CITY OF CHARLES TOWN

ORDINANCE COMMITTEE
AGENDA • MAY 21, 2026

Committee Meeting **COUNCIL CHAMBERS** **6:00 PM**
101 E Washington Street, Charles Town, WV 25414

1. CALL TO ORDER

2. UNFINISHED BUSINESS

2.1 : **2026-1516:** Article 111 - Council
Ord._2022-002_-_Article_111_Council.pdf

3. NEW BUSINESS

3.1 : **2026-1517:** Article 522 - PODA
2025-006 - Article 522 Private Outdoor Designated Areas (PODA).pdf

3.2 : **2026-1518:** Article 1104 - Trees
Ord. 2020.011 - Article 1104 Trees.pdf

4. ADJOURNMENT

5. NOTICE: The Public May View the Meeting Live by Clicking on the Event Link at: https://www.charlestownwv.us/government/agendas_minutes.php

Ordinance Committee
101 East Washington Street
Charles Town, WV 25414

SCHEDULED

AGENDA ITEM (ID #)

Meeting: 05/21/26
Department: Ordinance Committee
Category: Ordinance
Initiator:

2026-1516: Article 111 - Council

This ordinance was referred to the Ordinance Committee at the November 17, 2025, city council meeting.

ATTACHMENTS:
- Ord._2022-002_-_Article_111_Council.pdf

ARTICLE 111
Council

111.01 Rules of Council
111.02 Expenditure of public funds
111.03 Severability

CROSS REFERENCES
Open meeting law - see W. Va. Code Art. 6-9A
Composition - see W. Va. Code 8-5-7
Oath - see W. Va. Code 8-5-8
Term - see W. Va. Code 8-5-9
Vacancies - see W. Va. Code 8-5-10
Proceedings - see W. Va. Code Art. 8-9
General powers - see W. Va. Code Art. 8-12
Adoption of rules - see W. Va. Code 8-12-5(45)

111.01 RULES OF COUNCIL

(a) Time and place of meetings.

(1) Regular meetings. The regular meetings of Council shall generally be held at the Council Chambers located at 101 East Washington Street, on the first and third Mondays, unless otherwise scheduled, in each month at 7:00 p.m. A list of regular meeting dates will be available on the exterior City Hall bulletin board and website. If Council shall determine that the Council Chambers in City Hall are not or will not, for any reason, be an appropriate place for the holding of a meeting, the Council may, upon motion, second and majority vote, designate another place open to the public within the City for the holding of such meeting. Council may also hold remote meetings when special circumstances warrant such action but only after a motion, second, and majority vote. As with all public meetings, all Council members must be able to hear and be heard by other members and the proceedings must be accessible to the public so they can observe the Council in action.

(2) Special meetings. A special meeting is a separate Council session held at a different date and time than a regular meeting and may be called by the Mayor, the Presiding Officer of Council in the event of a mayoral vacancy, or any three members of Council. The purpose for holding a special meeting is to address matters that arise between regular meetings and require action by Council before the next regularly scheduled meeting. Notice of time, place, and purpose of the meeting, including a clear and specific description of any proposed action to be taken by Council, must be provided to all members at least three (3) days, excluding weekends and legal holidays, prior to the special meeting. A special meeting notice will be issued along with an agenda announcing any special meeting.

(b) Attendance. Members of Council are expected to be physically present for regular meetings but may attend up to four (4) regular meetings remotely during any fiscal year, provided appropriate technology is available that enables them to hear and be heard by other members of Council. Any member attending a meeting remotely after the four (4) approved regular meetings will only be able to observe the work of Council and may not participate as a member in discussion or any votes.

(c) Council may waive, via a resolution, the four (4) regular meeting limit on remote participation for all members when extenuating circumstances arise and more flexibility is needed to promote the orderly conduct of Council business.

(d) Agendas.
  (1) The City Clerk shall prepare a written agenda for all scheduled meetings which shall consist of items submitted by the Mayor, City Council members, and the City Manager.
  (2) The agenda shall be posted on the exterior bulletin board for City meetings located at 105 South George Street and on the City website three (3) days prior to the scheduled meeting. Revisions to the posted agenda can be made, however, the amended agenda must be made available at least two (2) days in advance of the scheduled meeting. For purposes of calculating the number of days in any notice period contained in these rules Saturdays, Sundays, and legal holidays are excluded.

(e) Presiding Officer.
  (1) The Presiding Officer must be physically present in the meeting room to take the chair unless all of Council is meeting remotely.
  (2) The Mayor shall take the chair at the hour appointed for Council to meet, and having called the members to order, shall preserve decorum and enforce a strict observance of these rules.
  (3) In the physical absence of the Mayor, unless all of Council is meeting remotely, the Mayor Pro-Tempore shall take the chair and assume all duties as appointed the Mayor. In the physical absence of both the Mayor and Mayor Pro-Tempore, unless all of Council is meeting remotely, and a quorum still being in attendance, the present members will elect the chair and that member will assume the duties appointed to the Mayor.
  (4) Upon the opening of an agenda item, the Presiding Officer shall introduce or cause to be introduced each item on the Council agenda prior to a motion, debate, and vote on the item.
  (5) The Presiding Officer can remove any member of the public attending a scheduled meeting of Council that is disruptive, to the extent that orderly conduct of the meeting is compromised, from the meeting with the assistance of a member of the Police Department upon proper direction.

(f) Filing of papers to be introduced at Council meetings and actions of the City Clerk.
In order to promote the orderly conduct of the business of Council and the timely preparation of an accurate agenda, the following rules are hereby established:
  (1) The Mayor, members of Council, and the City Manager must notify the City Clerk of any item for placement on an agenda at least four (4) days prior to the meeting for which action is intended.
  (2) Every effort should be made to submit all meeting materials that are actionable, including but not limited to ordinances, resolutions, petitions, reports, communications, and other documents, to the office of the City Clerk not later than 12:00 noon one (1) day, excluding holidays and weekends, immediately preceding the day of the meeting at which it is intended to be considered.
  (3) The written agenda and all related and supporting documentation for consideration at the intended meeting shall be distributed by the City Clerk to the Mayor and Council.
  (4) Nothing herein shall be construed to prohibit any member of Council, at the proper order of business, from introducing or submitting any ordinance, resolution, petition, committee report or communication during any regular meeting. Unless it is determined to be an emergency item, official action on any item presented to Council in this manner is prohibited until proper placement on the next Council agenda.

(g) Order of business at regular meetings.
  (1) The order of business for each regular meeting shall be:

(A) Call to Order
(B) Moment of Silence and Pledge of Allegiance
(C) Approval of the Minutes
(D) Public Comments
(E) Reports
(F) Unfinished Business
(G) New Business
(H) Appointments to Committees/Commissions
(I) Referrals to Committees/Commissions
(J) Approval of Bills
(K) Adjournment

(2) The Presiding Officer may order that any agenda item be repositioned as to provide for a more efficient meeting.

(h) Parliamentary rules of order.

These rules of Council, the Charles Town City Charter, state law and other rules duly adopted by Council shall govern Council. In all cases not provided for, the Presiding Officer shall decide, subject to an appeal by a member of Council which shall then be determined by the rules of parliamentary usage comprised in the most recent edition of "Robert's Rules of Order."

(i) Members of public speaking before Council.

(1) A member of Council may ask the floor for a member of the public to speak before Council, which said motion is non-debatable. Upon such request, the presiding officer shall inquire of the councilmember the subject matter of the inquiry. Council, by majority vote, shall determine whether or not the person shall be allowed to address Council. Any person addressing Council shall be allowed no more than five minutes to address their remarks, unless by majority vote, Council allows a longer period of time.

(2) A maximum of twenty minutes shall be set aside at the beginning of each meeting of the Council to permit members of the public, without leave of Council, to address the Council on any matter pertaining to the City's business with a maximum of five minutes per person. Any member of the public wishing to address the Council shall first register with the City Clerk, or designated representative for such purpose, not earlier than 15 minutes before the beginning of the meeting setting forth their name, the group, if any, on whose behalf they wish to speak, their address and the subject matter which they wish to speak. For those attending the Council meeting, a sign-up sheet will be available to those who wish to register to speak. Members of the public attending the meeting remotely, must still provide the same information to register to speak but may do so in an email or through the chat function available for remote attendees. Registration for remote attendees will follow the same schedule for those attending in person. Individuals present at the meeting will be invited to speak first. If members of the public are still waiting to speak after the twenty minute time period has expired Council may hold an additional public comment period for twenty minutes upon completion of business if so, decided by Council by majority vote. Nothing in this section shall affect the ability of a member of Council to request that a member of the public be allowed to speak pursuant to section 111.01(i).

(j) Making entries in the minute book.

No remarks, voting explanations or words spoken in debate by any member of Council shall be reproduced in the journal except by unanimous consent of the members of the Council present.

(k) Committees.

(1) Standing committees shall be appointed by Council, and Select Committees by the Mayor, unless otherwise ordered.

(2) Standing committees shall be as follows:

(A) Finance – the Committee's duties include but are not limited to proposing changes to the City's fiscal, budgetary, and investment policies; reviewing and recommending to Council operating, capital, and coal severance budgets and budget revisions; and authorizing the execution of contracts within approved budget levels.

(B) Infrastructure – the Committee's duties include but are not limited to reviewing and recommending policies to Council related to public streets, curbs, stormwater, sidewalks, broadband, and electric/gas utilities.

(C) Ordinance – the Committee's duties include but are not limited to reviewing and recommending to Council proposed additions and deletions to the City's codified ordinances and related policies.

(D) Personnel – the Committee's duties include but are not limited to reviewing and recommending proposed changes to the City's personnel policies and facilitating Council actions related to the hiring, evaluation, and termination of the City Manager.

(3) Select committees shall be created and dissolved at the discretion of the Mayor.

(4) Reports of committees shall be in writing and shall specify such action as the committee may recommend for adoption by Council.

(l) When a member abstains from voting.

No member shall vote on any question before the City Council if directly and immediately interested therein other than as a citizen of the City of Charles Town; however, no member may abstain from voting without, prior to discussion, having stated their reason for not participating and having obtained a ruling from the presiding officer excusing them from doing so.

(m) Recission, amendment, and suspension of rules.

No rule of the Council shall be suspended for a single item in any case except by unanimous consent of the Council members present remotely or in person provided, that no rule shall be suspended if compliance wherewith is made mandatory by state law, the City Charter, or another ordinance of the City of Charles Town.

111.02 EXPENDITURE OF PUBLIC FUNDS

(a) Council shall approve the fiscal policies and procedures of the City which will govern the expenditure of funds, which shall include provisions for the Mayor, or the Mayor Pro-Tempore in the absence of the Mayor, to authorize the expenditure of funds in the event of a declared emergency.

(b) The City Manager or designee shall present expenditures for payment and shall attest to their accuracy and budgetary compliance to Council.

(c) Failure to comply with this section by any employee may be sufficient cause for suspension without pay or termination of employment pursuant to the City's personnel policies

111.03 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 7, 2022

Passed on Second Reading: FEBRUARY 22, 2022
(following Public Hearing)

ATTEST:

Robert M. Trainor
Mayor

Daryl Hennessy
City Manager/Clerk

Ordinance Committee
101 East Washington Street
Charles Town, WV 25414

SCHEDULED

AGENDA ITEM (ID #)

Meeting: 05/21/26
Department: Ordinance Committee
Category: Ordinance
Initiator:

2026-1517: Article 522 - PODA

ATTACHMENTS:

- 2025-006 - Article 522 Private Outdoor Designated Areas (PODA).pdf

ARTICLE 522
Private Outdoor Designated Areas

522.01 Purpose and intent.

522.02 Definitions.

522.03 Permit required.

522.04 Containers.

522.05 Signage and prohibitions.

522.06 Public health, safety and sanitation.

522.07 Revocation of City Manager approval; and general policy authority.

522.08 Suspension of private outdoor designated area.

522.09 Penalties.

522.10 Creation and boundaries.

522.11 Days and hours of operation.

522.12 Personnel needed.

522.13 Appeals process.

522.01 PURPOSE AND INTENT.

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

522.02 DEFINITIONS.

(a) PODA Permit means the permit issued by the City to qualified license holders as outlined in West Virginia Code § 60-7-8g and § 60-7-8h, allowing them to participate in the Private Outdoor Designated Area and to apply for an S4 or S4N license from the West Virginia Alcohol Beverage Control Administration (WVABCA).

(b) 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, non-intoxicating beer, and non-intoxicating craft beer.

522.03 PERMIT REQUIRED.

(a) Any qualified license holder under W. Va. Code § 60-7-1,et seq. .that operates within the boundaries of a private outdoor designated area may apply for a PODA Permit to participate in the Private Outdoor Designated Area by submitting an application to the City Manager on such forms as he shall prescribe. 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 is a qualified permit holder meeting the requirements of either W.Va. Code § 60-7-8g or § 60-7-8h.

(b) Once the PODA Permit is granted by the City Manager, the license holder may apply to the West Virginia Alcohol Beverage Control Administration ("WVABCA") for a special Class S4 or Class S4N permit, as detailed in W. Va. Code § 60-7-8g or W.Va. Code § 60-7-8h, 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 the requirements of Article 907 and 909 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.

522.04 CONTAINERS.

All beverages served from valid Class S4 or S4N permit holders for consumption in a private outdoor designated area shall be served in a non-glass container not greater than sixteen (16) fluid ounces, which has been approved by the City Manager and the WVABCA.

522.05 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, non-intoxicating beer, or non-intoxicating craft beer.

(c) Nothing in this Article shall be construed to permit a person to 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.

(d) Businesses in the private outdoor designated area may choose to allow or prohibit alcohol consumption in their business. Liquor, wine, non-intoxicating beer, or non-intoxicating 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.

(e) Special event sponsors that have been granted a special event permit to operate on a City Street that is included in the PODA area may choose to allow or prohibit alcohol consumption on that portion of the City street during the special event.

522.06 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 S4 or S4N permit holders, when they are open for business and serving customers 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.

522.07 REVOCATION OF CITY MANAGER APPROVAL; AND GENERAL POLICY AUTHORITY.

(a) The City Manager or Mayor may revoke the letter of approval of any Class S4 or Class S4N 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.

522.08 SUSPENSION OF PRIVATE OUTDOOR DESIGNATED AREA.

(a) The City Manager or Mayor 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 and S4N 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.

522.09 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 more than one hundred dollars ($100.00).

(b) Any person who owns or operates a business that is a PODA permittee 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 five dollars ($5.00) and not more than one thousand dollars ($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 thirty (30) days. These penalties for owners, operators, and employees of private outdoor designated areas are in addition to any penalty from the WVABCA.

522.10 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 southwestern corner of the intersection of S. West Street and W. Washington Street, then continue along West Street in a northerly direction to W. Liberty Street, then continue in an easterly direction along Liberty Street to N. Goerge Street, including the 200 block of N Charles Street and Opera House Way., then continue north to a point perpendicular with the intersection of N. Samuel Street and Bell Place, then east along that perpendicular line to the intersection of Bell Place and N. Mildred Street then south to the intersection of N. Mildred Street and E. Washington Street, continue westerly to the southwestern corner of the intersection of S. West Street and W. Washington Street.

(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 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 City's zoning ordinance.

522.11 DAYS AND HOURS OF OPERATION.

The City Center PODA may operate year-round on any Saturday and Sunday from 10:00 a.m. until 10:00 p.m., and Monday through Friday from 5:00 p.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.

522.12 PERSONNEL NEEDED.

The PODA district is regularly patrolled by the Charles Town City Police Department, and the City Council anticipates that these police officers will be working their regular shifts.

522.13 APPEALS PROCESS.

(a) Any S4 or S4N permit holder may appeal to the City Council the suspension of the entire PODA district or the permit holder's individual suspension.

(b) Any denial of a PODA permit application may be appealed to the City Council.

(c) Any appeal must be filed in writing with the City Clerk within fifteen (15) calendar days of the adverse action.

(d) Suspensions lasting less than seven (7) calendar days are not subject to appeal.

(e) The City Manager shall place consideration of the appeal on the City Council's agenda within thirty (30) days after receipt of an appeal.

(f) The City Council will issue a decision within thirty (30) days after consideration of appeal.

(g) All decisions of the City Council will be final and not subject to further appeal.

First Reading: August 4, 2025

Second Reading: September 2, 2025

Micheal George
Mayor

Brent Manuel
City Clerk

Ordinance Committee
101 East Washington Street
Charles Town, WV 25414

SCHEDULED

AGENDA ITEM (ID #)

Meeting: 05/21/26
Department: Ordinance Committee
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2026-1518: Article 1104 - Trees

ATTACHMENTS:
- Ord. 2020.011 - Article 1104 Trees.pdf

ARTICLE 1104

Trees

1104.01 General
1104.02 Public properties
1104.03 Private properties
1104.04 Administration; Enforcement; Penalties; Appeals
1104.05 Legal status

CROSS REFERENCES
General powers of every municipality and governing body – see West Virginia Code §8-12-5(29)
Quarantines and other orders – see West Virginia Code §19-12-6
Right of entry on premises – see West Virginia Code §19-12-8

1104.01 GENERAL

(a) Title. This article shall be known as the "City of Charles Town Tree Ordinance."

(b) Purpose and Intent. The purpose of this article is to provide City government with power and authority over all trees and shrubs located within the street rights-of-way, parks, and other public places of the City; and over trees, and shrubs located on private property as permitted by state law. This article is intended to enhance the quality of life and aesthetic values within the City. The provisions of this ordinance are enacted to:

(1) maintain city trees and forests in good health using appropriate arboricultural practices;
(2) establish and maintain optimal level of age and species diversity that are ideal for our region through efficient and cost-effective management of the urban forest;
(3) select, situate, and maintain street trees appropriate to maximize ecosystem services and minimize hazard, nuisance, hardscape damage, and maintenance costs;
(4) centralize tree management under a City-appointed board with the necessary expertise;
(5) foster support for community forestry through educational projects that encourage good tree management on privately owned properties;
(6) promote equity, diversity, and inclusion in all aspects of community forestry;
(7) obtain and coordinate the Tree City USA designation; and
(8) achieve the City's established goals in the Jefferson County Urban Tree Canopy Plan.

(c) Definitions. The following terms when used in this article shall have the meaning set forth in this section unless the context requires otherwise:

(1) "City" means the Mayor and Council; all City Departments; the Tree Board; or their designated agent.
(2) "Council" means the Charles Town City Council, which includes the Mayor and all members of the municipal governing body.
(3) "Landmark Tree" means a tree which that has special significance because one or more of the following criteria apply: rare species, old age, unusual size, distinct location, association with an historical event or person, scenic enhancement, or one or more unique characteristic(s) determined by the City Tree Board to qualify it for such classification.
(4) "Shrub" means a woody plant, generally smaller than a tree, typically with multiple stems branching from or near the ground.

(5) "Tree" means woody perennial usually having one dominant trunk and a mature height greater than 5 meters (16 feet).

(d) Determination of Definitions. In any case, the Tree Board shall have the right to determine whether any specific woody plant shall be considered a tree or a shrub, as defined above.

(e) Creation and Establishment of Tree Board. Thereby created and established a Tree Board for the City of Charles Town which shall consist of five residents of Charles Town, who shall be appointed by the Council and shall serve without compensation. Council may also appoint a member of the Council to serve as a liaison to the Tree Board. At the request of the Tree Board, the West Virginia Division of Forestry Urban Forestry Coordinator may serve as ex-officio, non-voting member of the Tree Board. The Tree Board may also appoint two non-voting members, which may include youth ages 17 years or older.

(1) The term of each member shall be four years. Vacancies caused by death, resignation, or otherwise shall be filled for the unexpired term by appointment of the Council.

(2) The Tree Board shall select officers from its membership, adopt rules for governance of its business, establish meeting dates, and maintain minutes of its proceedings. A majority of the five voting members shall constitute a quorum for the transaction of business.

(3) Powers and Duties. The City Tree Board or its authorized agent will have the following powers and duties:

A. to serve as a resource to assist the Parks and Recreation Department and Streets Committee, or other departments, boards, commissions, or committees where appropriate, on tree-related issues. The Tree Board should be notified in advance of any planned activities that may cause harm to city trees, except in the case of emergencies;
B. to study and make recommendations to the Council regarding the maintenance, protection, and removal of trees on public property; or when requested by the Council, to consider, investigate, make findings, report, and make recommendations upon any special matter or question lying within the scope of its powers and duties as herein set forth;
C. to resolve conflicts between trees and structures. Where sidewalk or curb damage due to tree roots occurs, or other conflicts that arise between trees in the City's rights-of-way and the City's hardscape, every reasonable effort should be made to correct the problem without removing or damaging the tree;
D. to prepare and update, annually, a written City-wide Tree Master Plan that guides the planting, maintenance, protection, and removal of trees on public lands. Such plan shall consider existing and future utility locations and environmental factors in relation to existing and future tree species on public lands, as provided in this article or other ordinances, provide a status report of Landmark Trees within the City, and include recommended changes to the Tree Ordinance as needed. . The plan will be submitted to the Council for their review and consideration;
E. to develop a risk assessment policy for the City's use that identifies and prioritizes the factors to be considered for removing trees from public properties. The Council shall approve the policy and all subsequent revisions;
F. to coordinate tree plantings on public lands, as identified in the Tree Master Plan;
G. upon request to educate owners of private land regarding the selection of species and care of trees;
H. to assist the Planning Commission with the review and comment on landscaping and buffering plans of private developments;

I. to assist the Parks and Recreation Department in planting, maintaining, protecting, and removing trees on City-owned recreational lands, green spaces, and properties, and to provide review and comments on the proposed landscaping plans of all recreational lands and properties within the City;
J. to assist the Street Committee on tree-related issues and inquiries, and upon request, to provide trainings for City personnel regarding proper arboricultural practices and tree management;
K. to accept contributions, donations, or other funds for the planting, maintenance, protection, and removal of trees throughout the City based on the Tree Board's donation policy and recommend to the Council the expenditure of said monies;
L. to advise the City on the appointment or hiring of a Professional ISA Certified Arborist, as deemed appropriate and based on approved funding;
M. to propose to the City Council for review and adoption, rules, regulations, and specifications concerning the trimming, planting, pruning, and protection of trees;
N. to obtain and coordinate the City's Tree City USA designation; and
O. to achieve the City's established goals in the Jefferson County Urban Tree Canopy Plan.

1104.02 PUBLIC PROPERTIES

(a) Planting Requirements. All trees planted within public rights of way must follow the "right tree, right place" methodology and be of a species that will not adversely affect the surrounding infrastructure such as sidewalks, curbs, above ground or underground utilities, including, but not limited to, heaving of the infrastructure by the root system.

(b) Topping Prohibited. Except where trees are severely damaged by storms or other causes, or are so situated in relation to obstructions as to render proper pruning impossible, it shall be unlawful for any person to utilize the inappropriate pruning technique known as topping to any tree on public lands.

(c) Utilities. Utilities shall comply with the ANSI 300 Standards for tree care operations on or adjacent to public lands. A utility shall not be required to obtain a permit for routine operations affecting trees, if such work is done in strict accordance with said Standards. Upon review and recommendation of any application for waiver of said regulations by the Tree Board, a permit may be issued by the City Code Enforcement Officer that modifies the pruning specifications, provided that the permit shall not be contrary to the purposes and policies herein.

(d) Injuring Trees.

(1) It shall be unlawful for any person, except with written permit as herein provided, to improperly prune, including topping, or remove, vandalize, poison, injure, kill or administer any treatment of any tree situate, in whole or in part, upon public lands, or to place or maintain upon public lands, any stone, cement or other impervious matter or substance in such a manner as may obstruct the free access of air and water to the roots of any tree within such public lands. This provision shall not apply to the paving, repairing or altering of the public streets, sidewalks, and other public places by the City.

(2) Injury to trees is prohibited in that no person shall, in the case of public trees, do, or cause to be done by others, any of the following acts:

A. secure, fasten or run any rope, wire, chain, sign, or other device or material around or through a tree;
B. permit any toxic chemical, gas, smoke, brine, oil or other injurious substance to seep, drain or be emptied upon or about any tree or shrub;

C. set fire or permit fire to burn when such fire or the heat of such will injure any portion of any tree;
D. remove any guard, stake or other device or material intended for the protection of any public tree or close or obstruct any open space about the base of a public tree or shrub designed to permit access to air, or water or fertilizer;
E. any other actions which break, injure, mutilate, deface, kill, or destroy public trees.

(3) Any violation of this section shall be enforced pursuant to Article 171 Municipal Court and subject to the fines, penalties, and costs imposed by the municipal court judge.

(e) Emergencies. The City shall use a risk assessment policy adopted by Council to determine the condition of dead or dying trees on public property and cause their removal as appropriate. Public trees may also be removed as soon as possible when they pose a threat to public health and safety or obstruct any public way.

1104.03 PRIVATE PROPERTIES

(a) Emergencies. The City shall use a risk assessment adopted by Council to determine the condition of dead, dying, or damaged trees on private property that pose a threat to public health and safety or obstruct any public way.

(b) Disease, Insects. Hazard, or Nuisance. Whenever the State Department of Agriculture has implemented a quarantine program or spray program affecting the geographical area of Charles Town, the City shall have authority to enter upon private lands in the City to assist in such program including the mandatory spraying or treatment of trees.

(c) Clarification of Property Owner.

(1) Prior to exercising authority conferred by this section, the City shall exercise due diligence to give the owner of the affected real estate notice and an opportunity to correct the condition.
(2) When a situation occurs that threatens the health and welfare of the community or impedes the use of or threaten public property, the exercise of due diligence to give any property owner notice may be abdicated by order of the Council and such order may further authorize action by the City in the absence of a State ordered quarantine program.

1104.04 ADMINISTRATION; ENFORCEMENT; PENALTIES; APPEALS

(a) Administration. The provisions of this article shall be administered by the City Code Enforcement Officer, with general oversight provided by the City Tree Board. The duties of the City Code Enforcement Officer hereunder shall include issuing permits and inspecting public lands, and enforcement of actions as may be appropriate in fulfillment of the requirements of this article.

(b) License and Bond of Forester. It shall be unlawful for any person to engage in the business of planting, cutting, trimming, pruning, removing, spraying, or otherwise treating trees within the City without a business license. As a condition for obtaining and maintaining such license, there shall be filed with the Office of the City Clerk evidence of possession of general or public liability insurance in the minimum amounts of $300,000 (single limit) for bodily injury or death and $100,000 property damage resulting from the pursuit of such person's endeavors herein described. Such policy shall by its terms require notification to the City, upon cancellation thereof.

(c) Additional Penalties.

(1) Fines. Any person who violates any provision of this article or who fails to comply with any notice issued pursuant to provision of the article, upon being found guilty of such violation, shall be subject to a fine not to exceed five hundred dollars ($500.00). Each day during which the violation of the provision of this article occurs shall constitute a separate offense.
(2) Repair or replacement of trees. If, as the result of the violation of any provision of this article, the injury, mutilation, or death of a public tree is caused, in addition to criminal penalties, the cost of the repair or replacement of such tree shall be borne by the at fault party. Replacement value of the tree shall be determined in accordance with the latest revision of the Guide for Planting Appraisal, as published by the Council of Trees & Landscape Appraisers.

(d) Appeals. The Board of Zoning Appeals, established and authorized by the City Zoning Ordinance, shall be empowered to take appeals from any person regarding this Tree Ordinance. Such appeal shall be taken within thirty (30) days of the action complained of, as provided by the rules of the Board of Zoning Appeals, by filing with the City Building Inspector on a form provided by the Board of Zoning Appeals, written notice of appeal specifying the grounds thereof.

1104.05 LEGAL STATUS

(a) Conflict with Other Laws. Whenever the provisions of any other statute require more restrictive standards that are required by this article, the provisions of such statute shall govern. The provisions of this article shall not be interpreted so as to negate or modify any provision of the International Property Maintenance Code as adopted by the City, which may be enforced simultaneously with this article subject, however, to the right of individuals to be free from double jeopardy under any multiple criminal penalty provisions thereof.

(b) Severability. Should any section or provision of this article be declared unconstitutional or invalid such declaration shall not affect the validity of the article as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

(c) Effective Date. This article shall take effect and be in force immediately upon adoption.

First Reading: NOVEMBER 16, 2020

Passed on Second Reading Following Public Hearing: DECEMBER 7, 2020

Enacted this 15th day of DECEMBER, 2020

City of Charles Town

Robert M. Trainor
Mayor

Attest:

Daryl Hennessy
City Manager/Clerk