within the American with Disabilities Act (ADA).

(10) "Parking enforcement personnel" includes any law enforcement officer as defined by West Virginia Code 30-29-1, and private security guards, parking personnel and other personnel authorized by a city, county or the state to issue parking citations.

(b) An accessible parking space should comply with the provisions of the Americans with Disabilities Act accessibility guidelines, contained in 28 C.F.R. 36, Appendix A, Section 4.6. In particular, the parking space should be a minimum of eight feet wide with an adjacent eight-foot access aisle for vans having side mounted hydraulic lifts or ramps or a five-foot access aisle for standard vehicles. Access aisles should be marked using diagonal two- to four-inch-wide stripes spaced every twelve or twenty-four inches apart along with the words "no parking" in painted letters which are at least twelve inches in height. All accessible parking spaces should have a signpost in front or adjacent to the accessible parking space displaying the international symbol of access sign mounted at a minimum of eight feet above the pavement or sidewalk and the top of the sign. Lines or markings on the pavement or curbs for parking spaces and access aisles may be in any color, although blue is the generally accepted color for accessible parking.

(c) A vehicle displaying a disabled veterans special registration plate issued pursuant to West Virginia Code 17A-3-14(c)(6) shall be recognized and accepted as meeting the requirements of this section.

(d) A vehicle from any other state, United States territory or foreign country displaying an officially issued special registration plate, placard or decal bearing the international symbol of access shall be recognized and accepted as meeting the requirements of this section, regardless of where the plate, placard or decal is mounted or displayed on the vehicle.

(e) Stopping, standing or parking places marked with the international symbol of access shall be designated in close proximity to all public entities including state, county and municipal buildings and facilities, places of public accommodation and commercial facilities. These parking places shall be reserved solely for persons with a mobility impairment and disabled veterans at all times.

(f) Any person whose vehicle properly displays a valid, unexpired special registration plate or removable windshield placard may park the vehicle for unlimited periods of time in parking zones unrestricted as to length of parking time permitted: Provided, that this privilege does not mean that the vehicle may park in any zone where stopping, standing or parking is prohibited or which creates parking zones for special types of vehicles or which prohibits parking during heavy traffic periods during specified rush hours or where parking would clearly present a traffic hazard. To the extent any provision of any ordinance of any political subdivision of this State is contrary to the provisions of this section, the provisions of this section take precedence and apply.

The parking privileges provided for in this subsection apply only during those times when the vehicle is being used for the loading or unloading of a person with a mobility impairment. Any person who knowingly exercises, or attempts to exercise, these privileges at a time when the vehicle is not being used for the loading or unloading of a person with a mobility impairment and, upon first conviction thereof, in addition to any other penalty he or she may otherwise incur, shall be fined two hundred dollars ($200.00); upon second conviction thereof, in addition to any other penalty, he or she may otherwise incur, shall be fined three hundred dollars ($300.00); and upon third and subsequent convictions thereof, in addition to any other penalty he or she may otherwise incur, shall be fined five hundred dollars ($500.00).

(g) Any person whose vehicle does not display a valid, special registration plate or removable windshield placard may not stop, stand or park a motor vehicle in an area designated, zoned or marked for accessible parking with signs or instructions displaying the international symbol of access, either by itself or with explanatory text. The signs may be mounted on a post or a wall in front of the accessible parking space and instructions may appear on the ground or pavement, but use of both methods is preferred. Accessible parking spaces for vans having an eight-foot adjacent access aisle should be designated as "van accessible" but may be used by any vehicle displaying a valid special registration plate or removable windshield placard.

Any person who violates the provisions of this subsection is guilty of a misdemeanor and, upon conviction thereof, shall be fined two hundred dollars ($200.00); upon second conviction thereof, in addition to any other penalty he or she may otherwise incur, shall be fined three hundred dollars ($300.00); and upon third and subsequent convictions thereof, in addition to any other penalty he or she may otherwise incur, shall be fined five hundred dollars ($500.00).

(h) All signs that designate areas as "accessible parking" or that display the international symbol of access shall also include the words "Up to $500 fine".

(i) No person may stop, stand or park a motor vehicle in an area designated or marked off as an access aisle adjacent to a van-accessible parking space or regular accessible parking space. Any person, including a driver of a vehicle displaying a valid removable windshield placard or special registration plate, who violates the provisions of this subsection is guilty of a misdemeanor and, upon conviction thereof, shall be fined two hundred dollars ($200.00); upon second conviction thereof, in addition to any other penalty he or she may otherwise incur, shall be fined three hundred dollars ($300.00); and upon third and subsequent convictions thereof, in addition to any other penalty he or she may otherwise incur, shall be fined five hundred dollars ($500.00).

(j) Parking enforcement personnel who otherwise enforce parking violations may issue citations for violations of this section and shall reference the number on the vehicle's license plate, since the driver normally will not be present.

(k) Law-enforcement agencies may establish a program to use trained volunteers to collect information necessary to issue citations to persons who illegally park in designated accessible parking spaces. Any law-enforcement agency choosing to establish a program shall provide for workers' compensation and liability coverage. The volunteers shall photograph the illegally parked vehicle and complete a form, to be developed by supervising law-enforcement agencies, that includes the vehicle's license plate number, date, time and location of the illegally parked vehicle. The photographs must show the vehicle in the accessible space and a readable view of the license plate. Within the discretion of the supervising law-enforcement agency, the volunteers may issue citations or the volunteers may submit the photographs of the illegally parked vehicle and the form to the supervising law-enforcement agency, who may issue a citation, which includes the photographs and the form, to the owner of the illegally parked vehicle. Volunteers shall be trained on the requirements for citations for vehicles parked in marked, zoned or designated accessible parking areas by the supervising law-enforcement agency.

(l) Local authorities who adopt the basic enforcement provisions of this section and issue their own local ordinances shall retain all fines and associated late fees. These revenues shall be used first to fund the provisions of subsection (k) of this section, if adopted by local authorities, or otherwise shall go into the local authorities' General Revenue Fund. Otherwise, any moneys collected as fines shall be collected for and remitted to the state.
(WVaC 17C-13-6)

373.11 ELECTRIC BICYCLES.

(a) The operator of an electric bicycle has all of the rights and privileges and is subject to all of the duties applicable to the driver of a vehicle subject to this chapter, except as otherwise provided by this section and except as to those provisions of this chapter which by their nature can have no application.

(b) A person owning or operating an electric bicycle is not subject to the provisions of West Virginia Code 17A-1-1 et seq., 17B-1-1 et seq., or 17D-1-1 et seq., relating to registration, title, driver's license, and financial responsibility requirements.

(c) A person may not tamper with or modify an electric bicycle so as to change the motor-powered speed capability or motor engagement between pedal-assist and throttle-assist types of engagement. If a motor on an electric bicycle is modified so that a limit established in Section 301.083 is exceeded, that vehicle is no longer an electric bicycle. The provisions of this subsection are not applicable to a modified electric bicycle operated solely and exclusively on a person's own property.

(d) An electric bicycle must comply with the equipment and manufacturing requirements for bicycles adopted by the United States Consumer Product Safety Commission (16 C.F.R. Part 1512).

(e) The motor on an electric bicycle must disengage or cease to propel the electric bicycle when the operator stops pedaling, or when the operator applies the brakes and stops pedaling.

(f) A Class 3 electric bicycle must be equipped with a speedometer that displays the speed the electric bicycle is traveling in miles per hour.

(g) Class 2 electric bicycles are permitted to use a throttle to propel the bicycle.

(h) Electric bicycles operated on public roadways, public bicycle paths, public multiuse paths, and other public rights-of-way where bicycles are permitted to travel are subject to the following restrictions:

(1) Class 1, and Class 2 electric bicycles being used on roads and trails where traditional, non-electronic bicycle use is allowed will be given the same rights and privileges of a traditional, non-electric bicycle and will be subject to all of the duties of a traditional, non-electric bicycle. This rule intends to facilitate increased access to public lands that may otherwise be inaccessible to those with disabilities, health issues, or age-related limitations.

(l) Local authorities who adopt the basic enforcement provisions of this section and issue their own local ordinances shall retain all fines and associated late fees. These revenues shall be used first to fund the provisions of subsection (k) of this section, if adopted by local authorities, or otherwise shall go into the local authorities' General Revenue Fund. Otherwise, any moneys collected as fines shall be collected for and remitted to the state.
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(d) An electric bicycle must comply with the equipment and manufacturing requirements for bicycles adopted by the United States Consumer Product Safety Commission (16 C.F.R. Part 1512).

(e) The motor on an electric bicycle must disengage or cease to propel the electric bicycle when the operator stops pedaling, or when the operator applies the brakes and stops pedaling.

(f) A Class 3 electric bicycle must be equipped with a speedometer that displays the speed the electric bicycle is traveling in miles per hour.

(g) Class 2 electric bicycles are permitted to use a throttle to propel the bicycle.

(h) Electric bicycles operated on public roadways, public bicycle paths, public multiuse paths, and other public rights-of-way where bicycles are permitted to travel are subject to the following restrictions:

(1) Class 1, and Class 2 electric bicycles being used on roads and trails where traditional, non-electronic bicycle use is allowed will be given the same rights and privileges of a traditional, non-electric bicycle and will be subject to all of the duties of a traditional, non-electric bicycle. This rule intends to facilitate increased access to public lands that may otherwise be inaccessible to those with disabilities, health issues, or age-related limitations.

(2) A Class 3 electric bicycle may not be operated on a bicycle path, multiuse trail, or single-use trail unless it is within a highway or roadway; provided, that the provisions of this subdivision are not applicable to a bicycle path, multiuse trail, or single-use trail if the municipality, local authority, or governing body of a state agency that has jurisdiction over the bicycle path, multiuse trail, or single-use trail expressly permits that operation.

(3) Electric bicycles will not be given special access beyond what traditional or non-electric bicycles are allowed. For example, electric bicycles will not be allowed on roads or trails or in areas where traditional, non-electric bicycle travel is prohibited.

(4) This subsection may not be construed to limit the authority of the owner of a private way or the owner of private property to restrict or allow the operation of electric bicycles on the way or property.

(i) Age restrictions related to the operation of electric bicycles are as follows:

(1) A person under sixteen years of age may not operate a Class 3 electric bicycle;

(2) A person under fifteen years of age who is an operator or passenger on an electric bicycle shall wear a properly fitted and fastened bicycle helmet, pursuant to the Child Bicycle Safety Act, West Virginia Code 17C-11A-1 et seq.

(j) A person under the influence of alcohol or controlled substances shall not operate a Class 1,Class 2 or Class 3 electric bicycle.
(WVaC 17C-11-8)

521.01 DEFINITIONS.
For the purposes of this article:

(a) "Alcohol" means ethyl alcohol whatever its origin and shall include synthetic ethyl alcohol but not denatured alcohol.

(b) "Alcoholic liquor" includes alcohol, beer, wine, and spirits, and any liquid or solid capable of being used as a beverage, but shall not include nonintoxicating beer.

(c) "An agency" means a drugstore, grocery store, or general store designated by the Commission as a retail distributor of alcoholic liquor for the West Virginia Alcohol Beverage Control Commission.

(d) "Beer" means any beverage obtained by the fermentation of barley, malt, hops, or any other similar product or substitute, and containing more alcohol than that of nonintoxicating beer.

(e) "Brewery" means an establishment where beer is manufactured or in any way prepared.

(f) "Commissioner" or "Commission" means the West Virginia Alcohol Beverage Control Commissioner.

(g) "Department" means the organization through which the Commission exercises powers imposed upon it by this article.

(h) "Distillery" means an establishment where alcoholic liquor other than wine or beer is manufactured or in any way prepared.

ARTICLE 521

Liquor Control

521.01 Definitions.
521.02 Article not applicable to certain uses by physicians, druggists and others.
521.03 Prohibited acts generally.
521.03A Sale of alcohol on Sundays
521.04 Unlawful sale or possession by alcoholic liquor licensee.
521.05 Unlawful purchase of alcoholic liquors from State agency.
521.06 Intoxication or drinking in public places; illegal possession.
521.07 Acts prohibited by non-intoxicating beer licensee.
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521.99 Penalty.

CROSS REFERENCES

See sectional histories for similar State law
Authority to regulate liquor sales - see W. Va. Code 8-12-5(20)
Nonintoxicating beer - see W. Va. Code Art. 11-16
Local option - see W. Va. Code Art. 60-
5 Search warrants - see W. Va. Code 60-
6-18 Public drunkenness - see GEN.
OFF. 517.05

521.01 DEFINITIONS.

For the purposes of this article:

(a) "Alcohol" means ethyl alcohol whatever its origin and shall include synthetic ethyl alcohol but not denatured alcohol.

(b) "Alcoholic liquor" includes alcohol, beer, wine, and spirits, and any liquid or solid capable of being used as a beverage, but shall not include nonintoxicating beer.

(c) "An agency" means a drugstore, grocery store, or general store designated by the Commission as a retail distributor of alcoholic liquor for the West Virginia Alcohol Beverage Control Commission.

(d) "Beer" means any beverage obtained by the fermentation of barley, malt, hops, or any other similar product or substitute, and containing more alcohol than that of nonintoxicating beer.

(e) "Brewery" means an establishment where beer is manufactured or in any way prepared.

(f) "Commissioner" or "Commission" means the West Virginia Alcohol Beverage Control Commissioner.

(g) "Department" means the organization through which the Commission exercises powers imposed upon it by this article.
(h) "Distillery" means an establishment where alcoholic liquor other than wine or beer is manufactured or in any way prepared.
(i) "Intoxicated" means a person's faculties are impaired by alcohol or other substance to the point where physical or mental control or both are markedly diminished.
(j) "Manager" means an individual who is the applicant's or licensee's on-premises employee, member, partner, shareholder, director, or officer who meets the licensure requirements of West Virginia Code 11-16-1 et seq. and rules promulgated thereunder who actively manages, conducts, and carries on the day-to-day operations of the applicant or licensee with full and apparent authority or actual authority to act on behalf of the applicant or licensee. Such duties include but are not limited to: coordinating staffing; reviewing and approving payroll; ordering and paying for inventory, such as nonintoxicating beer, wine and liquor, as applicable; and managing security staff, security systems, video and other security equipment; and any further acts or actions involved in managing the affairs of the business, on behalf of owners, partners, members, shareholders, officers, or directors.
(k) "Manufacture" means to distill, rectify, ferment, brew, make, mix, concoct, process, blend, bottle, or fill an original package with any alcoholic liquor.
(l) "Manufacturer" means any person engaged in the manufacture of any alcoholic liquor, and among others includes a distiller, a rectifier, a wine maker, and a brewer.
(m) "Nonintoxicating beer" means any beverage obtained by the fermentation of barley, malt, hops, or similar products or substitute, and containing not more alcohol than that specified by West Virginia Code 11-16-2.
(n) "Original package" means any closed or sealed container or receptacle used for holding alcoholic liquor.
(o) "Person" means an individual, firm, partnership, limited partnership, corporation, or voluntary association.
(p) "Powdered alcohol" means an alcohol manufactured in a powder or crystalline form for either direct use or reconstitution as an alcoholic liquor or food. For purposes of this chapter, powdered alcohol excludes any material intended for industrial purposes.
(q) "Public place" means any place, building, or conveyance to which the public has, or is permitted to have access, including restaurants, soda fountains, hotel dining rooms, lobbies and corridors of hotels and any highway, street, lane, park, or place of public resort or amusement: provided, that the term "public place" shall not mean or include any of the above-named places or any portion or portions thereof which qualify and are licensed under the provisions of this article to sell alcoholic liquors for consumption on the premises: provided, however, that the term "public place" shall not mean or include any legally demarcated area designated solely for the consumption of beverages and freshly prepared food that directly connects and adjoins any portion or portions of a premise that qualifies and is licensed under the provisions of this article to sell alcoholic liquors for consumption thereupon: provided further, that the term "public place" shall not include a facility constructed primarily for the use of a Division I, II, or III college or university that is a member of the National Collegiate Athletic Association, or its successor, and used as a football, basketball, baseball, soccer, or other Division I, II, or III sports stadium which holds a special license to sell wine pursuant to the provisions of West Virginia Code 60-8-3, in the designated areas of sale and consumption of wine and other restrictions established by that section and the terms of the special license issued thereunder.
(r) "Sale" means any transfer, exchange, or barter in any manner or by any means, for a consideration, and shall include all sales made by a principal, proprietor, agent, or employee.
(s) "Selling" includes solicitation or receipt of orders; possession for sale; and possession with intent to sell.
(t) "Spirits" means any alcoholic beverage obtained by distillation and mixed with potable water and other substances in solution and includes brandy, rum, whiskey, cordials, and gin.
(u) "State liquor store" means a store established and operated by the Commission under this article for the sale of alcoholic liquor in the original package for consumption off the premises.

(v) "Wine" means any alcoholic beverage obtained by the fermentation of the natural content of fruits, or other agricultural products, containing sugar.
(w) "Winery" means an establishment where wine is manufactured or in any way prepared. (WVaC 60-1-5)

521.02 ARTICLE NOT APPLICABLE TO CERTAIN USES BY PHYSICIANS, DRUGGISTS AND OTHERS.

The provisions of this article shall not prevent:
(a) A physician from prescribing the use of alcoholic liquors when necessary for a bona fide patient;
(b) A druggist from selling, upon a prescription properly issued by a physician, alcoholic liquors for medicinal purposes;
(c) A physician, dentist or veterinarian, in the legitimate practice of his profession, from using and administering alcoholic liquors;
(d) Hospitals, sanitariums or that division of any institution which is regularly conducted as a hospital, dispensary or infirmary from using or administering alcoholic liquors to bona fide patients. Institutions and the divisions thereof provided in this section may carry a stock of alcoholic liquors sufficient for this purpose;
(e) Religious organizations from using wine for sacramental purposes. (WVaC 60-6-5)

521.03 PROHIBITED ACTS GENERALLY.

No person shall:
(a) Manufacture or sell in this City, without a license, any alcoholic liquor except as permitted by West Virginia Code Chapter 60;
(b) Aid or abet in the manufacture or sale of alcoholic liquor without a license, except as permitted by West Virginia Code Chapter 60;
(c) Sell or tender without a license any alcoholic liquor other than provided by West Virginia Code Article 60-6;
(d) Adulterate any alcoholic liquor by the addition of any drug, methyl alcohol, crude, unrectified or impure form of ethyl alcohol, or any other foreign or deleterious substance or liquid;
(e) Refill, with alcoholic liquor, any bottle or other container in which alcoholic liquor has been sold at retail in this State;
(f) Advertise any alcoholic liquor in this City except in accordance with the rules and regulations of the West Virginia Alcohol Beverage Control Commissioner;
(g) Distribute, deal in, process or use crowns, stamps or seals required under the authority of West Virginia Code Chapter 60, except in accordance with the rules and regulations prescribed by the West Virginia Alcohol Beverage Control Commissioner.
(h) Manufacture or sell, aid or abet in the manufacture or sale, possess, transport or ship, use or in any other manner provide or furnish powdered alcohol.
(WVaC 60-6-7)
(i) Manufacture, sell, give or offer to make a sale or gift of, transport or otherwise possess any alcoholic liquor or nonintoxicating beer except as permitted by West Virginia Code Chapters 11 and 60.
(j) Whoever violates subsection (a) to (h) hereof is guilty of a misdemeanor for a first offense.

521.03 A SALE OF ALCOHOL ON SUNDAYS.

(a) "On-Premise Licensee" shall be defined to mean any person who holds one of the following Class A licenses issued by the West Virginia Alcohol Beverage Control Administration to sell alcoholic beverages:

(1) Private Club (less than 1,000 members) - liquor, wine & non-intoxicating beer;
(2) Private Club (1,000 or more members) - liquor, wine & non-intoxicating beer;
(3) Fraternal Club (Non-Profit) - liquor, wine & non-intoxicating beer;
(4) Fraternal Club (Non-Profit) - non-intoxicating beer;
(5) Tavern - non-intoxicating beer;
(6) Private Wine Restaurant - wine only;
(7) Private Wine Restaurant - wine & non-intoxicating beer only;
(8) Private Wine Spa - wine only;
(9) Private Wine Bed & Breakfast - wine only;
(10) Brew Pub (Resident Brewer/Importer License Required);
(11) Special Events (Fairs and Festivals) - wine & non-intoxicating beer;
(12) Special Events (Fairs and Festivals) - wine only;
(13) Special Events (Fairs and Festivals) - non-intoxicating beer only; or Growler.

(b) "Person" shall be defined to mean an individual, firm, corporation, association, partnership, limited partnership, Limited Liability Company or other entity, regardless of its form, structure or nature.

(c) Notwithstanding anything to the contrary contained in the Code of City of Charles Town, Code of West Virginia, or Code of State Rules of West Virginia, any On-Premise Licensee shall be permitted to sell alcoholic beverages pursuant to the terms of its license, beginning at ten o'clock a.m. (10:00 a.m.) on any Sunday.

(Ord. 2016-003. Passed 11-7-16.)

521.04 UNLAWFUL SALE OR POSSESSION BY ALCOHOLIC LIQUOR LICENSEE.

No person licensed under West Virginia Code Chapter 60 shall:

(a) Sell, furnish, tender or serve alcoholic liquors of a kind other than that which the license or West Virginia Code Chapter 60 authorizes him or her to sell;

(b) Sell, furnish, tender or serve beer to which wine, spirits or alcohol has been added;

(c) Sell, furnish, tender or serve wine to which other alcoholic spirits have been added, otherwise than as required in the manufacture of the wine under rules of the Commission; (WVaC 60-6-8)

(d) (1) Sell, furnish, tender or serve alcoholic liquors or nonintoxicating beer to a person who is:
A. Less than twenty-one years of age;
B. An habitual drunkard;
C. Intoxicated;
D. Addicted to the use of any controlled substance as defined by West Virginia Code Chapter 60A;
E. Mentally incompetent.

(2) It shall be a defense to a violation of subsection (d)(1)A. hereof if the seller shows that the purchaser:
A. Produced written evidence which showed his or her age to be at least the required age for purchase and which bore a physical description of the person named on the writing which reasonably described the purchaser; or
B. Produced evidence of other facts that reasonably indicated at the time of sale that the purchaser was at least the required age.
(WVaC 60-3-22; 60-6-8)

(e) Sell, furnish, tender or serve alcoholic liquors except as authorized by his or her license;

(f) Sell, furnish, tender or serve alcoholic liquors other than by the drink, poured from the alcoholic liquors' original container: provided, that under certain requirements exceptions to liquor by the drink are as follows:

(1) A private club licensed under West Virginia Code 60-7-1 et seq., that is in good standing with the Commissioner and has paid a $1000 on-premises only bottle service fee to the

Commissioner, may sell or serve liquor by the bottle to two or more persons for consumption on the licensed premises only, and any liquor bottle sold by such a private club shall be sold at retail for personal use, and not for resale, to a person for not less than 300 percent of the private club's cost, and the liquor bottle shall be removed from the licensed premises by any person or the licensee; and

(2) A Class A licensee licensed under West Virginia Code 60-8-1 et seq., may sell or serve wine by the bottle to two or more persons for consumption on the licensed premises only, unless such licensee has obtained a license or privilege authorizing other activity;

(g) Sell, furnish, tender, or serve pre-mixed alcoholic liquor that is not in the original container: provided, that a licensee may sell, furnish, tender, and serve up to fifteen recipes of pre-mixed beverages consisting of alcoholic liquors and nonalcoholic mixer, in a manner approved by the Commissioner and in accord with public health and safety standards:

(1) The licensee shall use approved dispensing and storage equipment which shall be cleaned at the end of the day. Failure to clean the dispensing and storage equipment shall result in the immediate suspension or revocation of the permit;

(2) The licensee shall sanitize and clean the pre-mixing beverage storage equipment after each use or after each batch of the pre-mixed beverage is made; and

(3) The licensee shall maintain a written record reflecting the cleaning and sanitizing of the storage and dispensing equipment for inspection by the Commissioner and health inspectors;

(4) A violation or violations of this subdivision may result in the suspension or revocation of the permit and may result in additional sanctions under West Virginia Code Chapter 60 or 11-16-1 et seq.

(h) Sell, furnish, tender or serve any alcoholic liquor when forbidden by the provisions of this article;

(i) Sell, possess, possess for sale, tender, serve, furnish or provide any powdered alcohol;

(j) Keep on the premises covered by his or her license alcoholic liquor other than that which he or she is authorized to sell, furnish, tender, or serve by such license or by this article.

Whoever violates this section is guilty of a misdemeanor for the first offense.

(WVaC 60-6-8)

521.05 UNLAWFUL PURCHASE OF ALCOHOLIC LIQUORS FROM STATE AGENCY.

No person shall:

(a) Being under the age of twenty-one years, for the purpose of purchasing alcoholic liquors from a State liquor store or an agency, misrepresent his or her age, or for such purpose present or offer any written evidence of age which is false, fraudulent or not actually his or her own, or illegally attempt to purchase alcoholic liquors from a State liquor store or an agency.

(b) Knowingly buy for, give to or furnish to anyone under the age of twenty-one years to whom they are not related by blood or marriage, any alcoholic liquors from whatever source. (WVaC 60-3-22a)

521.06 INTOXICATION OR DRINKING IN PUBLIC PLACES; ILLEGAL POSSESSION.

(a) A person shall not:

(1) Appear in a public place in an intoxicated condition;

(2) Drink alcoholic liquor or nonintoxicating beer in a public place;

(3) Tender a drink of alcoholic liquor or nonintoxicating beer to another person in a public place;

(4) Operate a business without a license issued under West Virginia Code 60-1-1 et seq., which knowingly facilitates the consumption of alcoholic liquors in a public place by providing for on-site items such as cups, glasses, ice and nonalcoholic beverages used to mix with alcoholic liquors, refrigeration, or on-site storage of alcoholic liquors in a lounge area or space for persons to gather, perhaps offering musical entertainment, exotic

(5) dancing, or other such nude entertainment, or other similar activity or entertainment. Such business may be commonly known as a "bring your own bottle", " bring your own booze" or "BYOB" establishments;
(6) Possess alcoholic liquor in the amount in excess of ten gallons, in containers not bearing stamps or seals of the West Virginia Alcohol Beverage Control Commissioner, without having first obtained written authority from the Commissioner therefor; or
(7) Possess any alcoholic liquor which was manufactured or acquired in violation of the provisions of West Virginia Code Chapter 60.
(8) Possess any open container of alcoholic liquor or nonintoxicating beer in or on any public sidewalk, walkway, entrance way, street, lane, or other public place.

(b) Any law-enforcement officer may arrest without a warrant and take the following actions against a person who, in his or her presence, violates subdivision (1) of subsection (a) of this section:

(1) If there is some non-intoxicated person who will accept responsibility for the intoxicated person, the officer may issue the intoxicated person a citation specifying the date for appearance before a judicial officer and release him or her to the custody of the individual accepting responsibility: provided, that the issuance of a citation shall be used whenever feasible;
(2) If it does not impose an undue burden on the officer, he or she may, after issuance of the citation, transport the individual to the individual's present residence or arrange for the transportation;
(3) If the individual is incapacitated or the alternatives provided in subdivisions (1) and (2) of this subsection are not possible, the officer shall transport or arrange for transportation to the appropriate judicial officer as defined by West Virginia Code 27-11-17; or
(4) If the individual is incapacitated and, in the law-enforcement officer's judgment, is in need of acute medical attention, that officer shall arrange for transportation by ambulance or otherwise to a hospital emergency room. The officer shall accompany the individual until he or she is discharged from the emergency room or admitted to the hospital. If the individual is released from the emergency room, the officer may proceed as described in subdivisions (1), (2) and (3) of this subsection. If the individual is admitted to the hospital, the officer shall issue a citation to the individual specifying a date for appearance before a judicial officer.

(c) Upon presentment before the proper judicial officer, the law-enforcement officer serves as the chief complaining witness. The judicial officer shall determine if there is probative evidence that the individual may be guilty of the charge of public intoxication. If such evidence is not presented, the charge shall be dismissed, and the individual released. If sufficient evidence is presented, the judicial officer shall issue a warrant and establish bail or issue a summons to the individual. Once a warrant or summons has been issued, the following actions may be taken:

(1) If the individual is no longer incapacitated, he or she may be released;
(2) If the individual is still incapacitated but a non-intoxicated person is available to accept responsibility for him or her, he or she may be released to the responsible person; or
(3) If the individual is still incapacitated and no responsible person is available, the judicial officer shall proceed under the provisions of West Virginia Code Article 27-5 or 6A.

(d) Any law-enforcement officer may arrest and hold in custody, without a warrant, until complaint may be made before a judicial officer and a warrant or summons issued, any person who in the presence of the law- enforcement officer violates any one or more of subdivisions (1) through (5), subsection (a) of this section: provided, that the law-enforcement officer may use

reasonable force to prevent harm to himself or herself, the individual arrested or others in carrying out the provisions of this section. (Ord. 2017-004. Passed 1-2-18.)

521.07 ACTS PROHIBITED BY NONINTOXICATING BEER LICENSEE.

(a) It is unlawful:

(1) For any licensee, his, her, its, or their servants, agents, or employees, to sell, give, or dispense, or any individual to drink or consume, in or on any licensed premises, or in any rooms directly connected, nonintoxicating beer on weekdays between the hours of 2:00 a.m. and 6:00 a.m., except in private clubs licensed under the provisions of West Virginia Code Article 60-7, where the hours shall conform with the hours of sale of alcoholic liquors;

(2) For any licensee, his, her, its, or their servants, agents, or employees to sell, furnish, or give any nonintoxicating beer, as defined in this article, to any person visibly or noticeably intoxicated or to any person known to be insane or known to be a habitual drunkard;

(3) For any licensee, his, her, its, or their servants, agents, or employees to sell, furnish, or give any nonintoxicating beer as defined in this article to any person who is less than twenty-one years of age;

(4) For any distributor to sell or offer to sell, or any retailer to purchase or receive, any nonintoxicating beer as defined in this article, except for cash and a right of action shall not exist to collect any claims for credit extended contrary to the provisions of this subdivision. Nothing contained in this section prohibits a licensee from crediting to a purchasing person the actual price charged for packages or containers returned by the original purchasing person as a credit on any sale, or from refunding to any purchasing person the amount paid or deposited for the containers when title is retained by the vendor: provided, that a distributor may accept an electronic transfer of funds if the transfer of funds is initiated by an irrevocable payment order on the invoiced amount for the nonintoxicating beer. The cost of the electronic fund transfer shall be borne by the retailer and the distributor shall initiate the transfer no later than noon of one business day after the delivery;

(5) For any brewer or distributor to give, furnish, rent, or sell any equipment, fixtures, signs, supplies, or services directly or indirectly or through a subsidiary or affiliate to any licensee engaged in selling products of the brewing industry at retail or to offer any prize, premium, gift, or other similar inducement, except advertising matter, including indoor electronic or mechanical signs, of nominal value up to twenty-five dollars ($25.00) per stock keeping unit, to either trade or consumer buyers; provided, that a distributor may offer, for sale or rent, tanks of carbonic gas: provided, however, that, in the interest of public health and safety, a distributor may, independently or through a subsidiary or affiliate, furnish, sell, install, or maintain draught line equipment, supplies, and cleaning services to a licensed retailer so long as the furnishing or sell of draught line services may be negotiated at no less than actual cost: provided further, that a distributor may furnish, rent, or sell equipment, fixtures, signs, services, or supplies directly or indirectly or through a subsidiary or affiliate to any licensee engaged in selling products of the brewing industry at retail under the conditions and within the limitations as prescribed in this section. Nothing contained in this section prohibits a brewer from sponsoring any professional or amateur athletic event or from providing prizes or awards for participants and winners in any events.

(6) For any brewer or distributor to sponsor any professional or amateur athletic event or provide prizes or awards for participants and winners when a majority of the athletes participating in the event are minors, unless specifically authorized by the Commissioner;

(7) For any retail licensee to sell or dispense nonintoxicating beer through draught lines where the draught lines have not been cleaned at least every two weeks in accordance

with rules promulgated by the Commissioner, and where written records of all cleanings are not maintained and available for inspection;

(8) For any licensee to permit in his or her premises any lewd, immoral, or improper entertainment, conduct, or practice;

(9) For any licensee except the holder of a license to operate a private club issued under the provisions of West Virginia Code 60-7-1 et seq or a holder of a license or a private wine restaurant issued under the provisions of West Virginia Code 60-8-1 et seq. to possess a Federal license, tax receipt, or other permit entitling, authorizing, or allowing the licensee to sell liquor or alcoholic drinks other than nonintoxicating beer;

(10) For any licensee to obstruct the view of the interior of his or her premises by enclosure, lattice, drapes, or any means which would prevent plain view of the patrons occupying the premises. The interior of all licensed premises shall be adequately lighted at all times: provided, that provisions of this subdivision do not apply to the premises of a Class B retailer, the premises of a private club licensed under the provisions of West Virginia Code 60-7-1 et seq., or the premises of a private wine restaurant licensed under the provisions of West Virginia Code 60-8-1 et seq.;

(11) For any licensee to manufacture, import, sell, trade, barter, possess, or acquiesce in the sale, possession, or consumption of any alcoholic liquors on the premises covered by a license or on premises directly or indirectly used in connection with it: provided, that the prohibition contained in this subdivision with respect to the selling or possessing or to the acquiescence in the sale, possession, or consumption of alcoholic liquors is not applicable with respect to the holder of a license to operate a private club issued under the provisions of West Virginia Code 60-7-1 et seq. nor shall the prohibition be applicable to a private wine restaurant licensed under the provisions of West Virginia Code 60-8-1 et seq. insofar as the private wine restaurant is authorized to serve wine;

(12) For any retail licensee to sell or dispense nonintoxicating beer, as defined in this article, purchased, or acquired from any source other than a distributor, brewer, or manufacturer licensed under the laws of this state;

(13) For any licensee to permit loud, boisterous, or disorderly conduct of any kind upon his or her premises or to permit the use of loud musical instruments if either or any of the same may disturb the peace and quietude of the community where the business is located: provided, that a licensee may have speaker systems for outside broadcasting as long as the noise levels do not create a public nuisance or violate local noise ordinances;

(14) For any person whose license has been revoked, as provided in this article, to obtain employment with any retailer within the period of one year from the date of the revocation, or for any retailer to knowingly employ that person within the specified time;

(15) For any distributor to sell, possess for sale, transport, or distribute nonintoxicating beer except in the original container;

(16) For any licensee to knowingly permit any act to be done upon the licensed premises, the commission of which constitutes a crime under the laws of this State or Municipality;

(17) For any Class B retailer to permit the consumption of nonintoxicating beer upon his or her licensed premises;

(18) For any Class A licensee, his, her, its, or their servants, agents, or employees, or for any licensee by or through any servants, agents, or employees, to allow, suffer, or permit any person less than eighteen years of age to loiter in or upon any licensed premises; except, however, that the provisions of this subdivision do not apply where a person under the age of eighteen years or soft drink lawfully prepared and served or sold for consumption on the premises; is in or upon the premises in the immediate company of a parent or legal guardian, or where and while a person under the age of eighteen years is in or upon the premises for the purpose of and actually making a lawful purchase of any items or commodities sold, or for the purchase of and actually receiving any lawful

service rendered in the licensed premises, including the consumption of any item of food, drink, or soft drink lawfully prepared and served or sold for consumption on the premises:

(19) For any distributor to sell, offer for sale, distribute, or deliver any nonintoxicating beer outside the territory assigned to any distributor by the brewer or manufacturer of nonintoxicating beer or to sell, offer for sale, distribute, or deliver nonintoxicating beer to any retailer whose principal place of business or licensed premises is within the assigned territory of another distributor of the nonintoxicating beer: provided, that nothing in this section is considered to prohibit sales of convenience between distributors licensed in this State where one distributor sells, transfers, or delivers to another distributor a particular brand or brands for sale at wholesale; and

(20) For any licensee or any agent, servant, or employee of any licensee to knowingly violate any rule lawfully promulgated by the Commissioner in accordance with the provisions of West Virginia Code Chapter 29A.

(b) Any person who violates any provision of West Virginia Code 11-16, including, but not limited to, any provision of this section, or any rule, or order lawfully promulgated by the Commissioner, or who makes any false statement concerning any material fact in submitting an application for a license or for a renewal of a license or in any hearing concerning the revocation of a license, or who commits any of the acts in this section declared to be unlawful is guilty of a misdemeanor and, upon conviction thereof, shall be punished for each offense by a fine of not less than twenty-five dollars ($25.00), nor more than five hundred dollars ($500.00), or confined in the county or regional jail for not less than thirty days nor more than six months, or by both fine and confinement. Magistrates have concurrent jurisdiction with the circuit court and any other courts having criminal jurisdiction in their county for the trial of all misdemeanors arising under this article.

(c) (1) A Class B licensee that:

A. Has installed a transaction scan device on its licensed premises; and

B. Can demonstrate that it requires each employee, servant, or agent to verify the age of any individual to whom nonintoxicating beer or nonintoxicating craft beer is sold, furnished, or given away by the use of the transaction device is not subject to:

1. Any criminal penalties whatsoever, including those set forth in subsection (b) of this section;
2. Any administrative penalties from the Commissioner; or
3. Any civil liability whatsoever for the improper sale, furnishing, or giving away of nonintoxicating beer or nonintoxicating craft beer to an individual who is less than twenty- one years of age by one of his or her employees, servants, or agents.

Any agent, servant, or employee who has improperly sold, furnished, or given away nonintoxicating beer to an individual less than twenty-one years of age is subject to the criminal penalties of subsection (b) of this section. Any agent, servant, or employee who has improperly sold, furnish, or given away nonintoxicating beer to an individual less than twenty-one years of age is subject to termination from employment, and the employer shall have no civil liability for the termination.

(2) For purposes of this section, a Class B licensee can demonstrate that it requires each employee, servant, or agent to verify the age of any individual to whom nonintoxicating beer is sold by providing evidence:

A. That is has developed a written policy which requires each employee, servant, or agent to verify the age of each individual to whom nonintoxicating beer will be sold, furnished, or given away;

B. That it has communicated this policy to each employee, servant, or agent; and

C. That it monitors the actions of its employees, servants, or agents regarding the sale, furnishing, or giving away of nonintoxicating beer and that it has taken

corrective action for any discovered noncompliance with this policy.

(3) "Transaction scan" means the process by which a person checks, by means of a transaction scan device, the age and identity of the cardholder, and "transaction scan device" means any commercial device or combination of devices used at a point of sale that is capable of deciphering in an electronically readable format the information enclosed on the magnetic strip or bar code of a driver's license or other governmental identity card.

(4) Nothing in this section nor any rule of the Commissioner shall prevent or be considered to prohibit any licensee from employing any person who is at least eighteen years of age to serve in the licensee's lawful employ, including the sale or delivery of nonintoxicating beer as defined in this article. With the prior approval of the Commissioner, a licensee whose principal business is the sale of food or consumer goods, or the providing of recreational activities, including, but not limited to, nationally franchised fast food outlets, family oriented restaurants, bowling alleys, drug stores, discount stores, grocery stores, and convenience stores, may employ persons who are less than eighteen years of age but at least sixteen years of age: provided, that the person's duties may include the sale of nonintoxicating beer or alcoholic liquors only when directly supervised by a person twenty-one years of age or older; provided, however, that the authorization to employ persons under the age of eighteen years shall be clearly indicated on the licensee's license. (WVaC 11-16-18)

521.08 UNLAWFUL PURCHASE OF NONINTOXICATING BEER.

(a) No person under the age of twenty-one years shall purchase, consume, sell, possess or serve nonintoxicating beer.

Nothing in this section, nor any rule or regulation of the Alcohol Beverage Control Commissioner, shall prevent or be deemed to prohibit any person who is at least eighteen years of age from serving in the lawful employment of any licensee, which may include the sale or delivery of nonintoxicating beer. Further, nothing in this section, nor any rule or regulation of the Commissioner, shall prevent or be deemed to prohibit any person who is less than eighteen but at least sixteen years of age from being employed by a licensee whose principal business is the sale of food or consumer goods or the providing of recreational activities, including, but not limited to, nationally franchised fast food outlets, family-oriented restaurants, bowling alleys, drug stores, discount stores, grocery stores and convenience stores: provided, that such person shall not sell or deliver nonintoxicating beer.

Nothing in this subsection shall prohibit a person who is at least eighteen years of age from purchasing or possessing nonintoxicating beer when he or she is acting upon the request of or under the direction and control of any member of a state, federal or local law-enforcement agency or the West Virginia Alcohol Beverage Administration while the agency is conducting an investigation or other activity relating to the enforcement of the alcohol beverage control statutes and the rules and regulations of the Commissioner.

(b) No person under the age of twenty-one years for the purpose of purchasing nonintoxicating beer, shall misrepresent his or her age, or for such purpose present or offer any written evidence of age which is false, fraudulent or not actually his or her own, or shall illegally attempt to purchase nonintoxicating beer.

(c) No person shall knowingly buy for, give to or furnish nonintoxicating beer to anyone under the age of twenty-one years to whom they are not related by blood or marriage.

(WVaC 11-16-19)

521.09 ACTS PROHIBITED BY PRIVATE CLUB LICENSEE.

(a) It is unlawful for any licensee, or agent, employee or member thereof, on such licensee's

premises to:

(1) Sell, offer for sale, tender, or serve any alcoholic liquors other than by the drink poured from the original package or container, except as authorized in Section 521.04;

(2) Authorize or permit any disturbance of the peace, obscene, lewd, immoral or improper entertainment, conduct or practice, gambling or any slot machine, multiple coin console machine, multiple coin console slot machine, or device in the nature of a slot machine; however, various games, gaming and wagering conducted by duly licensed persons of the West Virginia State Lottery Commission, charitable bingo games conducted by duly licensed charitable or public service organization (or its auxiliaries), pursuant to West Virginia Code 47-20-1 et seq., and charitable raffle games conducted by a duly licensed charitable or public service organization (or its auxiliaries), pursuant to West Virginia Code 47-21-1 et seq., all of which are permissible on a licensee's licensed premises when operated in accordance with the West Virginia Code and rules promulgated thereunder. A private resort hotel holding a license issued pursuant to West Virginia Code 60-7-1 et seq., may sell, tender or dispense nonintoxicating beer, wine, or alcoholic liquors in or on the premises licensed under West Virginia Code 29-22A-1 et seq., and 29-22C-1 et seq., or West Virginia Code 29-25-1 et seq., during hours of operation authorized by West Virginia Code 29-22A-1 et seq., and 29-22C-1 et seq., or 29-25-1 et seq;

(3) Sell, give away or permit the sale of, gift to or the procurement of any nonintoxicating beer, wine or alcoholic liquors for or to, or permit the consumption of nonintoxicating beer, wine or alcoholic liquors on the licensee's premises, by any person less than twenty-one years of age;

(4) Sell, give away, or permit the sale of, gift to, or the procurement of any nonintoxicating beer, wine or alcoholic liquors, for or to any person known to be considered legally incompetent, or for or to any person who is physically incapacitated due to consumption of nonintoxicating beer, wine or alcoholic liquor or the use of drugs;

(5) Sell, give or dispense nonintoxicating beer, wine or alcoholic liquors in or on any licensed premises, or in any rooms directly connected therewith between the hours of 3:00 a.m. and 6:00 a.m. on weekdays, Saturdays, and Sundays, or between the hours of 3:00 a.m. and 1:00 p.m. in any county upon approval as provided for in West Virginia Code 7-1-3ss, on any Sunday; and

(6) Permit the consumption by, or serve to, on the licensed premises any nonintoxicating beer, wine or alcoholic liquors, covered by this article, to any person who is less than twenty-one years of age;

(7) With the intent to defraud, alter, change or misrepresent the quality, quantity or brand name of any alcoholic liquor;

(8) Sell or offer for sale any alcoholic liquor to any person who is not a duly elected or approved dues- paying member in good standing of the private club or a guest of such member;

(9) Sell, offer for sale, give away, facilitate the use of or allow the use of carbon dioxide, cyclopropane, ethylene, helium or nitrous oxide for purposes of human consumption except as authorized by the Commissioner;

(10) A. Employ any person who is less than sixteen years of age in a position where the primary responsibility for such employment is to sell, furnish, tender, serve, or give nonintoxicating beer, wine or alcoholic liquors to any person;

B. Employ any person who is between sixteen years of age and younger than twenty-one years of age who is not directly supervised by a person aged twenty-one or over in a position where the primary responsibility for such employment is to sell, furnish, tender, serve, or give nonintoxicating beer, wine or alcoholic liquors to any person; or

(11) Violate any reasonable rule of the Commissioner. (WVaC 60-7-12)

(b) No licensee shall advertise in any news media or other means, outside of the licensee's premises, the fact that alcoholic liquors may be purchased thereat.

(Ord. 2016-003. Passed 11-7-16.)

521.10 UNLAWFUL PURCHASE FROM PRIVATE CLUB.

(a) No person under the age of twenty-one years shall order, pay for, share the cost of or attempt to purchase any nonintoxicating beer, wine or alcoholic liquors from a licensee or consume any nonintoxicating beer, wine or alcoholic liquors purchased from a private club licensee or possess any nonintoxicating beer, wine or alcoholic liquors purchased from a licensee. Provided, that nothing in this subsection shall prohibit a person who is at least eighteen years of age from purchasing or possessing nonintoxicating beer, wine or alcoholic liquors when he or she is acting upon the request of or under the direction and control of any member of a state, federal or local law-enforcement agency or the West Virginia Alcohol Beverage Administration while the agency is conducting an investigation or other activity relating to the enforcement of the alcohol beverage control statutes and the rules and regulations of the Commissioner.

(b) No person under the age of twenty-one years, for the purpose of purchasing nonintoxicating beer, wine or alcoholic liquors from a private club licensee, misrepresent his or her age, or for such purpose present or offer any written evidence of age which is false, fraudulent or not actually his or her own, or illegally attempt to purchase nonintoxicating beer, wine or alcoholic liquors from a licensee.

(c) No person shall knowingly buy for, give to or furnish to anyone under the age of twenty-one years any nonintoxicating beer, wine or alcoholic liquors purchased from a licensee.

(WVaC 60-7-12a)

521.11 ACTS PROHIBITED BY WINE DEALERS.

It shall be unlawful:

(a) For a supplier or distributor to sell or deliver wine purchased or acquired from any source other than a person registered under the provisions of West Virginia Code 60-8-6, or for a retailer to sell or deliver wine purchased or acquired from any source other than a licensed distributor or a farm winery as defined in West Virginia Code 60-1-5a;

(b) Unless otherwise specifically provided for by the provisions of West Virginia Code Article 60-8, for a licensee under West Virginia Code Article 60-8 to acquire, transport, possess for sale, or sell wine other than in the original package;

(c) For a licensee, his or her servants, agents or employees to sell, furnish or give wine to any person less than twenty-one years of age or to a mentally incompetent person or person who is physically incapacitated due to the consumption of alcoholic liquor or the use of drugs: provided that the provisions of West Virginia Code 60-3A-25a shall apply to sales of wine;

(d) For a licensee to permit a person who is less than eighteen years of age to sell, furnish or give wine to any person, except as provided for in subsection (g) of this section;

(e) For a supplier or distributor to sell or deliver any brand of wine purchased or acquired from any source other than the primary source of supply of the wine which granted the distributor the right to sell such brand at wholesale. For the purposes of this article, "primary source of supply" means the vintner of the wine, the importer of a foreign wine who imports the wine into the United States, the owner of a wine at the time it becomes a marketable product, the bottler of a wine, or an agent specifically authorized by any of the above enumerated persons to make a sale of the wine to a West Virginia distributor: provided, that no retailer shall sell or deliver wine purchased or acquired from any source other than a distributor or farm winery licensed as such in this State: provided, however, that nothing herein is considered to prohibit sales of convenience between distributors licensed in this State wherein one such distributor sells, transfers or delivers to another such distributor a particular brand or brands for sale at wholesale of which brand or brands such other distributor has been authorized by a licensed supplier to distribute. The Commissioner shall promulgate legislative rules necessary to carry out the provision of this subsection;

(f) For a person to violate any rule promulgated by the Commissioner under West Virginia

Code Article 60-8.
(g) Nothing in this article, nor any rule or regulation of the Commissioner, shall prevent or be considered to prohibit any licensee from employing any person who is at least eighteen years of age to serve in any licensee's lawful employment, including the sale of wine or distribution of wine on behalf of a winery, farm winery, farm entity, supplier or distributor under the provisions of this article. With the prior approval of the Commissioner, a licensee may employ persons who are less than eighteen years of age but at least sixteen years of age: Provided, that the person's duties may include the sale of nonintoxicating beer or wine only when directly supervised by a person twenty-one years of age or older: Provided, however, that the authorization to employ persons under eighteen years of age shall be clearly indicated on the licensee's license: Provided, further, that nothing in this article, nor any rule or regulation of the Commissioner, shall prevent or be considered to prohibit any licensee from employing any person who is at least twenty-one years of age for the ordering and delivery of wine when licensed for the ordering and delivery of wine under the provisions of this article.
(WVaC 60-8-20)

521.12 UNLAWFUL PURCHASE OF WINE.

(a) No person under the age of twenty-one years shall purchase, consume, sell, possess or serve wine or other alcoholic liquor.

Nothing in this section, nor any rule or regulation of the Alcohol Beverage Control Commissioner, shall prevent or be deemed to prohibit any person who is at least eighteen years of age from serving in the lawful employment of any licensee, which may include the sale or delivery of wine. Further, nothing in this section, nor any rule or regulation of the Commissioner, shall prevent or be deemed to prohibit any person who is less than eighteen but at least sixteen years of age from being employed by a licensee whose principal business is the sale of food or consumer goods or the providing of recreational activities, including, but not limited to, nationally franchised fast food outlets, family-oriented restaurants, bowling alleys, drug stores, discount stores, grocery stores and convenience stores: provided, that such person shall not sell or deliver wine or alcoholic liquor.

Nothing in this subsection shall prohibit a person who is at least eighteen years of age from purchasing or possessing wine or alcoholic liquor when he or she is acting upon the request of or under the direction and control of any member of a state, federal or local law-enforcement agency or the West Virginia Alcohol Beverage Administration while the agency is conducting an investigation or other activity relating to the enforcement of the alcohol beverage control statutes and the rules and regulations of the Commissioner.

(b) No person under the age of twenty-one years, for the purpose of purchasing wine or other alcoholic liquors from a licensee, shall misrepresent his or her age, or for such purpose present or offer any written evidence of age which is false, fraudulent, or not actually his or her own, or illegally attempt to purchase wine or other alcoholic liquors.

(c) No person shall knowingly buy for, give to or furnish wine or other alcoholic liquors from any source to anyone under the age of twenty-one years to whom they are not related by blood or marriage. (WVaC 60-8-20a)

521.13 UNLAWFUL PURCHASE FROM RETAIL LIQUOR LICENSEE.

(a) (1) No person who is eighteen or over but under the age of twenty-one years shall purchase, consume, sell, serve or possess alcoholic liquor. Any person who is under eighteen years who purchases, consumes, sells, serves or possesses alcoholic liquor is guilty of a status offense, as that term is defined in West Virginia Code 49-1-4, and, upon adjudication therefor, shall be referred to the Department of Health and

Human Resources for services, as provided in West Virginia Code 49-5-11.

(2) Nothing is this section, nor any rule or regulation of the Alcohol Beverage Control Commissioner, shall prevent or be deemed to prohibit any person who is at least eighteen years of age from serving in the lawful employment of a licensee which includes the sale and serving of alcoholic liquor.

(3) Nothing in this subsection shall prohibit a person who is at least eighteen years of age from purchasing or possessing alcoholic liquor when he or she is acting upon the request of or under the direction and control of any member of a state, federal or local law-enforcement agency or the West Virginia Alcohol Beverage Administration while the agency is conducting an investigation or other activity relating to the enforcement of the alcohol beverage control statutes and the rules and regulations of the Commissioner.

(b) No person under the age of twenty-one years shall, for the purpose of purchasing liquor from a retail licensee, misrepresent his or her age, or for such purpose present or offer any written evidence of age which is false, fraudulent, or not actually his or her own, or illegally attempt to purchase liquor from a retail licensee.

(c) No person shall knowingly buy for, give to or furnish to anyone under the age of twenty-one to whom he or she is not related by blood or marriage any liquor from whatever source.

(d) No person while on the premises of a retail outlet shall consume liquor or break the seal on any package or bottle of liquor.

(WVaC 60-3A-24)

521.14 HARD CIDER.

(a) "Hard Cider" means a type of wine that is derived primarily from the fermentation of apples, pears, peaches, honey or other fruit, or from apple, pear, peach, or other fruit juice concentrate and water; contains no more than 0.64 grams of carbon dioxide per 100 milliliters; contains at least one half of one percent (½%) and less than twelve and one-half percent (12 ½%) alcohol by volume; and is advertised, labeled, offered for sale, or sold, as hard cider or cider containing alcohol, and not as a wine, wine product, or as a substitute for wine. (WVaC 60-8A-1)

(b) Except as stated in West Virginia Code Article 60-8A, all wine licenses and other wine requirements set forth in West Virginia Code 60-8-1 et seq., 60-4-3b, and 60-6-2, shall apply to the manufacture, distribution or sale of hard cider. Any person or licensee legally authorized to manufacture, distribute, or sell wine may manufacture, distribute or sell hard cider in the same manner and to the same persons, and subject to the same limitations and conditions, as such license or legal right authorizes him or her to manufacture, distribute or sell wine. No additional wine license fees shall be charged for the privilege of manufacturing, distributing, or selling hard cider.

(c) Except as stated in West Virginia Code Article 60-8A, all hard cider distributors are bound by all wine distribution requirements set forth in West Virginia Code 60-8-1 et seq., 60-4-3b, and 60-6-2, which shall apply to distribution of hard cider. Any person or licensee legally authorized to distribute hard cider may distribute hard cider in the same manner and to the same persons, and subject to the same limitations and conditions, as a license or legal right would authorize him or her to distribute wine. An additional hard cider license fee shall not be charged for the privilege of distributing hard cider.

(WVaC 60-8A-2)

521.99 PENALTY.

(EDITOR'S NOTE: See Section 501.99 for general Code penalty if no specific penalty is provided.)

(a) Whoever violates Section 521.05(a), 521.12(b) or 521.13(b) shall be fined not more than fifty dollars ($50.00), or imprisoned for not more than seventy-two hours, or both, or, in lieu of such fine and imprisonment, may, for the first offense, be placed on probation for not more than one year.

(b) Whoever violates Section 521.05(b), 521.12(c) or 521.13(d) shall be fined not more than one hundred dollars ($100.00), or imprisoned for not more than ten days, or both.

(WVaC 11-16-19, 60-3-22a, 60-8-20a, 60-3A-24)

(c) Whoever violates subdivision (1), subsection (a) of Section 521.06 shall be sentenced by a judicial officer in accordance with the following options:

(1) Upon first offense, a fine of not less than five dollars ($5.00) nor more than one hundred dollars ($100.00). If the individual, prior to conviction, agrees to voluntarily attend an alcohol education program of not more than six hours duration at the nearest community mental health - mental retardation center, the judicial officer may delay sentencing until the program is completed and upon completion may dismiss the charges;

(2) Upon conviction for a second offense, a fine of not less than five dollars ($5.00) nor more than one hundred dollars ($100.00) and not more than sixty days in jail or completion of not less than five hours of alcoholism counseling at the nearest community mental health - mental retardation center;

(3) Upon third and subsequent convictions, a fine of not less than five dollars ($5.00) nor more than one hundred dollars ($100.00) and not less than five nor more than thirty days in jail or a fine of not less than five dollars ($5.00) nor more than one hundred dollars ($100.00) and completion of not less than five hours of alcoholism counseling at the nearest community mental health - mental retardation center: provided, that three convictions for public intoxication within the preceding six months is considered evidence of alcoholism. For the educational counseling programs described in this subsection the community mental health - mental retardation center may charge each participant its usual and customary fee and shall certify in writing to the referring judicial officer the completion or failure to complete the prescribed program for each individual.

(4) A person charged with a violation of subdivision (1), subsection (a) of Section 521.06 who is an alcoholic shall be found not guilty by reason of addiction and proper disposition made pursuant to West Virginia Code Articles 27-5 and 6A.

(d) Whoever violates subdivision (2), subsection (a) of Section 521.06 shall be fined not less than five dollars ($5.00) nor more than one hundred dollars ($100.00); and upon a second or subsequent conviction thereof, shall be fined not less than five dollars ($5.00) nor more than one hundred dollars ($100.00) or imprisoned not more than thirty days, or both.

(e) Whoever violates subdivision (3), subsection (a) of Section 521.06 shall be fined not less than five dollars ($5.00) nor more than one hundred dollars ($100.00) or imprisoned not more than thirty days, or both.

(f) Whoever violates subdivision (4) or (5), subsection (a) of Section 521.06 shall be fined not less than one hundred dollars ($100.00) nor more than five hundred dollars ($500.00). Upon conviction of a second or subsequent offense, he or she is guilty of a felony and, shall be prosecuted under appropriate State law.

(WVaC 60-6-9)

(g) (1) Whoever violates Section 521.08(a) shall be fined an amount not to exceed five hundred dollars ($500.00) or shall be confined in jail, or, in the case of a juvenile, a detention facility, for a period not to exceed seventy-two hours, or both fined and

confined or, in lieu of such fine and confinement, may, for the first offense, be placed on probation for a period not to exceed one year.

(2) Whoever violates Section 521.08(b) shall be fined an amount not to exceed one hundred dollars ($100.00) or shall be confined in jail, or in the case of a juvenile, a juvenile detention facility, for a period not to exceed seventy-two hours, or both such fine and confinement or, in lieu of such fine and confinement, may, for the first offense, be placed on probation for a period not exceeding one year.

(3) Whoever violates Section 521.08(c) shall be fined an amount not to exceed one hundred dollars ($100.00) or shall be confined in jail for a period not to exceed ten days, or both such fine and confinement.

(h) Whoever violates Section 521.09 shall be fined not less than five hundred dollars ($500.00) or more than one thousand dollars ($1,000), or imprisoned not more than thirty days, or both.
(WVaC 60-7-12)

(i) Whoever violates Section 521.10(a) or (b) shall be fined not more than five hundred dollars ($500.00) or imprisoned not more than thirty days, or both, and in addition may, for the first offense be placed on probation for a period not to exceed one year.

(j) Whoever violates Section 521.10(c) shall be fined not more than five hundred dollars ($500.00) or imprisoned not more than ten days, or both.
(WVaC 60-7-12a)

(k) Whoever violates 521.12(a) or 521.13(a) shall be fined not more than five hundred dollars ($500.00) or imprisoned not more than seventy-two hours, or both, or in lieu thereof, may, for the first offense, be placed on probation for a period not to exceed one year.
(WVaC 11-16-19, 60-8-20a, 60-3A-24)

(l) Whoever violates Section 521.13(c) shall be fined not more than two hundred fifty dollars ($250.00) or imprisoned not more than ten days, or both.
(WVaC 60-3A-24)

First Reading: October 3, 2022

Passed on Second Reading: November 7, 2022

Enacted: 7th this day of November, 2022

City of Charles Town

Robert M. Trainor
Mayor

Attest:

John Barkley
City Clerk

(2) A Class 3 electric bicycle may not be operated on a bicycle path, multiuse trail, or single-use trail unless it is within a highway or roadway; provided, that the provisions of this subdivision are not applicable to a bicycle path, multiuse trail, or single-use trail if the municipality, local authority, or governing body of a state agency that has jurisdiction over the bicycle path, multiuse trail, or single-use trail expressly permits that operation.

(3) Electric bicycles will not be given special access beyond what traditional or non-electric bicycles are allowed. For example, electric bicycles will not be allowed on roads or trails or in areas where traditional, non-electric bicycle travel is prohibited.

(4) This subsection may not be construed to limit the authority of the owner of a private way or the owner of private property to restrict or allow the operation of electric bicycles on the way or property.

(i) Age restrictions related to the operation of electric bicycles are as follows:

(1) A person under sixteen years of age may not operate a Class 3 electric bicycle;

(2) A person under fifteen years of age who is an operator or passenger on an electric bicycle shall wear a properly fitted and fastened bicycle helmet, pursuant to the Child Bicycle Safety Act, West Virginia Code 17C-11A-1 et seq.

(j) A person under the influence of alcohol or controlled substances shall not operate a Class 1,Class 2 or Class 3 electric bicycle.
(WVaC 17C-11-8)

521.01 DEFINITIONS.
For the purposes of this article:

(a) "Alcohol" means ethyl alcohol whatever its origin and shall include synthetic ethyl alcohol but not denatured alcohol.

(b) "Alcoholic liquor" includes alcohol, beer, wine, and spirits, and any liquid or solid capable of being used as a beverage, but shall not include nonintoxicating beer.

(c) "An agency" means a drugstore, grocery store, or general store designated by the Commission as a retail distributor of alcoholic liquor for the West Virginia Alcohol Beverage Control Commission.

(d) "Beer" means any beverage obtained by the fermentation of barley, malt, hops, or any other similar product or substitute, and containing more alcohol than that of nonintoxicating beer.

(e) "Brewery" means an establishment where beer is manufactured or in any way prepared.

(f) "Commissioner" or "Commission" means the West Virginia Alcohol Beverage Control Commissioner.

(g) "Department" means the organization through which the Commission exercises powers imposed upon it by this article.

(h) "Distillery" means an establishment where alcoholic liquor other than wine or beer is manufactured or in any way prepared.

(i) "Intoxicated" means a person's faculties are impaired by alcohol or other substance to the point where physical or mental control or both are markedly diminished.

(j) "Manager" means an individual who is the applicant's or licensee's on-premises employee, member, partner, shareholder, director, or officer who meets the licensure requirements of West Virginia Code 11-16-1 et seq. and rules promulgated thereunder who actively manages, conducts, and carries on the day-to-day operations of the applicant or licensee with full and apparent authority or actual authority to act on behalf of the applicant or licensee. Such duties include but are not limited to: coordinating staffing; reviewing and approving payroll; ordering and paying for inventory, such as nonintoxicating beer, wine and liquor, as applicable; and managing security staff, security systems, video and other security equipment; and any further acts or actions involved in managing the affairs of the business, on behalf of owners, partners, members, shareholders, officers, or directors.

(k) "Manufacture" means to distill, rectify, ferment, brew, make, mix, concoct, process, blend, bottle, or fill an original package with any alcoholic liquor.

(l) "Manufacturer" means any person engaged in the manufacture of any alcoholic liquor, and among others includes a distiller, a rectifier, a wine maker, and a brewer. (WVaC 60-1-5)

(m) (1) "Nonintoxicating beer" means all natural cereal malt beverages or products of the brewing industry commonly referred to as beer, lager beer, ale, and all other mixtures and preparations produced by the brewing industry, including malt coolers and nonintoxicating craft beers with no caffeine infusion or any additives masking or altering the alcohol effect containing at least one half of one percent (½%) alcohol by volume, but not more than eleven and nine-tenths percent (11.9%) of alcohol by weight, or fifteen percent (15%) alcohol by volume, whichever is greater. The word "liquor" as used in West Virginia Code 60-1-1 et seq. does not include or embrace nonintoxicating beer nor any of the beverages, products, mixtures or preparations included within this definition.

(2) "Nonintoxicating craft beer" means any beverage obtained by the natural fermentation of barley, malt, hops, or any other similar product or substitute and containing not less than one half of one percent (½%) by volume and not more than fifteen percent (15%) alcohol by volume or eleven and nine-tenths percent (11.9%) alcohol by weight with no caffeine infusion or any additives masking or altering the alcohol effect. (WVaC 11-16-3)

(n) "Original package" means any closed or sealed container or receptacle used for holding alcoholic liquor.

(o) "Person" means an individual, firm, partnership, limited partnership, corporation, or voluntary association.

(p) "Powdered alcohol" means an alcohol manufactured in a powder or crystalline form for either direct use or reconstitution as an alcoholic liquor or food. For purposes of this chapter, powdered alcohol excludes any material intended for industrial purposes.

(q) "Public place" means any place, building, or conveyance to which the public has, or is permitted to have access, including restaurants, soda fountains, hotel dining rooms, lobbies and corridors of hotels and any highway, street, lane, park, or place of public resort or amusement: provided, that the term "public place" shall not mean or include any of the above-named places or any portion or portions thereof which qualify and are licensed under the provisions of this article to sell alcoholic liquors for consumption on the premises: provided, however, that the term "public place" shall not mean or include any legally demarcated area designated solely for the consumption of beverages and freshly prepared food that directly connects and adjoins any portion or portions of a premise that qualifies and is licensed under the provisions of this article to sell alcoholic liquors for consumption thereupon: provided further, that the term "public place" shall not include a facility constructed primarily for the use of a Division I, II, or III college or university that is a member of the National Collegiate Athletic Association, or its successor, and used as a football, basketball, baseball, soccer, or other Division I, II, or III sports stadium which holds a special license to sell wine pursuant to the provisions of West Virginia Code 60-8-3, in the designated areas of sale and consumption of wine and other restrictions established by that section and the terms of the special license issued thereunder.

(r) "Sale" means any transfer, exchange, or barter in any manner or by any means, for a consideration, and shall include all sales made by a principal, proprietor, agent, or employee.

(s) "Selling" includes solicitation or receipt of orders; possession for sale; and possession with intent to sell.

(t) "Spirits" means any alcoholic beverage obtained by distillation and mixed with potable water and other substances in solution and includes brandy, rum, whiskey, cordials, and gin.

(u) "State liquor store" means a store established and operated by the Commission under this article for the sale of alcoholic liquor in the original package for consumption off the premises.

(v) "Wine" means any alcoholic beverage obtained by the fermentation of the natural content of fruits, or other agricultural products, containing sugar.

(w) "Winery" means an establishment where wine is manufactured or in any way prepared. (WVaC 60-1-5)

521.09 ACTS PROHIBITED BY PRIVATE CLUB LICENSEE.

(a) It is unlawful for any licensee, or agent, employee or member thereof, on such licensee's premises to:

(1) Sell, offer for sale, tender, or serve any alcoholic liquors other than by the drink poured from the original package or container, except as authorized in Section 521.04;

(2) Authorize or permit any disturbance of the peace, obscene, lewd, immoral or improper entertainment, conduct or practice. A private resort hotel holding a license issued pursuant to West Virginia Code 60-7-1 et seq., may sell, tender or dispense nonintoxicating beer, wine, or alcoholic liquors in or on the premises licensed under West Virginia Code 29-22A-1 et seq., and 29-22C-1 et seq., or West Virginia Code 29-25-1 et seq., during hours of operation authorized by West Virginia Code 29-22A-1 et seq., and 29-22C-1 et seq., or 29-25-1 et seq;

(3) Sell, give away or permit the sale of, gift to or the procurement of any nonintoxicating beer, wine or alcoholic liquors for or to, or permit the consumption of nonintoxicating beer, wine or alcoholic liquors on the licensee's premises, by any person less than twenty-one years of age;

(4) Sell, give away, or permit the sale of, gift to, or the procurement of any nonintoxicating beer, wine or alcoholic liquors, for or to any person known to be considered legally incompetent, or for or to any person who is physically incapacitated due to consumption of nonintoxicating beer, wine or alcoholic liquor or the use of drugs;

(5) Sell, give or dispense nonintoxicating beer, wine or alcoholic liquors in or on any licensed premises, or in any rooms directly connected therewith between the hours of 3:00 a.m. and 6:00 a.m. on weekdays, Saturdays, and Sundays, or between the hours of 3:00 a.m. and 1:00 p.m. in any county upon approval as provided for in West Virginia Code 7-1-3ss, on any Sunday; and

(6) Permit the consumption by, or serve to, on the licensed premises any nonintoxicating beer, wine or alcoholic liquors, covered by this article, to any person who is less than twenty-one years of age;

(7) With the intent to defraud, alter, change or misrepresent the quality, quantity or brand name of any alcoholic liquor;

(8) Sell or offer for sale any alcoholic liquor to any person who is not a duly elected or approved dues-paying member in good standing of the private club or a guest of such member;

(9) Sell, offer for sale, give away, facilitate the use of or allow the use of carbon dioxide, cyclopropane, ethylene, helium or nitrous oxide for purposes of human consumption except as authorized by the Commissioner;

(10) A. Employ any person who is less than sixteen years of age in a position where the primary responsibility for such employment is to sell, furnish, tender, serve, or give nonintoxicating beer, wine or alcoholic liquors to any person;

B. Employ any person who is between sixteen years of age and younger than twenty-one years of age who is not directly supervised by a person aged twenty-one or over in a position where the primary responsibility for such employment is to sell, furnish, tender, serve, or give nonintoxicating beer, wine or alcoholic liquors to any person; or

(11) Violate any reasonable rule of the Commissioner.

(b) It is lawful for any licensee to advertise price and brand in any news media or other means, outside of the licensee's premises.
(WVaC 60-7-12)

ARTICLE 545
Weapons and Explosives

545.01 Definitions.
545.02 Carrying a deadly weapon without provisional license or other authorization by persons under twenty-one years of age.
545.03 Exceptions as to prohibitions against carrying concealed handguns for persons at least eighteen years of age and fewer than twenty-one years of age.
545.04 Persons prohibited from possession of firearms.
545.05 Possession of deadly weapons by minors prohibited.
545.06 Possession of machine guns.
545.07 Display or sale of deadly weapons.
545.08 Brandishing deadly weapons.
545.09 Possessing deadly weapons on premises of educational facilities. (Repealed)
545.10 Fireworks.
545.11 Discharging firearms.
545.12 Throwing or shooting missiles.
545.99 Penalty.

CROSS REFERENCES

See sectional histories for similar State law
Authority to prohibit carrying weapons - see W. Va. Code 8-12-5(16)
Limitations on power to restrict ownership - see W. Va. Code 8-2-5a
Dangerous weapons - see W. Va. Code Art. 61-7

545.01 DEFINITIONS.

As used in this article, unless the context otherwise requires:

(a) "Antique firearm" means:

(1) Any firearm, including, but not limited to, a firearm with a match lock, flintlock, percussion cap, or similar type of ignition system which was manufactured on or before 1898;

(2) Any replica of any firearm described in subsection (a)(1) hereof if such replica is not designed or redesigned to use rimfire or conventional centerfire fixed ammunition which is no longer manufactured in the United States and which is not readily available in the ordinary channels of commercial trade; and

(3) Any muzzle-loading rifle, muzzle-loading shotgun, or muzzle-loading pistol, which is designed to use black powder, or black powder substitute, and which cannot use fixed ammunition. For purposes of this subdivision, the term "antique firearm" shall not include any weapon which includes a firearm frame or receiver, any firearm which is converted into a muzzle- loading weapon, or any muzzle-loading weapon which can be readily converted to fire fixed ammunition by replacing the barrel, bolt, breechblock, or any combination thereof.

(b) "Blackjack" means a short bludgeon consisting, at the striking end, of an encased piece of lead or some other heavy substance and, at the handle end, a strap or springy shaft which increases the force of impact when a person or object is struck. "Blackjack" includes, but is not limited to, a billy, billy club, sand club, sandbag or slapjack.

(c) "Concealed" means hidden from ordinary observation so as to prevent disclosure or

recognition. A deadly weapon is concealed when it is carried on or about the person in such a manner that another person in the ordinary course of events would not be placed on notice that the deadly weapon was being carried. For purposes of concealed handgun licensees, a licensee is considered to be carrying on or about his or her person while in or on a motor vehicle if the firearm is located in a storage area in or on the motor vehicle.
(d) "Controlled substance" has the same meaning as is ascribed to that term in West Virginia Code 60A-1- 101(e).
(e) "Deadly weapon" means an instrument which is designed to be used to produce serious bodily injury or death or is readily adaptable to such use. The term "deadly weapon" includes, but is not limited to, the instruments defined in subsections (a) through (h) hereof, inclusive, of this section or other deadly weapons of like kind or character which may be easily concealed on or about the person. For the purposes of West Virginia Code 18A-5-1a and 61-7-11a, in addition to the definition of "knife" set forth in subsection (i) hereof, the term "deadly weapon" also includes any instrument included within the definition of "knife" with a blade of three and one-half inches or less in length. Additionally, for the purposes of West Virginia Code 18A-5-1a and 61-7-11a, the term "deadly weapon" includes explosive, chemical, biological and radiological materials. Notwithstanding any other provision of this section, the term "deadly weapon" does not include any item or material owned by the school or county board, intended for curricular use, and used by the student at the time of the alleged offense solely for curricular purposes. The term "deadly weapon" does not include pepper spray as defined in subsection (l) hereof when used by any person over the age of sixteen solely for self-defense purposes.
(f) "Drug" has the same meaning as is described to that term in West Virginia 60A-1-101(m).
(g) "Firearm" means any weapon which will expel a projectile by action of an explosion: provided, that it does not mean an antique firearm as defined in subsection (l) hereof; except for the purposes of West Virginia Code 48-27-502.
(h) "Gravity knife" means any knife that has a blade released from the handle by the force of gravity or the application of centrifugal force, and when released is locked in place by means of a button, spring, lever or other locking or catching device.
(i) "Knife" means an instrument, intended to be used or readily adaptable to be used as a weapon, consisting of a sharp-edged or sharp-pointed blade, usually made of steel, attached to a handle, which is capable of inflicting cutting, stabbing or tearing wounds. The term "knife" includes, but is not limited to, any dagger, dirk, poniard or stiletto with a blade over three and one-half inches in length, any switchblade knife or gravity knife, and any other instrument capable of inflicting cutting, stabbing or tearing wounds. A pocket knife with a blade three and one-half inches or less in length, a hunting or fishing knife carried for hunting, fishing, sports or other recreational uses, or a knife designed for use as a tool or household implement shall not be included within the term "knife" as defined herein, unless the knife is knowingly used or intended to be used to produce serious bodily injury or death.
(j) "Metallic or false knuckles" means a set of finger rings attached to a transverse piece to be worn over the front of the hand for use as a weapon and constructed in such a manner that, when striking another person with the fist or closed hand, considerable physical damage may be inflicted upon the person who was struck. The terms "metallic or false knuckles" includes any such instrument without reference to the metal or other substance or substances from which the metallic or false knuckles are made.
(k) "Nunchaku" means a flailing instrument consisting of two or more rigid parts, connected by a chain, cable, rope, or other nonrigid, flexible, or springy material, constructed in a manner that allows the rigid parts to swing freely so that one rigid part may be used as a handle and the other rigid part may be used as the striking end.
(l) "Pepper spray" means a temporarily disabling aerosol that is composed partly of capsicum oleoresin and causes irritation, blinding of the eyes, and inflammation of the nose, throat, and skin that is intended for self-defense use.
(m) "Pistol" means a short firearm having a chamber which is integral with the barrel, designed to be aimed and fired by the use of a single hand.
(n) "Revolver" means a short firearm having a cylinder of several chambers that are brought

successively into line with the barrel to be discharged, designed to be aimed and fired by the use of a single hand.
(o) "Switchblade knife" means any knife having a spring-operated blade which opens automatically upon pressure being applied to a button, catch, or other releasing device in its handle. (WVaC 61-7-2)

545.02 CARRYING A DEADLY WEAPON WITHOUT PROVISIONAL LICENSE OR OTHER AUTHORIZATION BY PERSONS UNDER TWENTY-ONE YEARS OF AGE.
(a) No person under twenty-one years of age and not otherwise prohibited from possessing firearms under Section 545.03 shall carry a concealed deadly weapon, without a State license or other lawful authorization established under the provisions of the West Virginia Code.
(b) Whoever violates this section shall, for a first offense, be guilty of a misdemeanor.
(WVaC 61-7-3)

545.03 EXCEPTIONS AS TO PROHIBITIONS AGAINST CARRYING CONCEALED HANDGUNS FOR PERSONS AT LEAST EIGHTEEN YEARS OF AGE AND FEWER THAN TWENTY-ONE YEARS OF AGE.
(a) The provisions in Section 545.02 do not apply to any person at least eighteen years of age and fewer than twenty-one years of age who is:

(1) Carrying a deadly weapon upon his or her own premises;
(2) Carrying a firearm, unloaded, from the place of purchase to his or her home, residence or place of business or to a place of repair and back to his or her home, residence or place of business; or
(3) Possessing a firearm while hunting in a lawful manner or while traveling from his or her home, residence or place of business to a hunting site and returning to his or her home, residence or place of business;
(4) A member of a properly organized target-shooting club authorized by law to obtain firearms by purchase or requisition from this State or from the United States for the purpose of target practice from carrying any pistol, as defined in this article, unloaded, from his or her home, residence or place of business to a place of target practice and from any place of target practice back to his or her home, residence or place of business, for using any such weapon at a place of target practice in training and improving his or her skill in the use of the weapons;
(5) A law-enforcement officer or law-enforcement official or chief executive as defined in West Virginia Code 30-29-1;
(6) An employee of the West Virginia Division of Corrections duly appointed pursuant to West Virginia Code 25-1-11c, while the employee is on duty;
(7) A member of the United States Armed Forces, Reserve or National Guard;
(8) A resident of another state who holds a valid permit or license to possess or carry a handgun issued by a state or a political subdivision subject to the provisions and limitations set forth in West Virginia Code 61-7-6a;
(9) A federal law-enforcement officer or federal police officer authorized to carry a weapon in the performance of the officer's duty; and
(10) A parole officer appointed pursuant to West Virginia Code 62-12-14 in the performance of his or her duties.

(b) The following judicial officers and prosecutors and staff are exempt from paying any application fees or licensure fees required under the West Virginia Code. However, they shall make application and satisfy all licensure and handgun safety and training requirements to obtain

a license as set forth in West Virginia Code 61- 7-4:

(1) Any justice of the Supreme Court of Appeals of West Virginia;
(2) Any circuit judge;
(3) Any retired justice or retired circuit judge designated senior status by the Supreme Court of Appeals of West Virginia;
(4) Any family court judge;
(5) Any magistrate;
(6) Any prosecuting attorney;
(7) Any assistant prosecuting attorney; or
(8) Any duly appointed investigator employed by a prosecuting attorney. (WVaC 61-7-6)

545.04 PERSONS PROHIBITED FROM POSSESSION OF FIREARMS.

(a) Except as provided in this section, no person shall possess a firearm, as such is defined in Section 545.01 , who:

(1) Has been convicted in any court of a crime punishable by imprisonment for a term exceeding one year;
(2) Is habitually addicted to alcohol;
(3) Is an unlawful user of or habitually addicted to any controlled substance;
(4) Has been adjudicated to be mentally incompetent or who has been involuntarily committed to a mental institution pursuant to the provisions of West Virginia Code Chapter twenty-seven or in similar law of another jurisdiction: provided, that once an individual has been adjudicated as a mental defective or involuntarily committed to a mental institution, he or she shall be duly notified that they are to immediately surrender any firearms in their ownership or possession; provided, however, that the Mental Hygiene Commissioner or Circuit Judge shall first make a determination of the appropriate public or private individual or entity to act as conservator for the surrendered property;
(5) Is an alien illegally or unlawfully in the United States;
(6) Has been discharged from the armed forces under dishonorable conditions;
(7) Is subject to a domestic violence protective order that:
   A. Was issued after a hearing of which such person received actual notice and at which such person had an opportunity to participate;
   B. Restrains such person from harassing, stalking or threatening an intimate partner of such person or child of such intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child; and
   C. 1. Includes a finding that such person represents a credible threat to the physical safety of such intimate partner or child; or
      2. By its terms explicitly prohibits the use, attempted use or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury; or
(8) Has been convicted of a misdemeanor offense of assault or battery either under the provisions of West Virginia Code 61-2-28, or the provisions of West Virginia Code 61-2-9(a) or (b), or a federal or state statute with the same essential elements in which the victim was a current or former spouse, current or former sexual or intimate partner, person with whom the defendant has a child in common, person with whom the defendant cohabits or has cohabited, a parent or guardian, the defendant's child or

ward or a member of the defendant's household at the time of the offense or has been convicted in any court of any jurisdiction of a comparable misdemeanor crime of domestic violence.

(b) Any person prohibited from possessing a firearm by the provisions of subsection (a) of this section may petition the circuit court of the county in which he or she resides to regain the ability to possess a firearm and if the court finds by clear and convincing evidence that the person is competent and capable of exercising the responsibility concomitant with the possession of a firearm, the court may enter an order allowing the person to possess a firearm if such possession would not violate any federal law: provided, that a person prohibited from possessing a firearm by the provisions of subsection (a)(4) of this section may petition to regain the ability to possess a firearm in accordance with West Virginia Code 61-7A-5.

(c) Any person may carry a concealed deadly weapon without a license therefor who is:

(1) At least twenty-one years of age;

(2) A United States citizen or legal resident thereof;

(3) Not prohibited from possessing a firearm under the provisions of this section; and

(4) Not prohibited from possessing a firearm under the provisions of 18 U.S.C. §922(g) or (n).

(d) Any person who has been convicted of an offense which disqualifies him or her from possessing a firearm by virtue of a criminal conviction whose conviction was expunged or set aside or who subsequent thereto receives an unconditional pardon for said offense shall not be prohibited from possessing a firearm by the provisions of the section.
(WVAC 61-7-7)

545.05 POSSESSION OF DEADLY WEAPONS BY MINORS PROHIBITED.

(a) Notwithstanding any other provision of this article to the contrary, a person under the age of eighteen years who is not married or otherwise emancipated shall not possess or carry concealed or openly any deadly weapon: provided, that a minor may possess a firearm upon premises owned by such minor or his family or on the premises of another with the permission of his or her parent or guardian and in the case of property other than his or her own or that of his family, with the permission of the owner or lessee of such property. Nothing in this section shall prohibit a minor from possessing a firearm while hunting in a lawful manner or while traveling from a place where he or she may lawfully possess a deadly weapon, to a hunting site, and returning to a place where he or she may lawfully possess such weapon.

(b) A violation of this section by a person under the age of eighteen years shall subject the child to the jurisdiction of the circuit court under the provisions of West Virginia Code 49-4- 701 et seq., and such minor may be proceeded against in the same manner as if he or she had committed an act which if committed by an adult would be a crime, and may be adjudicated delinquent. (WVaC 61-7-8)

545.06 POSSESSION OF MACHINE GUNS.

No person shall carry, transport or have in his possession, any machine gun, submachine gun or any other fully automatic weapon unless he or she has fully complied with applicable Federal statutes and all applicable rules and regulations of the Secretary of the Treasury of the United States relating to such firearms. (WVaC 61-7-9)

545.07 DISPLAY OR SALE OF DEADLY WEAPONS.

No person shall publicly display and offer for rent or sale, or, where the person is other than a

natural person, knowingly permit an employee thereof to publicly display and offer for rent or sale, to any passersby on any street, road or alley, any deadly weapon, machine gun, submachine gun or other fully automatic weapon, any rifle, shotgun or ammunition for same. (WVaC 61-7-10)

545.08 BRANDISHING DEADLY WEAPONS.

No person armed with a firearm or other deadly weapon, whether licensed to carry the same or not, shall carry, brandish or use such weapon in a way or manner to cause, or threaten, a breach of the peace. (WVaC 61-7-11)

545.09 POSSESSING DEADLY WEAPONS ON PREMISES OF EDUCATIONAL FACILITIES.

(EDITOR'S NOTE: Former Section 545.09 which was derived from West Virginia Code 61-7-11a is no longer included in the Codified Ordinances. By Acts 1995 Chapter 90, the West Virginia Legislature reclassified such offense as a felony. Charges for possessing deadly weapons on premises of educational facilities should now be filed under state law.)

545.10 FIREWORKS SALE, POSSESSION AND DISCHARGE.

(a) Definitions: As used in this section, the following terms shall be defined as follows:

(1) "APA Standard 87-1" means the APA Standard 87-1 published by the American Pyrotechnics Association, as amended, and incorporated by reference into Title 49 of the Code of Federal Regulations;

(2) "Consumer fireworks" means small fireworks devices that are designed to produce visible effects by combustion that are required to comply with the construction, chemical composition and labeling regulations promulgated by the United States Consumer Product Safety Commission under 16 C.F.R. Parts 1500 and 1507 (2014), and that are listed in APA Standard 87-1. Consumer fireworks do not include sparkling devices, novelties, toy caps or model rockets;

(3) "Firework" or "fireworks" means any composition or device designed for the purpose of producing a visible or audible effect by combustion, deflagration or detonation. Fireworks include consumer fireworks, display fireworks and special effects. Fireworks does not include sparkling devices, novelties, toy caps or model rockets;

(4) "Minor" means an individual who is less than 18 years of age;

(5) "Sparkling devices" means "ground or handheld sparkling devices" as that phrase is defined under APA 87-1, sections 3.1.1 and 3.5;

(b) Ignition, Discharge, and Use of Consumer Fireworks. A person shall not ignite, discharge, or use consumer fireworks within the Charles Town City limits.

(c) Exemptions. Exemption requests to subsection (b) shall be submitted in writing to the City Council; the City Council will render its decision after appropriate consultation with the Fire and Police Chiefs.

(d) Manufacture, Transportation, Distribution, or Sale of Consumer Fireworks. Pursuant to West Virginia Code 529-3E, it is unlawful for a person to manufacture, wholesale, distribute, import, sell or store for the purpose of resale, consumer fireworks, sparkling devices, novelties or toy caps without a license, registration, certificate or permit from the State Fire Marshal.

(e) Responsibility. Any damage to property or persons resulting from the ignition, discharge, or use of consumer fireworks, whether or not intentional, is the responsibility of the person igniting, discharging, or using the consumer firework(s) that is determined by competent

authority to have caused the damage.

(f) Violations of this article.

(1) A person may not intentionally ignite or discharge any consumer fireworks or sparkling devices within or throw the same from a motor vehicle or building.

(2) A person may not intentionally ignite or discharge any consumer fireworks or sparkling devices into or at a motor vehicle or building, or at any person or group of people.

(3) A person may not intentionally ignite or discharge any consumer fireworks or sparkling device while the person:

A. Is under the influence of alcohol;

B. Is under the influence of any controlled substance;

C. Is under the influence of any other drug; or

D. Is under the combined influence of alcohol and any controlled substance or any other drug.

(4) A person who is less than eighteen years of age may not possess consumer fireworks.

(g) Determination of Violation; Seizure. If a police officer determines that a violation of this section has occurred, then the officer may seize the consumer fireworks as evidence of the violation.

(h) Penalty.

(1) A person in violation of this section is subject to a fine up to $500.00, plus the costs of prosecution.

(2) Following final disposition of a finding of responsibility for a violation of this section, the city may dispose of or destroy any consumer fireworks retained as evidence in that prosecution.

(3) In addition to any other penalty, a person that is found responsible for a violation of this section is subject to reimbursing the city for the costs of storing, disposing of, or destroying consumer fireworks that were confiscated for a violation of this section.

(i) Severability. The provisions of this section shall be liberally construed to accomplish its objective and purposes. If any provision of this section is held to be invalid or unconstitutional by any court of competent jurisdiction, such invalidity or unconstitutionality shall not otherwise affect or invalidate the other provisions hereto, all of which are hereby declared, and shall be construed, to be separate and severable.

(Ord. 2018-001. Passed 1-2-18.)

545.11 DISCHARGING FIREARMS.

(a) No person shall discharge any air gun, rifle, shotgun, revolver, pistol or other firearm within the corporate limits of the Municipality.

(b) This section does not apply when firearms are used in self defense, in the discharge of official duty or when otherwise lawfully authorized.

545.12 THROWING OR SHOOTING MISSILES.

No person shall throw, shoot or propel an arrow, missile, pellet, stone, metal or other similar substance capable of causing physical harm to persons or property, in or on any public place, in or on the property of another, or from any private property into or onto any public place or the property of another. This section does not apply to supervised archery ranges or instruction nor when otherwise lawfully authorized.

545.99 PENALTY.

(EDITOR'S NOTE: See Section 501.99(a) for general Code penalty if no specific penalty is provided.)

(a) Whoever violates Section 545.04 shall be fined not more than one thousand dollars ($1,000) or imprisoned not more than thirty days, or both.

(b) Notwithstanding the provisions of subsection (a) of this section, any person:

(1) Who has been convicted in this State or any other jurisdiction of a felony crime of violence against the person of another or of a felony sexual offense; or

(2) Who has been convicted in this State or any other jurisdiction of a felony controlled substance offense involving a Schedule I controlled substance other than marijuana, a Schedule II or a Schedule III controlled substance as such are defined in West Virginia Code 60A-2-204, 60A-2-205 and 60A- 2-206, and who possesses a firearm as such is defined in Section 545.01 shall be guilty of a felony and shall be prosecuted under appropriate State law. The provisions of Section 545.04(b) shall not apply to persons convicted of offenses referred to in this subsection or to persons convicted of a violation of this subsection.

(WVaC 61-7-7)

First Reading: October 3, 2022

Passed on Second Reading: November 7, 2022

Enacted: 7th this day of November, 2022

City of Charles Town

Attest:

Robert M. Trainor
Mayor

John Barkley
City Clerk

545.01 DEFINITIONS.

As used in this article, unless the context otherwise requires:

(a) "Antique firearm" means:

(1) Any firearm, including, but not limited to, a firearm with a match lock, flintlock, percussion cap, or similar type of ignition system which was manufactured on or before 1898;

(2) Any replica of any firearm described in subsection (a)(l) hereof if such replica is not designed or redesigned to use rimfire or conventional centerfire fixed ammunition which is no longer manufactured in the United States and which is not readily available in the ordinary channels of commercial trade; and

(3) Any muzzle-loading rifle, muzzle-loading shotgun, or muzzle-loading pistol, which is designed to use black powder, or black powder substitute, and which cannot use fixed ammunition. For purposes of this subdivision, the term "antique firearm" shall not include any weapon which includes a firearm frame or receiver, any firearm which is converted into a muzzle-loading weapon, or any muzzle-loading weapon which can be readily converted to fire fixed ammunition by replacing the barrel, bolt, breechblock, or any combination thereof.

(b) "Blackjack" means a short bludgeon consisting, at the striking end, of an encased piece of lead or some other heavy substance and, at the handle end, a strap or springy shaft which increases the force of impact when a person or object is struck. "Blackjack" includes, but is not limited to, a billy, billy club, sand club, sandbag or slapjack.

(c) "Concealed" means hidden from ordinary observation so as to prevent disclosure or recognition. A deadly weapon is concealed when it is carried on or about the person in such a manner that another person in the ordinary course of events would not be placed on notice that the deadly weapon was being carried. For purposes of concealed handgun licensees, a licensee is considered to be carrying on or about his or her person while in or on a motor vehicle if the firearm is located in a storage area in or on the motor vehicle.

(d) "Controlled substance" has the same meaning as is ascribed to that term in West Virginia Code 60A-1-101(e).

(e) "Deadly weapon" means an instrument which is designed to be used to produce serious bodily injury or death or is readily adaptable to such use. The term "deadly weapon" includes, but is not limited to, the instruments defined in subsections (a) through (h) hereof, inclusive, of this section or other deadly weapons of like kind or character which may be easily concealed on or about the person. For the purposes of West Virginia Code 18A-5-1a and 61-7-11a, in addition to the definition of "knife" set forth in subsection (i) hereof, the term "deadly weapon" also includes any instrument included within the definition of "knife" with a blade of three and one-half inches or less in length. Additionally, for the purposes of West Virginia Code 18A-5-1a and 61-7-11a, the term "deadly weapon" includes explosive, chemical, biological and radiological materials. Notwithstanding any other provision of this section, the term "deadly weapon" does not include any item or material owned by the school or county board, intended for curricular use, and used by the student at the time of the alleged offense solely for curricular purposes. The term "deadly weapon" does not include pepper spray as defined in subsection (l) hereof when used by any person solely for self-defense purposes.

(f) "Drug" has the same meaning as is ascribed to that term in West Virginia 60A-1-101(m).

(g) "Firearm" means any weapon which will expel a projectile by action of an explosion: provided, that it does not mean an antique firearm as defined in subsection (a) hereof; except for the purposes of West Virginia Code 48-27-502.

(h) "Gravity knife" means any knife that has a blade released from the handle by the force of gravity or the application of centrifugal force, and when released is locked in place by means of a button, spring, lever or other locking or catching device.

(i) "Knife" means an instrument, intended to be used or readily adaptable to be used as a weapon, consisting of a sharp-edged or sharp-pointed blade, usually made of steel, attached to a handle, which is capable of inflicting cutting, stabbing or tearing wounds. The term "knife" includes, but is not limited to, any dagger, dirk, poniard or stiletto with a blade over three and one-half inches in length, any switchblade knife or gravity knife, and any other instrument capable of inflicting cutting, stabbing or tearing wounds. A pocket knife with a blade three and one-half inches or less in length, a hunting or fishing knife carried for hunting, fishing, sports or other recreational uses, or a knife designed for use as a tool or household implement shall not be included within the term "knife" as defined herein, unless the knife is knowingly used or intended to be used to produce serious bodily injury or death.

(j) "Metallic or false knuckles" means a set of finger rings attached to a transverse piece to be worn over the front of the hand for use as a weapon and constructed in such a manner that, when striking another person with the fist or closed hand, considerable physical damage may be inflicted upon the person who was struck. The terms "metallic or false knuckles" includes any such instrument without reference to the metal or other substance or substances from which the metallic or false knuckles are made.

(k) "Nunchaku" means a flailing instrument consisting of two or more rigid parts, connected by a chain, cable, rope, or other nonrigid, flexible, or springy material, constructed in a manner that allows the rigid parts to swing freely so that one rigid part may be used as a handle and the other rigid part may be used as the striking end.

(1) "Pepper spray" means a temporarily disabling aerosol that is composed partly of capsicum oleoresin and causes irritation, blinding of the eyes, and inflammation of the nose, throat, and skin that is intended for self-defense use.

(m) "Pistol" means a short firearm having a chamber which is integral with the barrel, designed to be aimed and fired by the use of a single hand.

(n) "Revolver" means a short firearm having a cylinder of several chambers that are brought successively into line with the barrel to be discharged, designed to be aimed and fired by the use of a single hand.

(o) "Switchblade knife" means any knife having a spring-operated blade which opens automatically upon pressure being applied to a button, catch, or other releasing device in its handle. (WVaC 61-7-2)

City Council
101 East Washington Street
Charles Town, WV 25414

Meeting: 04/01/24
Department: City Council
Category: Resolution
Initiator:

SCHEDULED

AGENDA ITEM (ID #)

2024-360 - Arbor Day Resolution

ATTACHMENTS:

- Arbor Day Resolution - April 2024.docx

City of Charles Town

101 East Washington Street, P.O. Box 14, Charles Town, WV 25414
Phone: (304) 725-2311 ♦ Web: www.charlestownwv.us

A Resolution to Celebrate Arbor Day April 26, 2024

WHEREAS, in 1872, J. Sterling Morton proposed to the Nebraska Board of Agriculture that a special day be set aside for the planting of trees; and

WHEREAS, this holiday, called Arbor Day, was first observed with the planting of more than a million trees in Nebraska; and

WHEREAS, Arbor Day is now observed throughout the nation and the world; and

WHEREAS, trees can reduce the erosion of our precious topsoil by wind and water, cut heating and cooling costs, moderate the temperature, clean the air, produce life-giving oxygen, and provide habitat for wildlife; and

WHEREAS, trees are a renewable resource giving us paper, wood for our homes, fuel for our fires, and countless other wood products; and

WHEREAS, trees in our city increase property values, enhance the economic vitality of business areas, and beautify our community; and

WHEREAS, the National Arbor Day Foundation, in cooperation with the National Association of State Foresters and the USDA Forest Service, has named the City of Charles Town as a Tree City USA for the 12th cumulative year; and

WHEREAS, the City of Charles Town, with citizen volunteers and with support from the Division of Forestry, are planting new trees in the downtown district and our Skate Park.

NOW, THEREFORE LET IT BE RESOLVED, that the City of Charles Town urges all citizens to celebrate Arbor Day and to support efforts to protect our trees and woodlands; and

NOW THEREFORE LET IT BE FURTHER RESOLVED, that the City of Charles Town encourages all citizens to plant trees to gladden the heart and promote the well-being of this and future generations.

Adopted this 1st day of April, 2024.

Attest:

_____ _____

Robert M. Trainor
Mayor

John Nissel
City Clerk

City Council
101 East Washington Street
Charles Town, WV 25414

Meeting: 04/01/24
Department: City Council
Category: Referral
Initiator:

SCHEDULED

AGENDA ITEM (ID #)

2024-338: Referral to the Infrastructure Committee Pertaining to S. Lawrence Street, Ann Street, S. Charles Street, S. West Street, and N. Charles Street

* Potentially turning the 400 block of S. Lawrence Street, Ann Street, and the 400 block of S. Charles Street into a one-way street
* Parking issues on S. West Street.
* Removal of yellow curb on the 100 block of N. Charles Street.

ATTACHMENTS:

- Pictures of N. Charles Street.pdf

Thanks
PEO Lewis

Photo from 2/2024

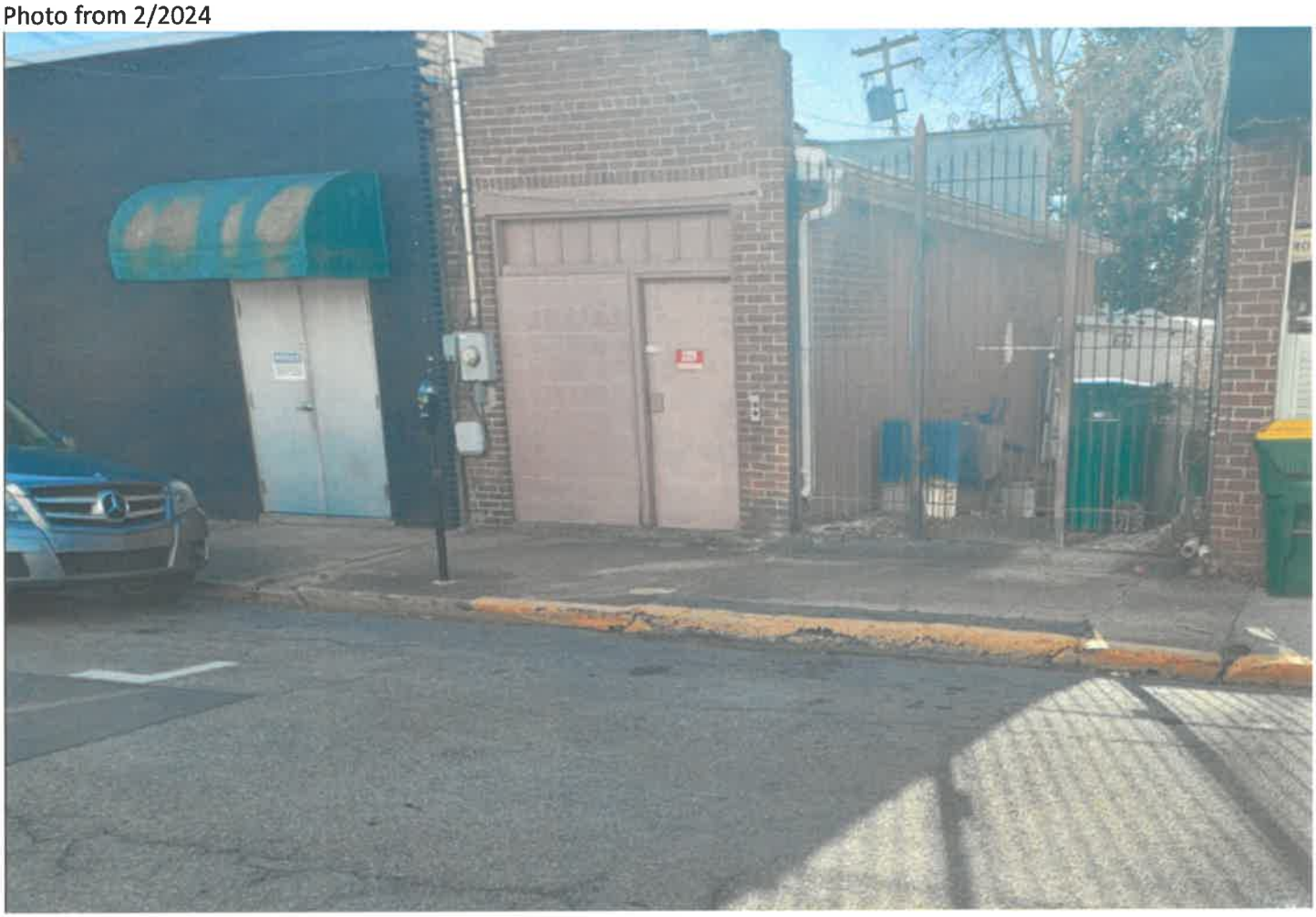


Photo from 7/2014


Jul 2014
See latest date

City Council
101 East Washington Street
Charles Town, WV 25414

Meeting: 04/01/24
Department: City Council
Category: Ordinance
Initiator:

SCHEDULED

AGENDA ITEM (ID #)

2024-336: Referral to Ordinance Committee - Ordinance 951 Garbage Collection

ATTACHMENTS:

- Article 951 Garbage.pdf

ARTICLE 951

Garbage Collection

951.01 Collection mandatory.
951.02 Definitions.
951.03 Containers required.
951.04 Location of receptacles.
951.05 Collection of large branches, brush and Christmas trees. (Repealed)
951.06 Days and areas of collections designated.
951.07 Monthly collection charge.
951.08 Placement and removal of receptacles.
951.09 Prohibited conduct.
951.10 Extra collections.
951.11 Storage of garbage or waste.
951.12 Failure to pay collection charges.

CROSS REFERENCES
Power to regulate - see W. Va. Code 8-12-5(10) et seq.
Placing material in streets - see TRAF. 311.01
Loads dropping or leaking - see TRAF. 347.04

951.01 COLLECTION MANDATORY.
All residential and commercial units, including all customers served by the City of Charles Town Water and Sewer Service within the City limits, shall have their waste, rubbish and recyclables picked up and removed from their premises by Waste Management of the Shenandoah Valley (hereinafter referred to as Waste Management) at least once a week unless the City Manager shall mandate more frequent collections. (Passed 8-19-96.)

951.02 DEFINITIONS.
(a) "Approved trash collection contractor" shall mean the City of Charles Town or the entity with which the City of Charles Town contracts for said purpose.
(b) "Collection" for the purpose of this article, a collection means normal household waste, white goods, furniture, construction debris, tires and rubbish, metals, trash or garbage collected at one time.
(c) "Dumpster" shall mean any trash or garbage container designed to be mechanically emptied.
(d) "Residential zoned area" shall mean any location with a residential designation in the Zoning Ordinance of the City of Charles Town.
(e) Wherever reference is made to "Waste Management of the Shenandoah Valley (hereinafter referred to as Waste Management)", it shall be synonymous with "the approved trash collection contractor (hereinafter referred to as approved contractor)" throughout the ordinance.
(Ord. 01-13. Passed 9-17-01.)

951.03 CONTAINERS REQUIRED.
(a) All household garbage, food waste or matter that will decay shall be deposited in metal or like containers having a capacity of no greater than thirty gallons and being equipped with a well fitting lid. This container shall be limited to fifty pounds of household garbage, food waste or matter that will decay.
(b) All other such waste shall be deposited in plastic bags or other containers provided they are securely bound and bundled and shall not weigh more than fifty pounds.
(Ord. 91-11-18. Passed 11-18-91.)
(c) The owner of all commercial establishments and multifamily dwellings having four or more units shall provide a receptacle of suitable cubic feet storage to accommodate the pick up schedule of the approved contractor. The owner shall maintain the location in a clean and sanitary condition.
(Ord. 01-13. Passed 9-17-01.)

951.04 LOCATION OF RECEPTACLES.
(a) Every person shall place all containers required by this article and all paper and waste in a convenient place for pick up by the approved contractor.
(b) "Dumpsters" shall be located a minimum of five feet from the property line. The approved contractor shall determine the location suitable for convenient and safe pick up.

(c) All dumpsters located in residential zoned areas shall be located in the rear of the property if possible and screened as may be necessary so as not to be visible from the public street at the front of the property.
(Ord. 01-13. Passed 9-17-01.)

951.05 COLLECTION OF LARGE BRANCHES, BRUSH AND CHRISTMAS TREES.

(EDITOR'S NOTE: Former Section 951.05 was repealed by Ordinance 2000-9, passed May 1, 2001.)

951.06 DAYS AND AREAS OF COLLECTIONS DESIGNATED.

Except for collection made more frequently than once per week, garbage and waste shall be collected and all persons shall make the same available upon such schedule as Waste Management shall determine. Collections that fall on the holidays of New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day will be picked up on the following day. All subsequent pickups during the week in which the holiday falls shall be delayed one day. (Passed 8-19-96.)

951.07 MONTHLY COLLECTION CHARGE.

(a) Single Family Residents Requiring One Collection and Recycling Per Week. A monthly fee inclusive of recycling shall be charged and billed by Waste Management for the collection of garbage, food waste or other matter of decay, ashes, cans, bottles, paper, rubbish and other trash and garbage that do not require special arrangements to be made by the owner or person desiring to have the same collected. Recycling shall include glass bottles, jars, metal food and beverage cans. plastic bottles (soda, milk/water, laundry, detergent and softener) and newspaper.

(b) Multi-Family or Commercial Unit - Additional Collections Per Week. Waste Management, with consultation of the owner of the multi-family or commercial unit, shall determine the amount of average waste to be collected and the number of collections needed per week to keep the multi-family or commercial unit free of waste so as to prevent a health hazard or unsightly presentation and Waste Management shall set such rate as appropriate depending on the circumstances as set forth above. Further, for multi-family units and commercial units, at the option of Waste Management, may be billed directly by its agent for the collection and hauling of waste. All Commercial waste and matter for pick-up shall be placed at the point of collection by 6:00 a.m. on the day of collection. (Passed 8-19-96.)

951.08 PLACEMENT AND REMOVAL OF RECEPTACLES.

All garbage or trash to be hauled in accordance with the provisions of this article shall be placed in a spot accessible to the garbage collector not more than twenty-four hours previous to 6:00 a.m. on the day of collection. No garbage or waste shall be allowed to stand on any of the sidewalks or alleys of the City for more than twenty-four hours after such collection has been made, but shall, if deposited after such collection, be immediately removed at the expense of the person responsible for depositing same, who shall also be subject to the penalty provided for the violation of this article.
(Passed 8-19-96.)

951.09 PROHIBITED CONDUCT.

No person shall scatter, throw or in any manner place upon any street, alley, public square or other highway in the City any paper, ashes, trash, decayed fruit, vegetable refuse, wet garbage or other waste material as defined in this article.
(Ord. 91-11-18. Passed 11-18-91.)

951.10 EXTRA COLLECTIONS.

Any person desiring to have garbage collected more frequently than the quantity of such garbage or waste would require under this article may have the same collected by making arrangements with Waste Management and pay such sums as is determined by Waste Management for the amount to be collected and/or additional frequency. Extra collections include, but are not limited to, white goods, furniture, construction debris, tires and miscellaneous bulky items.
(Passed 8-19-96.)

951.11 STORAGE OF GARBAGE OR WASTE.

To prevent the creation of a fire hazard or condition detrimental to the general health and welfare of the citizens of the City, no person shall store any wet garbage or waste on or about any property owned or occupied by him longer than one week.
(Ord. 91-11-18. Passed 11-18-91.)

951.12 FAILURE TO PAY COLLECTION CHARGES.

No person shall fail to pay the collection fees or charges imposed by this article. Anyone who violates this article shall be guilty of a misdemeanor and upon conviction thereof, shall be fined not less than one hundred dollars ($100.00) nor more than five hundred dollars ($500.00). Each and every day that person violates any part of this article shall constitute a separate offense.
(Ord. 8-19-96.)

City Council
101 East Washington Street
Charles Town, WV 25414

Meeting: 04/01/24
Department: City Council
Initiator:

SCHEDULED

AGENDA ITEM (ID #)

2024-368: Payment of Bills - April 1, 2024

ATTACHMENTS:

- GENERAL FUND COUNCIL REPORT 2024 4 01.pdf
- CAPITAL RESERVE COUNCIL REPORT 2024 04 01.pdf
- PARKS N REC COUNCIL REPORT 2024 04 01.pdf

VENDOR SORT KEY	DATE	DESCRIPTION	FUND	DEPARTMENT	AMOUNT
10-42 TACTICAL LLC	3/29/24	CODE ENFORCEMENT BADGES	GENERAL FUND	ENFORCEMENT AGENCY	138.60
	3/29/24	UNIFORMS	GENERAL FUND	POLICE DEPARTMENT	190.00
	3/29/24	UNIFORMS	GENERAL FUND	POLICE DEPARTMENT	154.00
	3/29/24	PD UNIFORMS	GENERAL FUND	POLICE DEPARTMENT	179.97
	3/29/24	PD UNIFORMS	GENERAL FUND	POLICE DEPARTMENT	18.00
	3/29/24	PD UNIFORMS	GENERAL FUND	POLICE DEPARTMENT	164.97
	3/29/24	PD UNIFORMS	GENERAL FUND	POLICE DEPARTMENT	18.00
	3/29/24	PD UNIFORMS	GENERAL FUND	POLICE DEPARTMENT	28.00
	3/29/24	LIPSCOME/BOUND JACKET	GENERAL FUND	POLICE DEPARTMENT	666.90
	3/29/24	UNIFORMS	GENERAL FUND	STREETS & HIGHWAYS	196.48
	3/29/24	UNIFORMS	GENERAL FUND	STREETS & HIGHWAYS	72.00
	3/29/24	UNIFORMS	GENERAL FUND	STREETS & HIGHWAYS	504.00
	3/29/24	UNIFORMS	GENERAL FUND	STREETS & HIGHWAYS	351.00
	3/29/24	UNIFORMS	GENERAL FUND	STREETS & HIGHWAYS	66.00
	3/29/24	UNIFORMS	GENERAL FUND	STREETS & HIGHWAYS	332.00
	3/29/24	UNIFORMS	GENERAL FUND	STREETS & HIGHWAYS	72.00
	3/29/24	UNIFORMS	GENERAL FUND	STREETS & HIGHWAYS	130.00
	3/29/24	UNIFORMS	GENERAL FUND	STREETS & HIGHWAYS	83.00
				TOTAL:	3,364.92
AMERICAN LEGAL PUBLISHING CORP	3/29/24	ANNUAL FEE 1/1/24-1/1/25	GENERAL FUND	CITY HALL	465.00
				TOTAL:	465.00
ANTONY VALENTINE	3/29/24	TRAFFIC TICKET OVERPAYMENT	GENERAL FUND	NON-DEPARTMENTAL	75.00
				TOTAL:	75.00
APPLE VALLEY WASTE SERVICE, INC.	3/29/24	TRASH SERVICE FEB 2024	GENERAL FUND	NON-DEPARTMENTAL	525.00
	3/29/24	TRASH SERVICE FEB 2024	GENERAL FUND	STREETS & HIGHWAYS	660.13
				TOTAL:	1,185.13
BAAKA LLC	3/29/24	FACADE IMPROVEMENT 217 W W	GENERAL FUND	CONT/TRNSFR 2 OTHR FUN	800.00
				TOTAL:	800.00
BOLAND TRANE SERVICES INC	3/29/24	MARCH24 HVAC 661 S GEORGE	GENERAL FUND	POLICE DEPARTMENT	457.00
				TOTAL:	457.00
CHERYL PETERSON	3/29/24	REIMB	GENERAL FUND	ENFORCEMENT AGENCY	76.68
				TOTAL:	76.68
CHARLES TOWN BUILDING COMMISSION	3/29/24	APRIL 2024 CITY RENTS	GENERAL FUND	CITY HALL	2,550.00
	3/29/24	APRIL 2024 CITY RENTS	GENERAL FUND	CITY HALL	16,667.00
	3/29/24	APRIL 2024 CITY RENTS	GENERAL FUND	POLICE DEPARTMENT	7,840.98
				TOTAL:	27,057.98
DIVISION OF HIGHWAYS	3/29/24	SALT BRINE 2/29/2024	GENERAL FUND	STREETS & HIGHWAYS	544.64

VENDOR SORT KEY	DATE	DESCRIPTION	FUND	DEPARTMENT	AMOUNT
FRONTIER, INC.	3/29/24	CITY&PD PHONE SERV 3/4-4/3	GENERAL FUND	CITY HALL	1,553.28
	3/29/24	RH-108N GEORGE 2/25/24-3/2	GENERAL FUND	CITY HALL	47.50
	3/29/24	PD RINGDOWN 3/1/24-3/31/24	GENERAL FUND	POLICE DEPARTMENT	56.68
	3/29/24	CITY&PD PHONE SERV 3/4-4/3	GENERAL FUND	POLICE DEPARTMENT	1,553.28
	3/29/24	PD FAXLINE 2/7-3/6/24	GENERAL FUND	POLICE DEPARTMENT	125.31
				TOTAL:	3,336.05
GREENWAY ENGINEERING, INC.	3/29/24	SETUP/PROTECTION PERMIT	CAPITAL RESERVE	STREETS & TRANSPORTATI	405.00
	3/29/24	SETUP/PROTECTION PERMIT	CAPITAL RESERVE	STREETS & TRANSPORTATI	8,855.00
	3/29/24	SETUP/PROTECTION PERMIT	CAPITAL RESERVE	STREETS & TRANSPORTATI	4,750.00
				TOTAL:	14,010.00
GUARDIAN	3/29/24	FEB21 VISION PREMIUM	GENERAL FUND	ECONOMIC DEVELOPMENT	9.25
	3/29/24	MAR24 VISION PREMIUM	GENERAL FUND	ECONOMIC DEVELOPMENT	9.25
	3/29/24	FEB21 VISION PREMIUM	GENERAL FUND	TREASURER'S OFFICE	38.87
	3/29/24	MAR24 VISION PREMIUM	GENERAL FUND	TREASURER'S OFFICE	48.12
	3/29/24	FEB21 VISION PREMIUM	GENERAL FUND	CITY CLERK'S OFFICE	24.76
	3/29/24	MAR24 VISION PREMIUM	GENERAL FUND	CITY CLERK'S OFFICE	24.76
	3/29/24	FEB21 VISION PREMIUM	GENERAL FUND	ENFORCEMENT AGENCY	9.25
	3/29/24	MAR24 VISION PREMIUM	GENERAL FUND	ENFORCEMENT AGENCY	9.25
	3/29/24	FEB21 VISION PREMIUM	GENERAL FUND	BUILDING INSPECTION	9.25
	3/29/24	MAR24 VISION PREMIUM	GENERAL FUND	BUILDING INSPECTION	14.11
	3/29/24	FEB21 VISION PREMIUM	GENERAL FUND	PLANNING & ZONING	23.36
	3/29/24	MAR24 VISION PREMIUM	GENERAL FUND	PLANNING & ZONING	18.50
	3/29/24	FEB21 VISION PREMIUM	GENERAL FUND	CITY HALL	14.11
	3/29/24	MAR24 VISION PREMIUM	GENERAL FUND	CITY HALL	14.11
	3/29/24	FEB21 VISION PREMIUM	GENERAL FUND	PARKING	9.25
	3/29/24	MAR24 VISION PREMIUM	GENERAL FUND	PARKING	9.25
	3/29/24	FEB21 VISION PREMIUM	GENERAL FUND	POLICE DEPARTMENT	158.00
	3/29/24	MAR24 VISION PREMIUM	GENERAL FUND	POLICE DEPARTMENT	195.47
	3/29/24	FEB21 VISION PREMIUM	GENERAL FUND	STREETS & HIGHWAYS	27.75
	3/29/24	MAR24 VISION PREMIUM	GENERAL FUND	STREETS & HIGHWAYS	27.75
				TOTAL:	694.42
JEFFERSON COUNTY CIRCUIT COURT	3/29/24	APPEAL DELAINE ENGLEBERT	GENERAL FUND	NON-DEPARTMENTAL	20.00
				TOTAL:	20.00
JEFFERSON COUNTY EMERGENCY COMMUNICATI	3/29/24	CAD MOBILE DATA11/6/23-12/	GENERAL FUND	POLICE DEPARTMENT	441.13
				TOTAL:	441.13
JEFFERSON PUBLISHING COMPANY, INC.	3/29/24	2/28 NPH BZA24-01-MARK ROP	GENERAL FUND	PLANNING & ZONING	48.90
	3/29/24	3/6 NPH PT3 TRAFFIC CODE	GENERAL FUND	PLANNING & ZONING	46.86
	3/29/24	12/6 WEEKLY EVENT CALENDAR	GENERAL FUND	CITY HALL	69.50
	3/29/24	12/16 WEEKLY EVENT CALENDA	GENERAL FUND	CITY HALL	69.50
	3/29/24	12/20 WEEKLY EVENT CALENDA	GENERAL FUND	CITY HALL	69.50

VENDOR SORT KEY	DATE	DESCRIPTION	FUND	DEPARTMENT	AMOUNT
	3/29/24	EAP PREM FEES 1/1/24-3/31/	GENERAL FUND	ECONOMIC DEVELOPMENT	1.32
	3/29/24	EAP PREM FEES 1/1/24-3/31/	GENERAL FUND	ECONOMIC DEVELOPMENT	1.32
	3/29/24	EAP PREM FEES 1/1/24-3/31/	GENERAL FUND	CITY MANAGER'S OFFICE	2.64
	3/29/24	EAP PREM FEES 1/1/24-3/31/	GENERAL FUND	CITY MANAGER'S OFFICE	2.64
	3/29/24	EAP PREM FEES 1/1/24-3/31/	GENERAL FUND	CITY MANAGER'S OFFICE	2.64
	3/29/24	EAP PREM FEES 1/1/24-3/31/	GENERAL FUND	TREASURER'S OFFICE	3.96
	3/29/24	EAP PREM FEES 1/1/24-3/31/	GENERAL FUND	TREASURER'S OFFICE	3.96
	3/29/24	EAP PREM FEES 1/1/24-3/31/	GENERAL FUND	TREASURER'S OFFICE	3.96
	3/29/24	EAP PREM FEES 1/1/24-3/31/	GENERAL FUND	CITY CLERK'S OFFICE	1.32
	3/29/24	EAP PREM FEES 1/1/24-3/31/	GENERAL FUND	CITY CLERK'S OFFICE	1.32
	3/29/24	EAP PREM FEES 1/1/24-3/31/	GENERAL FUND	CITY CLERK'S OFFICE	1.32
	3/29/24	EAP PREM FEES 1/1/24-3/31/	GENERAL FUND	ENFORCEMENT AGENCY	1.32
	3/29/24	EAP PREM FEES 1/1/24-3/31/	GENERAL FUND	ENFORCEMENT AGENCY	1.32
	3/29/24	EAP PREM FEES 1/1/24-3/31/	GENERAL FUND	ENFORCEMENT AGENCY	1.32
	3/29/24	EAP PREM FEES 1/1/24-3/31/	GENERAL FUND	BUILDING INSPECTION	1.32
	3/29/24	EAP PREM FEES 1/1/24-3/31/	GENERAL FUND	BUILDING INSPECTION	1.32
	3/29/24	EAP PREM FEES 1/1/24-3/31/	GENERAL FUND	BUILDING INSPECTION	1.32
	3/29/24	EAP PREM FEES 1/1/24-3/31/	GENERAL FUND	PLANNING & ZONING	3.96
	3/29/24	EAP PREM FEES 1/1/24-3/31/	GENERAL FUND	PLANNING & ZONING	3.96
	3/29/24	EAP PREM FEES 1/1/24-3/31/	GENERAL FUND	PLANNING & ZONING	3.96
	3/29/24	EAP PREM FEES 1/1/24-3/31/	GENERAL FUND	CITY HALL	0.00
	3/29/24	EAP PREM FEES 1/1/24-3/31/	GENERAL FUND	CITY HALL	1.32
	3/29/24	EAP PREM FEES 1/1/24-3/31/	GENERAL FUND	CITY HALL	1.32
	3/29/24	EAP PREM FEES 1/1/24-3/31/	GENERAL FUND	PARKING	1.32
	3/29/24	EAP PREM FEES 1/1/24-3/31/	GENERAL FUND	PARKING	1.32
	3/29/24	EAP PREM FEES 1/1/24-3/31/	GENERAL FUND	PARKING	1.32
	3/29/24	EAP PREM FEES 1/1/24-3/31/	GENERAL FUND	POLICE DEPARTMENT	22.44
	3/29/24	EAP PREM FEES 1/1/24-3/31/	GENERAL FUND	POLICE DEPARTMENT	22.44
	3/29/24	EAP PREM FEES 1/1/24-3/31/	GENERAL FUND	POLICE DEPARTMENT	22.44
	3/29/24	EAP PREM FEES 1/1/24-3/31/	GENERAL FUND	STREETS & HIGHWAYS	5.28
	3/29/24	EAP PREM FEES 1/1/24-3/31/	GENERAL FUND	STREETS & HIGHWAYS	5.28
	3/29/24	EAP PREM FEES 1/1/24-3/31/	GENERAL FUND	STREETS & HIGHWAYS	5.28
				TOTAL:	137.28
MOTOROLA SOLUTIONS, INC.	3/29/24	ANN DEVICE LIC12/8/23-12//	GENERAL FUND	POLICE DEPARTMENT	487.50
				TOTAL:	487.50
STAPLES ADVANTAGE	3/29/24	CUPS/PLATES/SUGAR/ DRY ERA	GENERAL FUND	CITY HALL	22.36
	3/29/24	CUPS/PLATES/SUGAR/ DRY ERA	GENERAL FUND	CITY HALL	2.18
	3/29/24	CUPS/PLATES/SUGAR/ DRY ERA	GENERAL FUND	CITY HALL	45.68
	3/29/24	CUPS/PLATES/SUGAR/ DRY ERA	GENERAL FUND	CITY HALL	47.72
	3/29/24	COPY PAPER/INK JET	GENERAL FUND	CITY HALL	59.56
	3/29/24	COPY PAPER/INK JET	GENERAL FUND	CITY HALL	5.58
	3/29/24	COPY PAPER/INK JET	GENERAL FUND	CITY HALL	44.49
				TOTAL:	227.57

VENDOR SORT KEY	DATE	DESCRIPTION	FUND	DEPARTMENT	AMOUNT

========== FUND TOTALS ==========

001	GENERAL FUND	54,702.75
200	CAPITAL RESERVE	106,761.72
	GRAND TOTAL:	161,464.47

TOTAL PAGES: 4

APPROVED BY: _____

APPROVED BY: _____

SELECTION CRITERIA

SELECTION OPTIONS

VENDOR SET: 01-City of Charles Town
VENDOR: All
CLASSIFICATION: All
BANK CODE: All
ITEM DATE: 0/00/0000 THRU 99/99/9999
ITEM AMOUNT: 99,999,999.00CR THRU 99,999,999.00
GL POST DATE: 0/00/0000 THRU 99/99/9999
CHECK DATE: 3/29/2024 THRU 3/29/2024

PAYROLL SELECTION

PAYROLL EXPENSES: NO
EXPENSE TYPE: N/A
CHECK DATE: 0/00/0000 THRU 99/99/9999

PRINT OPTIONS

PRINT DATE: Check Date
SEQUENCE: By Vendor Sort
DESCRIPTION: Item
GL ACCTS: NO
REPORT TITLE: COUNCIL REPORT
SIGNATURE LINES: 2

PACKET OPTIONS

INCLUDE REFUNDS: YES
INCLUDE OPEN ITEM:NO

VENDOR SORT KEY	DATE	DESCRIPTION	FUND	DEPARTMENT	AMOUNT
FORRESTER FARM EQUIPMENT LTD	3/29/24	2023 NEW HOLLAND BACKHOE	CAPITAL RESERVE	STREETS & TRANSPORTATI	80,720.00
				TOTAL:	80,720.00
GREENWAY ENGINEERING, INC.	3/29/24	SETUP/PROTECTION PERMIT	CAPITAL RESERVE	STREETS & TRANSPORTATI	405.00
	3/29/24	SETUP/PROTECTION PERMIT	CAPITAL RESERVE	STREETS & TRANSPORTATI	8,855.00
	3/29/24	SETUP/PROTECTION PERMIT	CAPITAL RESERVE	STREETS & TRANSPORTATI	4,750.00
				TOTAL:	14,010.00
KIMLEY-HORN AND ASSOCIATES, INC.	3/29/24	SERVICES THROUGH 2/29/2024	CAPITAL RESERVE	STREETS & TRANSPORTATI	4,125.42
				TOTAL:	4,125.42
TEK ADVISORS	3/29/24	TECH SERVICE JAN2024	CAPITAL RESERVE	GENERAL GOVERNMENT	7,906.30
				TOTAL:	7,906.30

========== FUND TOTALS ==========

200	CAPITAL RESERVE	106,761.72
	GRAND TOTAL:	106,761.72

TOTAL PAGES: 1

APPROVED BY: _____

APPROVED BY: _____

SELECTION CRITERIA

SELECTION OPTIONS

VENDOR SET: 01-City of Charles Town
VENDOR: All
CLASSIFICATION: All
BANK CODE: Include: CAP1
ITEM DATE: 0/00/0000 THRU 99/99/9999
ITEM AMOUNT: 99,999,999.00CR THRU 99,999,999.00
GL POST DATE: 0/00/0000 THRU 99/99/9999
CHECK DATE: 3/29/2024 THRU 3/29/2024

PAYROLL SELECTION

PAYROLL EXPENSES: NO
EXPENSE TYPE: N/A
CHECK DATE: 0/00/0000 THRU 99/99/9999

PRINT OPTIONS

PRINT DATE: Check Date
SEQUENCE: By Vendor Sort
DESCRIPTION: Item
GL ACCTS: NO
REPORT TITLE: COUNCIL REPORT
SIGNATURE LINES: 2

PACKET OPTIONS

INCLUDE REFUNDS: YES
INCLUDE OPEN ITEM:NO

VENDOR SORT KEY	DATE	DESCRIPTION	FUND	DEPARTMENT		AMOUNT
AC & T CO., INC	3/29/24	JMP PORTA POTTY SERV	PARKS & REC	PARKS & REC		265.00
					TOTAL:	265.00
CHRIS OTT	3/29/24	JR TENNIS TEAM JACKETS/SHI	PARKS & REC	PARKS & REC		140.00
	3/29/24	JR TENNIS TEAM JACKETS/SHI	PARKS & REC	PARKS & REC		50.00
	3/29/24	JR TENNIS TEAM JACKETS/SHI	PARKS & REC	PARKS & REC		40.00
					TOTAL:	230.00
FRONTIER, INC	3/29/24	JMP PHONE SERV FEB 2024	PARKS & REC	PARKS & REC		75.08
					TOTAL:	75.08
ORTEGAS TACO SHOP	3/29/24	PARKS STRATEGIC RETREAT 20	PARKS & REC	NON-DEPARTMENTAL		307.50
					TOTAL:	307.50

========== FUND TOTALS ==========

207	PARKS & REC	877.58
	GRAND TOTAL:	877.58

TOTAL PAGES: 1

APPROVED BY: _____

APPROVED BY: _____

SELECTION CRITERIA

SELECTION OPTIONS

VENDOR SET: 03-CT BOARD OF P&R
VENDOR: All
CLASSIFICATION: All
BANK CODE: All
ITEM DATE: 0/00/0000 THRU 99/99/9999
ITEM AMOUNT: 99,999,999.00CR THRU 99,999,999.00
GL POST DATE: 0/00/0000 THRU 99/99/9999
CHECK DATE: 3/29/2024 THRU 3/29/2024

PAYROLL SELECTION

PAYROLL EXPENSES: NO
EXPENSE TYPE: N/A
CHECK DATE: 0/00/0000 THRU 99/99/9999

PRINT OPTIONS

PRINT DATE: Check Date
SEQUENCE: By Vendor Sort
DESCRIPTION: Item
GL ACCTS: NO
REPORT TITLE: COUNCIL REPORT
SIGNATURE LINES: 2

PACKET OPTIONS

INCLUDE REFUNDS: YES
INCLUDE OPEN ITEM:NO

City Council
101 East Washington Street
Charles Town, WV 25414

Meeting: 04/01/24
Department: City Council
Category: Report
Initiator:

SCHEDULED

AGENDA ITEM (ID #)

2024-337: Charles Town Police Department Monthly Stat Report for February

ATTACHMENTS:

- CTPD Stats February 2024.pdf

Charles Town Police Department
Monthly Stat Report

February 2024

911 Hangup	1	Missing Person	
Abandoned Vehicle	15	Motorist Assist	15
Alarm	17	MVA w/ Entrapment	1
Animal Complaint		MVA Hit and Run	5
Assault	3	MVA No Injury	15
Attempt to Locate	1	MVA Into Structure	
BOLO	3	MVA w/ Injury	1
Breaking and Entering	1	Out of Car (Investigation/Meeting/Court)	2
Breaking and Entering Veh		Panhandling	7
Building Check	48	Overdose	
Capias Recall by Court	47	Overdose-Death	
Capias Service	4	Parking Complaint	12
Code Enforcement	3	Public Assist (In Person Contact)	11
Counterfeit Money	1	Public Service (Phone Contact)	82
Court/Bailiff Duty	2	Pursuit	1
Crossing Guard Duties		Rabid Animal	2
Destruction of Property	1	Reckless Driver	1
Directed Patrol	308	Road Patrol	16
Disabled Vehicle	4	Robbery	1
Disturbance	30	Shoplifting	3
Domestic Battery	2	Special Event/Detail	6
Drug Activity	4	Suspicious Activity	9
DUI	3	Suspicious Mail	
EMS Assist	6	Suspicious Person	
Fingerprinting	9	Suspicious Vehicle	6
Fire Assist	2	Terrorist Threats	1
Follow Up	23	Theft	1
Foot Patrol	1	Threats	1
Found Property	6	Traffic Hazzard	6
Fraud	2	Transport	1
Gunshots Heard	1	Trespassing	3
Harassment	1	Unattended Death	
Hardcopy Check	1	Vehicle Fire	1
Illegal Burn	1	VIN Verification	1
Indecent Activity	1	Warrant Service	10
Injured Animal	2	Welfare Check	18
Intoxicated Person		Wires Down	
Juvenile Complaint	2	**Total calls of service**	**795**

Assists/Back-Ups:	Ranson	**13**		Sheriffs Dept.	**37**
	Harpers Ferry			State Police	**2**
	Shepherdstown			Other (not including CTPD)	
				Total Assists	**52**

	Male	Female	Caucasian	African American	Hispanic	Asian	Other/ Unknown	Total
Defendants:	13	11	18	5	0	0	1	**24**
Total Charges	28	18	32	13	0	0	1	**46**
Citations:								**260**
- Moving								**103**
- Nonmoving								**143**
- Criminal								**8**
- S Ticket (Parking)								**6**
Stops	133	85	161	24	25	3	5	**218**
Warnings:								**111**
Stops	59	52	82	16	5	2	6	**111**
Total	**205**	148	**261**	**45**	**30**	**5**	**12**	
Incident Report								**58**
Parking								
- Citations								**225**
-Warnings								**30**

Charles Town Police Department
Monthly Stat Report
Charges by Offense/Gender/Race

February 2024

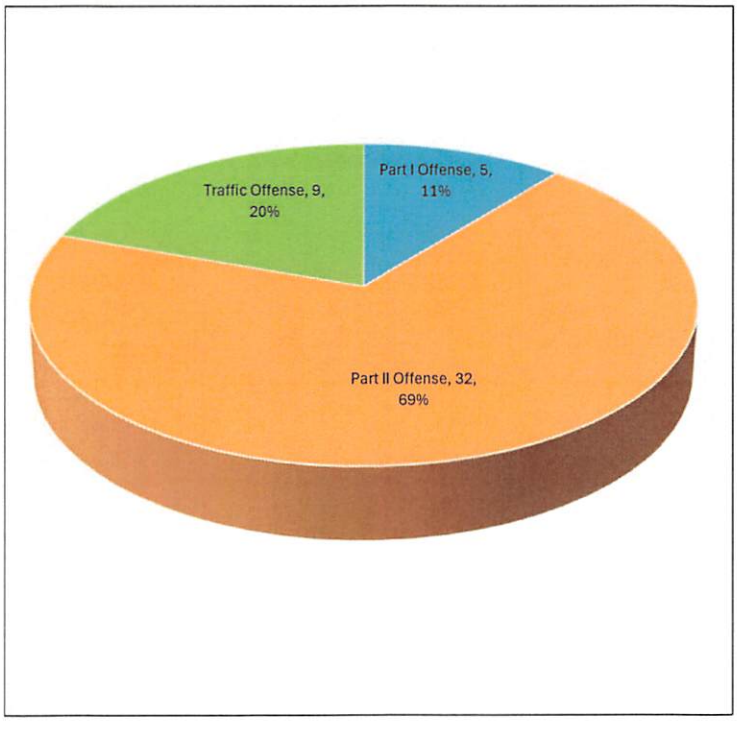
	Male	Female	Caucasian	African American	Hispanic	Asian	Unknown
PART I OFFENSE							
Burglary (Daytime)	1		1				
Burglary (Nighttime)							
Grand Larceny							
Malicious Assault							
Malicious Wounding							
Attempted Murder 1st Degree							
Murder 1st Degree							
Petit Larceny		1	1				
Robbery - Attempted							
Robbery	1	1	2				
Robbery 2nd Degree							
Sexual Assault 1st Degree							
Shoplifting		1	1				
Shoplifting 2nd Offense							
Shoplifting 3rd Offense							
Strangulation							
TOTAL	2	3	5	0	0	0	0
PART II OFFENSE							
Assault During Commission of Felony	2	1	3				
Attempted Disarm of Police Officer							
Attempted Escape from Custody							
Battery	1	2	2				1
Battery on Law Enforcement/EMS							
Bond Revocation							
Breaking and Entering							
Capias Served	3	1	2	2			
Child Abuse Resulting in Injury							
Child Neglect Creating Risk of Injury							
Conspiracy							
Conspiracy to Distribute Fentanyl							
Conspiracy to Distribute MDMA							
Conspiracy to Breaking and Entering							
Conspiracy to Possess w/Intent to Deliver Acid/LSD							
Conspiracy to Commit Petit Larceny Larceny							
Criminal Invasion of Privacy							
Cultivation of Marijuana							
Deadly Weapon on School Property							
Delivery of Controlled Substance							
Destruction of Property							
Destruction of Property - Felony							
Disorderly Conduct							
Distribution of Crack Cocaine							
Disturbing the Peace							
Domestic Assault							
Domestic Battery	1	1	2				
Domestic Battery 2nd Offense							
Domestic Battery 3rd Offense							
Driving Revoked for DUI	2	2	3	1			
Driving Revoked for DUI 2nd							
Driving Revoked for DUI 3rd							
Driving Revoked Non DUI Admin							
DUI	2		1	1			
DUI 2nd							
DUI 3rd							

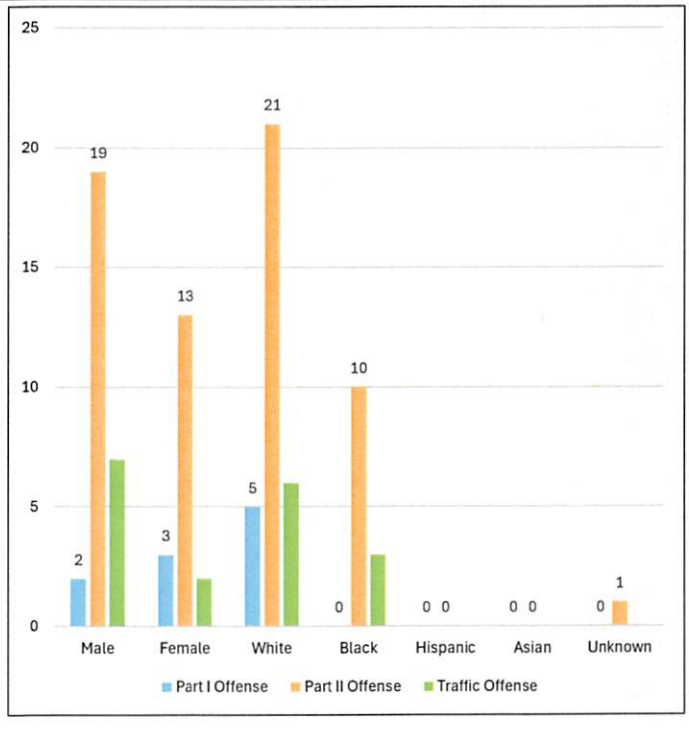
Charles Town Police Department
Monthly Stat Report
Charges by Offense/Gender/Race

DUI Aggravated							
DUI Causing Bodily Injury							
DUI - Drugs	1			1			
DUI - Drugs 2nd Offense							
DUI w/ Minor							
Embezzlement by Misuse Fiduciary Relationship		1	1				
Failure to Register for Child Abuse Registry							
False Alarm of Fire							
False Reporting of an Emergency							
Fleeing							
Fleeing on Foot							
FPO Violation							
Fraudulent Schemes							
Fugitive From Justice							
Incest							
Indecent Exposure							
Interfering with Emergency Communication							
Keeping Vicious Dog							
Obscene, Harassing Telephone Calls							
Obstructing an Officer		1		1			
Obtain Money, Property, Services by False Pretense							
Open Container							
Open Container in Vehicle							
Passing Stopped School Bus		1		1			
Phone Harassment							
Pimping							
Possession of Alcohol Under 21 yrs old		1	1				
Possession of Acetaminophene Hydrocondone							
Possession of Amphetamine							
Possession of Crack Cocaine	1			1			
Possession of Gabapentin	1		1				
Possession of Marijuana	2	1	2	1			
Possession of Mushrooms	1		1				
Possession of Suboxone	1		1				
Possession of Vape Product under 18							
Possession w/ Intent to Deliver Alprazolam							
Possession of Stolen Property							
Possession w/ Intent to Deliver Cocaine							
Possession w/ Intent to Deliver MDMA (Molly)							
Possession w/ Intent to Deliver Fentanyl							
Probation Violation							
Prohibited Person in Poss of Firearm	1		1				
Prostitution							
Prostitution 2nd Offense							
Providing Alcohol to Under 21							
Public Intoxication							
Reckless Driving							
Resisting Arrest		1		1			
Sexual Abuse 1st Degree							
Solicitation							
Theft of Utilities							
Transfer Receive Stolen Property							
Trespassing into Structure							
Unlawful Possession/Transport into WV Fentanyl							
Violation of Rabies Quarantine Requirements							
Willful Disruption of Government Process							
Worthless Check							
TOTAL	**19**	**13**	**21**	**10**	**0**	**0**	**1**

Charles Town Police Department
Monthly Stat Report
Charges by Offense/Gender/Race

TRAFFIC OFFENSE							
Cell Phone Violation							
Child Safety Restraint Violation							
Defective Equipment							
Driving Suspended	1	1	1	1			
Driving Suspended 2nd Offense							
Driving Suspended 3rd Offense							
Driving Too Fast for Conditions							
Exp/No MVI	1		1				
Expired/No Operators							
Expired/No Registration	3		3				
Fail to Keep Right							
Fail to Maintain Control	1		1				
Fail to Obey Traffic Control Device							
Fail to Obtain WV Operators							
Fail to Report Accident							
Failure to Yield At Intersection							
Following to Closely							
Improper Backing							
Improper Registration							
Leaving the Scene of Accident							
Left of Center							
No Insurance/No Proof of Insurance		1		1			
No Motorcycle Endorsement							
No Operators	1			1			
No Seatbelt							
One Way Violation							
Passing on Right							
Red Light Violation							
Speeding							
Speeding 3rd Offense							
TOTAL	**7**	**2**	**6**	**3**	**0**	**0**	**0**
TOTAL CHARGES	**28**	**18**	**32**	**13**	**0**	**0**	**1**





Charles Town Police Department

SRO Monthly Report

wn Middle School / 2023-2024 / February 2024

INVOLVEMENTS:					
Alcohol Related	1	Fire/Shelter Drills	1	SRO Use of Force	0
Battery on School Employee	0	Found Property	0	Suspensions	12
Citizen Assist	0	Incident Reports	2	Threats	1
Directed Patrols	0	Juvenile Petitions	2	Tobacco Related	2
Disturbance	7	Marijuana Possession	0	Trespassing	0
Evacuations	0	Parental Contacts	6	Vandalism/Theft	0
Extra Curricular Activities	4	Parking Complaints	0	Vehicle Accident	0
Fights	2	Reckless Driver	0	Welfare Check	0
Fire Department Assist	0	Social Media Related	2	***Total Involvements***	***42***

Officer Notes/Misc. Information:

YOUTH SERVICES:	
Total Classes Taught:	0
Students in Class:	N/A
Topics Taught:	See Misc.
One on One Contacts:	5
Total Students Served:	5

Charles Town Police Department

Total Traffic Citation Report, by Violation

Violation	Description	Total
17A-3-16	Expired Registration	76
17A-9-2	No Or Expired Registration	20
17A-9-3	Improper Registration	1
17B-2-1	No Operators	5
17B-2-12	Expired Operators	1
17B-4-3(a)	Driving Suspended/2nd/3rd	1
17B-4-3(b)	Driving Revoked For DUI/2nd/3rd	4
17B-4-3a	Driving Suspended or Revoked	5
17C-12-7	Fail To Stop For School Bus	3
17C-13-3	Parking Violation	6
17C-15-1	Unsafe-Improperly Equipped Vehicle	1
17C-15-36a	Sun-Screening Devices-Window Tint	1
17C-16-9	No Or Expired MVI	42
17C-3-4	Fail To Obey Traffic Control Device	4
17C-3-5	Fail To Obey Traffic Light	10
17C-4-2	Leaving The Scene Of An Accident	1
17C-5-2(e)	Basic DUI <.15	3
17C-6-1(e)	Speeding 2nd Or 3rd Offenses	1
17C-6-1a	Failure To Maintain Control	5
17C-6-1b	Speeding	52
17C-7-4	Passing On Right-Off Road	1
17C-7-8	One Way And Traffic Island Violation	1
17C-9-1	Fail Yield At Intersection	2
17D-2A-3	No Insurance	2
17D-2A-4	No Proof Of Insurance	4
CTPD171.07	Failure To Appear For Trial (CAPIAS)	4
CTPD530.02(f)	Solicit Money Or Other	3
ctpd521.06(a)(6)	Open Container In Public	1
Report Totals		**260**

Report Includes:

All dates of issue between `00:00:00 02/01/24` and `23:59:59 02/29/24`, All agencies matching `CTPD`, All issuing officers, All areas, All courts, All offense codes, All dispositions, All citation/warning types

Charles Town Police Department

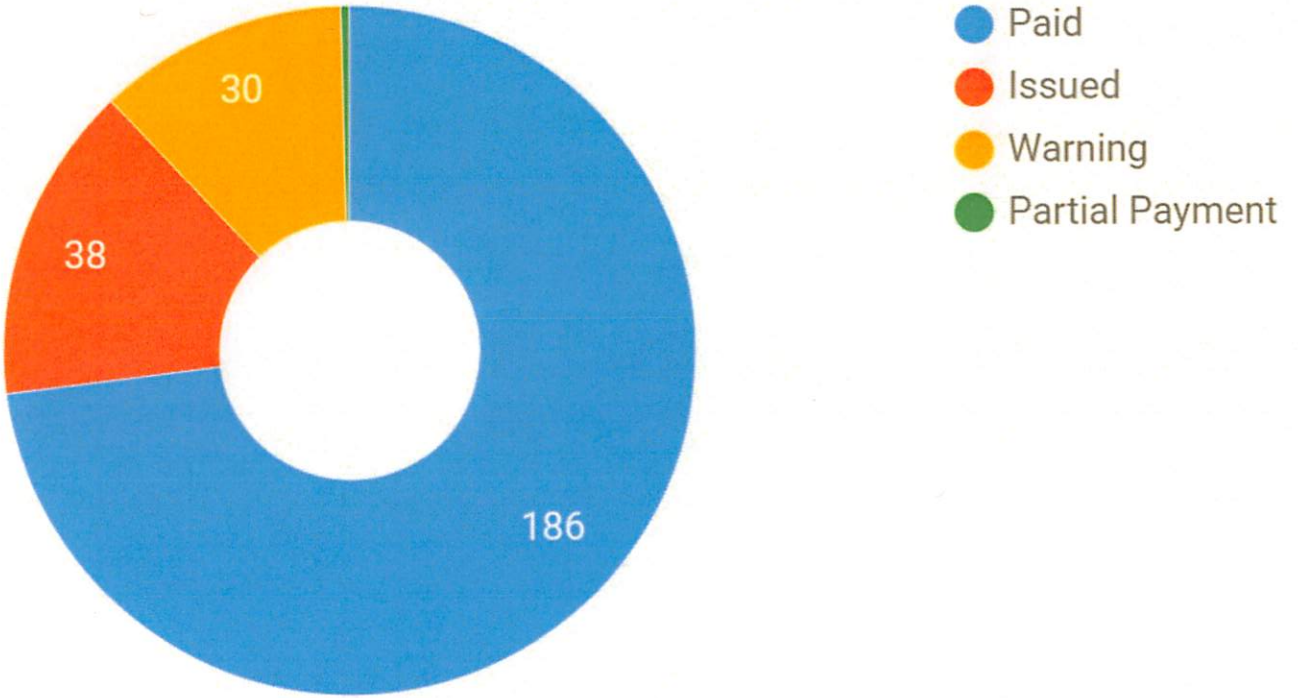
Total Traffic Warning Report, by Violation

Violation	Description	Total
17A-3-15	Improper Display Of Registration	21
17A-3-16	Expired Registration	21
17A-9-2	No Or Expired Registration	3
17C-12-5	Stop Sign Violation	1
17C-14-15	Use Handheld Communication Device	1
17C-15-1	Unsafe-Improperly Equipped Vehicle	11
17C-16-9	No Or Expired MVI	3
17C-3-4	Fail To Obey Traffic Control Device	6
17C-3-5	Fail To Obey Traffic Light	6
17C-3-5(c)	Right on Red	1
17C-6-1b	Speeding	32
17C-7-4	Passing On Right-Off Road	1
17C-7-9(3)	Improper Use Of Turn Lane	1
17C-9-3	Fail To Yield-Thru Highway	1
CTPD333.03	Hazardous Driving	2

Report Totals: **111**

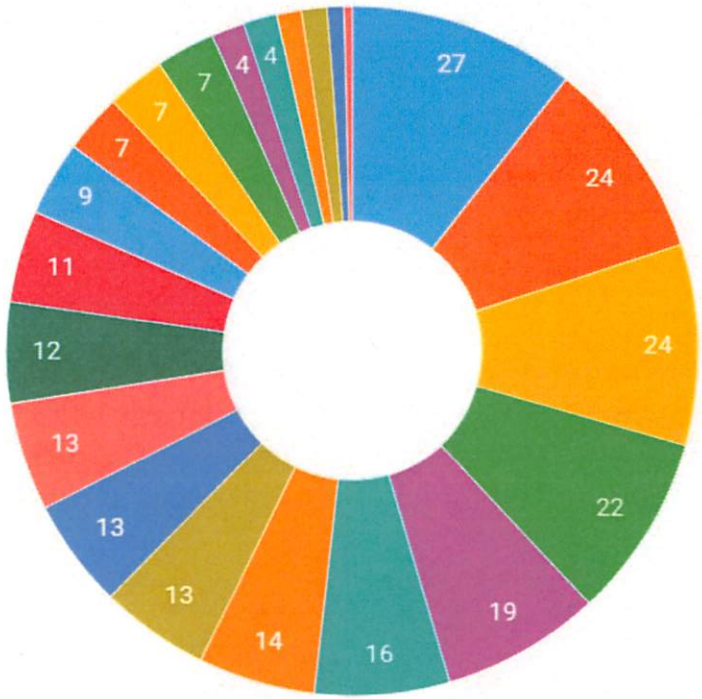
Report Includes:
All dates between `00:00:00 02/01/24` and `23:59:59 02/29/24`, All agencies matching `CTPD`, All issuing officers, All areas, All violations

City of Charles Town - Tickets By Status (Feb. 2024)



Data as of 3/18/2024, 12:00:00 AM

City of Charles Town - Tickets By Location (Feb. 2024)

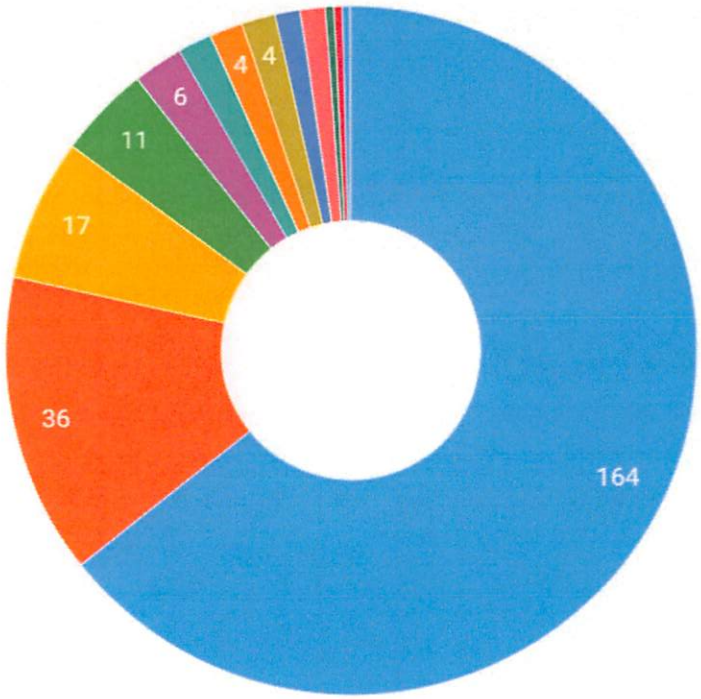


- 100 BLOCK NORTH CHARLES STREET
- 100 BLOCK WEST LIBERTY STREET
- 100 BLOCK WEST WASHINGTON STREET
- 100 BLOCK EAST LIBERTY STREET
- 100 BLOCK SOUTH CHARLES STREET
- 200 BLOCK NORTH GEORGE STREET
- 100 BLOCK EAST WASHINGTON STREET
- 100 BLOCK EAST CONGRESS STREET
- 200 BLOCK WEST LIBERTY STREET
- CHARLES STREET PARKING LOT
- LIBERTY STREET PARKING LOT
- 100 BLOCK NORTH SAMUEL STREET
- 100 BLOCK SOUTH SAMUEL STREET
- 200 BLOCK NORTH CHARLES STREET
- 200 BLOCK WEST WASHINGTON STREET
- 100 BLOCK SOUTH LAWRENCE STREET

▲ 1/2 ▼

Data as of 3/18/2024, 12:00:00 AM

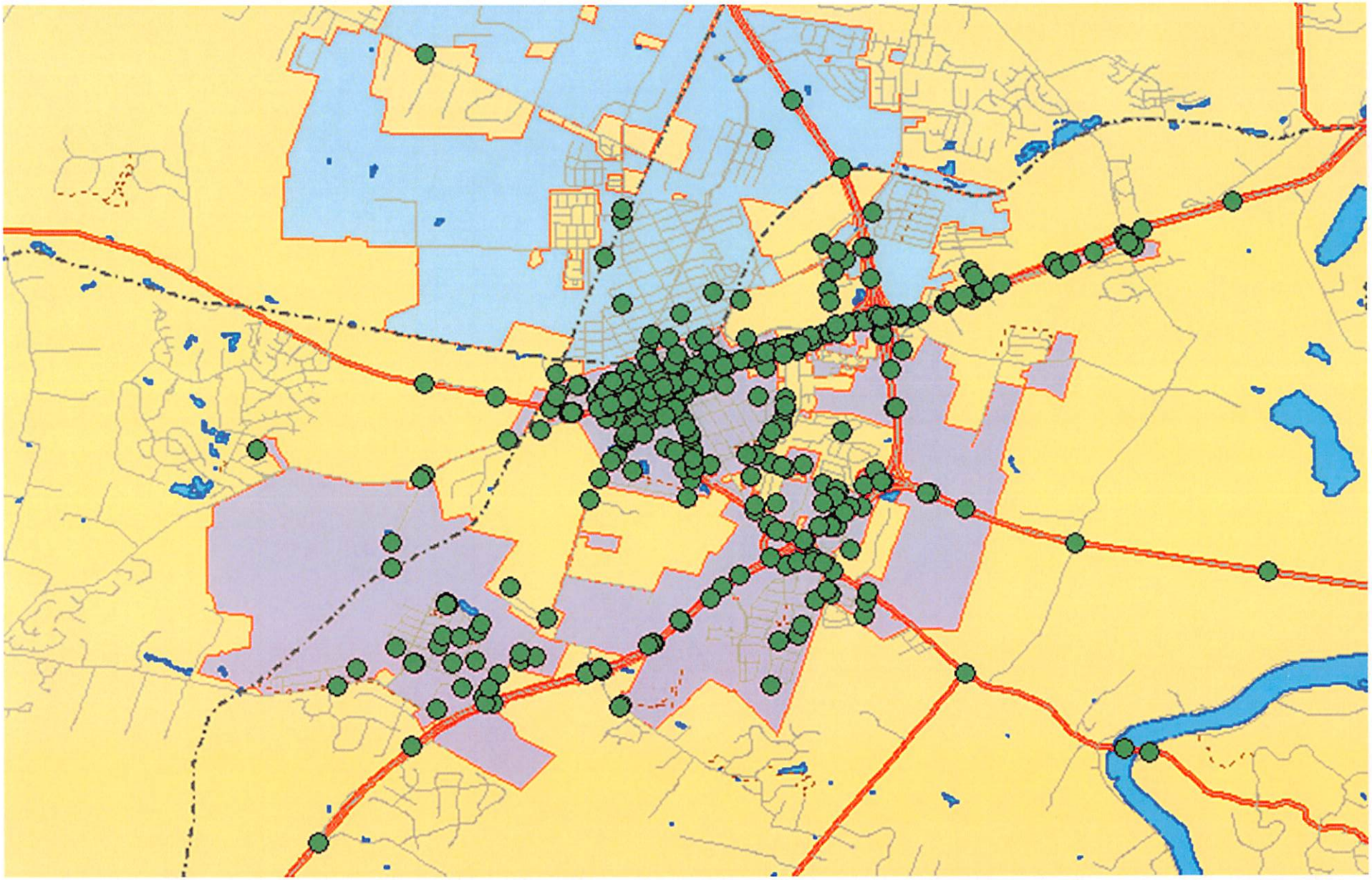
City of Charles Town - Tickets By Violation (Feb. 2024)

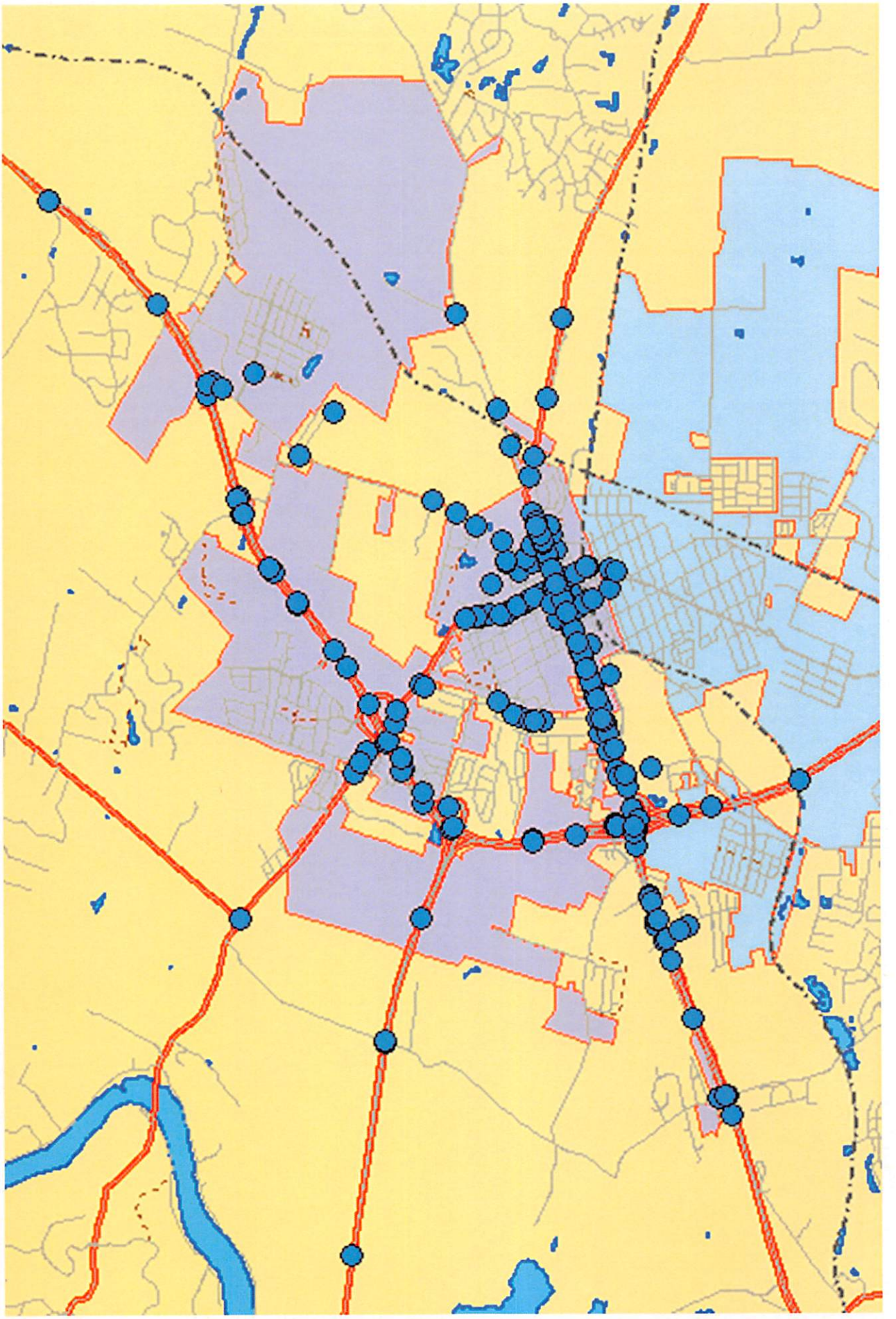


- Expired Meter
- Exceed 2 Hour Free Parking
- Accessible Parking Violation
- Permit Parking Only/Pay by App Violation (Liberty Street Lot)
- Parking Permit Violation
- Improper Manner of Parking
- Left wheel more than 18" from left (one-way) curb
- Right wheel more than 18" from right curb
- Yellow/Red Painted Curbs or Streets Violation
- 2 Hour Maximum Parking Violation
- Fire Hydrant Violation
- Immobilization Device (Booting) Fee
- Parked within 20 feet of a Crosswalk

Data as of 3/18/2024, 12:00:00 AM

February 2024 – All CTPD Calls





City Council
101 East Washington Street
Charles Town, WV 25414

Meeting: 04/01/24
Department: City Council
Category: Report
Initiator:

SCHEDULED

AGENDA ITEM (ID #)

2024-357: Upcoming Events in Charles Town

ATTACHMENTS:

- Upcoming Events in Charles Town 2024.pdf

2024 UPCOMING DATES

MARCH 20- 5:00 DANDRIDGE RIBBON CUTTING

APRIL 12- 4:30 BISHOP SIGN UNVEILING

APRIL 13- 9:00 FARMERS MARKET
10:00 LA GAZELLE RIBBON CUTTING
12:00 COURTHOUSE RIBBON CUTTING

*BLOOMS & BLOSSOMS ALL DAY, PUB CRAW AT 5PM

APRIL 20- 11:00 AM TREE PLANTING FOR ARBOR DAY
12:00 PM SUSTAIN BIO RIBBON CUTTING

JUNE 15- 10:00-5:00PM WV FEST

INFORMATION ONLY:
APRIL 18- MAIN STREET WV DIRECTOR RETREAT



City Council
101 East Washington Street
Charles Town, WV 25414

Meeting: 04/01/24
Department: City Council
Category: Information Only
Initiator:

SCHEDULED

AGENDA ITEM (ID #)

2024-358: Citizen's Letter

ATTACHMENTS:

- Public Comment Letter.pdf

RECEIVED
MAR 1 1 2024
JEFF
ENGINEERI

March 7,2024

Members, City of Charles Town Planning Commission

Dear Members:

My husband and I attended the Feb. 26 public hearing on the sketch plan for LGI Homes (SLD2023-04). We were told our concerns as adjoining property owners would be addressed at Preliminary Plan. But as my posting on Facebook below states, per your regulations, we will not be notified of the meeting or be allowed to comment or participate. This is simply not right.

Therefore, we respectfully request we receive WRITTEN NOTICE of when the preliminary plan is filed and adequate notice to comment in writing to the city planning commission prior to your discussion of the plan. I hope you would want to hear from us before deliberations.

Thank you. By the way , my post received 27 reactions of dismay, 8 comments and 3 shares.

Lyn Widmyer

1434 Cattail Run Road

Charles Town WV 25414

Facebook Post:

The future of Charles Town is being decided one subdivision at a time. And the public is not welcome to comment. I found this out when my husband and I attended a city planning commission to comment on a "sketch plan" that adjoins our property. The sketch plan, which does not conform to the city's own master plan, includes 467 houses, two major commercial pads (proposed for uses not allowed in the city), and major new roads. Our concerns were relatively minor: stormwater and buffer issues adjoining our farm. The planning commission basically brushed our concerns aside in approving, saying they will all be addressed at the preliminary plan stage. Here's the problem: the city does not notify the public or adjoining property owners when a preliminary plan is filed, does not allow public comment on a preliminary subdivision plan, , and excludes the public from participating when the city planning commission discusses the subdivision plan. The city planning commission says maybe this lack of citizen involvement should change. This cannot happen fast enough.

City Council
101 East Washington Street
Charles Town, WV 25414

Meeting: 04/01/24
Department: City Council
Category: Information Only
Initiator:

SCHEDULED

AGENDA ITEM (ID #)

2024-365: Charles Town Utility Board (CTUB) Meeting Minutes - March 13, 2024

ATTACHMENTS:

- 2024.03.13 UB MINUTES.pdf

Charles Town Utility Board
Regular Board Meeting
March 13, 2024

The Charles Town Utility Board held a regular meeting on March 13, 2024 at 4:00 P.M. Members of the Board present were John Nissel, Chairman; Duke Pierson, Vice Chairman; Tommy Stocks, Treasurer; Jeff Whitten, Board Member; and Heidi Parker, Board Member. Also present were Kristen Stolipher, Utility Manager; April Shultz, Assistant Utility Manager; Ashley Stottlemyer, Secretary; Robert Rodecker, Legal Counsel and Tricia Jackson, County Commission Liaison.

CALL TO ORDER

The Chairman called the meeting to order at 4:00 P.M.

APPROVAL OF MINUTES

Approval of February 28, 2024 Regular Meeting Minutes

The Chairman called for changes or corrections to the February 28, 2024 regular meeting minutes. Mrs. Jackson requested her attendance be recorded in the minutes.

Action: **Motion made by Mr. Pierson, second by Mr. Whitten, the Board unanimously approved the February 28, 2024 minutes as amended.**

PUBLIC COMMENT

Public comment was received from Jacquelyn Milliron.

NEW BUSINESS

Renewal & Replacement Project Resolution No. 17 – Contractor Pay Application No. 17

Mrs. Stolipher included the contractor application for Payment No. 17 in the amount of $254,947.95 for work completed.

Action: **Motion made by Mr. Pierson, second by Mr. Stocks, the Board unanimously approved Resolution No. 17.**

Nexom Inc. Review and Scope of Work

In anticipation of the Renewal and Replacement Project being completed, Mrs. Stolipher requested an assessment on the filters at the Charles Town Plant by Nexom as staff has had numerous issues with the operations of the filters since they were installed in 2015. She provided the assessment and scope of work to get them operational, which will be included in the fiscal year 2025 budget.

Action: **No action required by the Board.**

Discussion on Board Packet Reporting in the Interest of Public Transparency

Mrs. Parker requested staff include the spreadsheet which details the monthly Capital Improvement Fee's paid by development, as well as the expense report and flow data as they have been done in the past. Mr. Whitten suggested a future agenda item relating to what the Board wants included in the board packets. The Board provided discussions.

Action: **Motion made by Mrs. Parker to continue to include the capital improvement fees by subdivision spreadsheet the first meeting of the month and include the revenue and expense report and flow data the second meeting of the month. This motion failed due to lack of a second.**

MANAGER REPORTS

Utility Manager Report

Mrs. Stolipher mentioned a notice went out to WV American water customers regarding a delay in receiving the water meter reads. She also received a notice from WV American on new changes taking place so will bring this discussion back at the new meeting. Mrs. Stolipher is also continuing to update the strategic plan, obtaining easements for the collections project and progression on the Greenfield project. She will also have the water rate comparison requested last meeting at the next board meeting.

Chris Eckenrode provided a brief update on the Renewal and Replacement project, the water plant intake VFD project, the EPA Administrative Order, the Kings Crossing sewer tie-in at the water plant, the Cantor Hollow pump station design, Page Jackson water and sewer service evaluation, Greenfield force main project, the water and sewer specifications and drawings and the odor complaints at the Tuscawilla plant.

Action: **No action required by the Board.**

Chairman Report

The Chairman had no updates to report.

Action: **No action required by the Board.**

APPROVAL OF BILLS

March 13, 2024

Action: **Motion made by Mr. Stocks, second by Mr. Whitten, the Board unanimously approved the payment of the bills.**

ADJOURNMENT

There being no further business at this time, the Board adjourned the meeting at 4:50 P.M.

INFORMATION ONLY

The next meeting is scheduled for Wednesday, March 27, 2024 at 4:00 P.M. at 661 S. George Street.

John Nissel
Chairman

Ashley Stottlemyer
Secretary