CITY OF CHARLES TOWN

ORDINANCE COMMITTEE
AGENDA • SEPTEMBER 17, 2026

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

1. CALL TO ORDER

2. UNFINISHED BUSINESS

: **2026-1921:** Article 111 - Council
Article 111 Edits from 06-26 Meeting.pdf
Ord._2022-002_-_Article_111_Council.pdf

: **2026-1922:** Article 1104 - Trees
Ord. 2020.011 - Article 1104 Trees.pdf
revised model ordinance rev 9.2.25.pdf

3. NEW BUSINESS

: **2026-1923:** Article 201, Article 1101 and Article 1705
Ord. #2021-003 - Article 201 - Citations for External Sanitation Violations and Common Nuisance Violations.pdf
Ord. #2021-004 - Article 1101 Nuisances.pdf
Ord. 2024-001 Article 1705 - WV State Building Code Signed -2024.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: 09/17/26
Department: Ordinance Committee
Category: Ordinance
Initiator:

2026-1921: Article 111 - Council

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

ATTACHMENTS:

- Article 111 Edits from 06-26 Meeting.pdf
- 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, at 7:00 p.m. on the first and third Mondays of each month, 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~~ 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~~ actions.

(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 (3) 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.

(3) Emergency Meetings. City Council may hold emergency meetings upon thecall of the mayor, the city manager, or at least three members of Council for the purpose of addressing an unexpected event which requires immediate attention because it poses: (A) An imminent threat to public health or safety; (B) An imminent threat of damage to public or private property; or (C) An imminent material financial loss or other imminent substantial harm to a public cagency, its employees, or the members of the public which it serves. Public notice of theEmergency meeting shall be posted as soon as practicable prior to the meeting and shall state the date, time, place, and purpose of the meeting and the facts and circumstances of the emergency.

Commented [SG1]: This is new language based upon the discussion at our last meeting concerning emergency meetings.

(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 or his or her designee shall prepare a written agenda for all scheduled meetings which shall state the date, time, and place of the meeting and identify matters to be considered by the City Council at the meeting~~consist of items submitted by the Mayor, City Council members, and the City Manager~~.

Commented [SG2]: At the last meeting, the Committee did not decide on a change to this section. We had discussed the following language: "The agenda shall be set by the Mayor in consultation with the City Manager." We decided to discuss this more at our July meeting

(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.

(3) The agenda packet, which includes the written agenda and supporting materials, will be posted on the City website and distributed to Council and Staff by the close of business one (1) business day before the meeting.

(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 is 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) To the extent that orderly conduct of the meeting is compromised, t~~T~~he Presiding Officer can remove any disruptive 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) ~~(1)~~ The Mayor, members of Council, and the City Manager must notify the City Clerk, or his or her designee of any item for placement on an agenda ~~at~~ by noon the Wednesday prior to the regularly scheduled meeting ~~least four (4) days prior to the~~ meeting for which action is intended. Agenda requests shall be submitted using the current adopted version of the agenda request form.

(2) ~~Every effort should be made to submit~~ Aall meeting materials that are actionable, including but not limited to ordinances, resolutions, petitions, reports, communications, and other documents, to be included in the agenda packet shall be submitted to the office of the City Clerk not later than ~~12:00~~ noon one (1) business 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~~ determine the rules of parliamentary usage as provided by ~~comprised in the most recent edition of~~ "Robert's Rules of Order." A member of Council may appeal the Presiding Officer's decision, and the full Council's vote on the matter shall be final.

(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 (5) minutes to address their remarks, unless by majority vote, Council allows a longer period of time.

(2) Public Comment. ~~A maximum of~~ Council shall set aside twenty (20) minutes ~~shall be set aside~~ at the beginning of each meeting ~~of the Council~~ for public comment 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 minimum of three (3) minutes and not to exceed ~~maximum of~~ five (5) minutes per person. Council, by majority vote, may extend the time allotted for public comment beyond twenty (20) minutes. 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 fifteen (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. Speakers who have registered to speak may ~~If members of the public are still waiting to~~ speak after the ~~the twenty (20) minute time~~initial public comment period has expired, Council may hold an additional public comment period ~~for twenty (20) 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).

Any member of the public may speak during the public portion of the meeting regarding matters of public concern relevant to the business of City Council. Each person speaking must state the person's name and residence address before making public comments, and each person's comments must be limited to three (3) minutes so that the meeting maybe conducted efficiently. Comments shall be addressed only to the City Council. Unless specific advance arrangements have been made, only members of the public who are present in person may speak during the public portion. If arrangements are made to permit members of the public to speak from a remote location during the public portion, the option to participate will be made available on similar terms to all members of the public, subject to reasonable rules that City Council or the presiding officer may adopt for that purpose. By determination of the majority of Council before the beginning of the public portion of the meeting, the amount of time allotted to each speaker may be changed, or the total amount of time for public comment may be limited, or both changes may be made. A member of the public may sign up to speak only once during the public comment portion of each meeting and may not cede his or her time to another commenter. By determination of the majority of Council posted along with the public notice of the meeting, public comment may be limited to persons who sign up to provide comment on a list provided for that purpose, but the opportunity to sign up to comment must be available until fifteen minutes prior to the beginning of the City Council meeting.

Commented [SG3]: This is only suggested language based upon our last meeting. If adopted, it would replace the paragraph immediately preceding it.

Any member of the public may submit unlimited written public comment and such written comment shall be included in the information section of the agenda packet for the following meeting.

(3) Public Hearings. City Council meetings may include a public hearing, or a public hearing may be scheduled outside of a regular or special meeting. Public hearings are held for specific purposes as required or authorized by law or deemed appropriate by City Council. When a particular procedure is prescribed for a type of public hearing, City Council will

follow that procedure. If no specific procedure is prescribed for a public hearing, the public hearing will follow the same procedures as prescribed for the Public Portion of a City Council meeting. The presiding officer, or a majority of Council, will establish limits on comment time at a public hearing as needed for the efficient conduct of Council's business.

(4) Council Member Questions or Responses. In order to allow speakers equal opportunity to address City Council and to promote efficient conduct of public business at the meetings, City Council members will not respond to questions or participate in discussion during the public portion or public hearings (unless a specific public hearing policy applies and allows responses). These portions of the meeting allow the members of the public the opportunity to address City Council and the community in a public forum. City Council members may speak to topics raised during the public portions of the meeting during the Council's discussion of the business item on the meeting agenda, or, if the item was not included on the meeting agenda, during the Council member's report.

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

(5) All committees shall comply with the provisions of the West Virginia Open Governmental Proceedings Act, including the posting of an agenda in advance of the meeting.

(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. Any member who recuses themselves from a matter due to a conflict of interest as defined in the West Virginia Ethics Act, shall disclose the conflict, abstain from voting, and physically leave the room during the discussion and voting process.

(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. (Ord. 2022-002. Passed 2-22-22.)

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.

(Ord. 2022-002. Passed 2-22-22.)

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. (Ord. 2022-002. Passed 2-22-22.)

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: 09/17/26
Department: Ordinance Committee
Category: Ordinance
Initiator:

2026-1922: Article 1104 - Trees

ATTACHMENTS:

- Ord. 2020.011 - Article 1104 Trees.pdf
- revised model ordinance rev 9.2.25.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

Ordinance # [ ]- Tree Removal-Replacement-Planting Ordinance

Trees play a critical, often overlooked, role in the water cycle and in the mitigation of stormwater runoff issues such as soil erosion, pollutant reduction, infiltration, quantity reduction, and thermal effects. This ordinance is intended to ensure that permittees are considering these undervalued assets in their stormwater management efforts.

SECTION I. Purpose:

An ordinance to establish requirements for tree removal and replacement in the City of Charles Town to reduce soil erosion and pollutant runoff, promote infiltration of rainwater into the soil, and protect the environment, public health, safety, and welfare.

SECTION II. Definitions:

For the purpose of this ordinance, the following terms, phrases, words, and their derivations shall have the meanings stated herein unless their use in the text of this ordinance clearly demonstrates a different meaning. When consistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural

number. The use of the word "shall" means the requirement is always mandatory and not merely directory.

A. "Applicant" means any "person", as defined below, who applies for approval to remove trees regulated under this ordinance.

B. "Critical Root Radius (CRR)" – means the zone around the base of a tree where the majority of the root system is found. This zone is calculated by multiplying the diameter at breast height (DBH) of the tree by 1.5 feet. For example: a tree with a 6" DBH would have a CRR = 6"x1.5' = 9'.

C. "Diameter at Breast Height (DBH)" means the diameter of the trunk of a mature tree generally measured at a point four and a half feet above ground level from the uphill side of the tree. For species of trees where the main trunk divides below the 4 ½ foot height, the DBH shall be measured at the highest point before any division.

D. "Hazard Tree" means a tree or limbs thereof that meet one or more of the criteria below. Trees that do not meet any of the criteria below and are proposed to be removed solely for development purposes are not hazard trees. [Municipalities may choose to require a Licensed Tree Expect to make all Hazard tree determination]

    1. Has an infectious disease or insect infestation;

    2. Is dead or dying;

3. Obstructs the view of traffic signs or the free passage of pedestrians or vehicles, where pruning attempts have not been effective;
4. Is causing obvious damage to structures (such as building foundations, sidewalks, etc.); or
5. Is determined to be a threat to public health, safety, and/or welfare by a certified arborist or Licensed Tree Expert (LTE).

E. "Person" means any individual, resident, corporation, utility, company, partnership, firm, or association.

F. "Planting strip" means the part of a street right-of-way between the public right-of-way and the portion of the street reserved for vehicular traffic or between the abutting property line and the curb or traveled portion of the street, exclusive of any sidewalk.

G. "Resident" means an individual who resides on the residential property or contractor hired by the individual who resides on the residential property where a tree(s) regulated by this ordinance is removed or proposed to be removed.

H. "Street Tree" means a tree planted in the sidewalk, planting strip, and/or in the public right-of-way adjacent to (or specified distance from) the portion of the street reserved for vehicular traffic. This also includes trees planted in planting strips within the roadway right-of-way, i.e., islands, medians, pedestrian refuges.

I. "Tree" means a woody perennial plant, typically having a single stem or trunk growing to a considerable height and bearing lateral branches at some distance from the ground.

J. "Tree Caliper" means the diameter of the trunk of a young tree, measured six (6) inches from the soil line. For young trees whose caliper exceeds four (4) inches, the measurement is taken twelve (12) inches above the soil line.

K. "Tree removal" means to kill or to cause irreparable damage that leads to the decline and/or death of a tree. This includes, but is not limited to, excessive pruning, application of substances that are toxic to the tree, over-mulching or improper mulching, and improper grading and/or soil compaction within the critical root radius around the base of the tree that leads to the decline and/or death of a tree. Removal does not include responsible pruning and maintenance of a tree, or the application of treatments intended to manage invasive species.

L. INVASIVE PLANT SPECIES AND TREES shall mean (i) all native and non-native vines and vegetation that grow out of place and are competitive, persistent and pernicious, or (ii) trees which are native or non-native to this country or region of the country, whose vines produce chemicals that prevent the growth of other plants and serve as a primary food source to an invasive species of insects. These plants and trees may damage other trees, vegetation or structures. Examples include, but are not limited to, bamboo (spreading or running type), ragweed, multi flora rose, kudzu-vine, poison ivy

or oak, Ash trees and the Ailanthus Altissima tree (a/k/a the "Tree of Heaven").

SECTION III. Regulated Activities:

[Application review and approval can be conducted along with existing business practices and permit application review such as, but not limited to, site plan approvals, building permit approvals, planning board application approval, etc. A separate application process is not required, but the Department has included sample language below for municipalities that prefer to do so.]

A. Optional Application Process:

1. Any person planning to remove a street tree, as defined as Tree removal, with DBH of 2.5" or more or any non-street tree with DBH of 6" or more on their property shall submit a Tree Removal Application to ***[Municipal Officials].*** No tree shall be removed until municipal officials have reviewed and approved the removal. **[For larger scale clearing projects, municipalities may choose to require a tree survey be submitted as part of the application to determine number, sizes, and exemptions of trees for the assessment of fees]**

[The municipality may choose to impose application fees. If so, the following language may be used, with revisions as deemed appropriate.]

[Optional for municipalities: Applicants will be subject to an application fee as per the Table below.]

B. Tree Replacement Requirements

1. Any person who removes one or more street tree(s) with a DBH of 2.5" or more, unless exempt under Section IV, shall be subject to the requirements of the Tree Replacement Requirements Table below.
2. Any person, who removes one or more tree(s), as defined as Tree removal, with a DBH of 6" or more per acre, unless otherwise detailed under Section IV, shall be subject to the requirements of the Tree Replacement Requirements Table.

The species type and diversity of replacement trees shall be in accordance with Appendix A (**insert municipality provided tree list as Appendix A of this ordinance**). **[The municipality shall provide a list of approved trees that are acceptable to be planted as replacement trees, or at a minimum develop a list of trees that shall <u>not</u> be used as replacement trees. This list will be included as "Appendix A". It is permissible for a municipality to include a procedure for approval of a tree not on the approved list. The list shall also contain approved planting times/seasons and proper planting standard procedures or a reference to available literature containing this information.]**

Replacement tree(s) shall:

1. Be replaced in kind with a tree that has an equal or greater DBH than tree removed

<u>**or**</u> meet the Tree Replacement Criteria in the table below;

2. Be planted within twelve (12) months of the date of removal of the original tree(s) or at an alternative date specified by the municipality;
3. Be monitored by the applicant for a period of two (2) years to ensure their survival and shall be replaced as needed within twelve (12) months; and
4. Shall not be planted in temporary containers or pots, as these do not count towards tree replacement requirements.

Tree Replacement Requirements Table:

Category	**Tree Removed (DBH)**	**Tree Replacement Criteria (See Appendix A)**	**Application Fee** *[Municipality may choose to include and determine appropriate fees.]*
1	DBH of 2.5" (for street trees) or 6" (for non-street trees) to 12.99"	Replant 1 tree with a minimum tree caliper of 1.5" for each tree removed	*TBD by town*
2	DBH of 13" to 22.99"	Replant 2 trees with minimum tree calipers of 1.5" for each tree removed	*TBD by town*
3	DBH of 23" to 32.99"	Replant 3 trees with minimum tree calipers of 1.5" for each tree removed	*TBD by town*
4	DBH of 33" or greater	Replant 4 trees with minimum tree calipers of 1.5" for each tree removed	*TBD by town*

C. Replacement Alternatives:

1. If the municipality determines that some or all required replacement trees cannot be planted on the property where the tree removal activity occurred, then the applicant shall do one of the following:
    a. Plant replacement trees in a separate area(s) approved by the municipality.

b. Pay a fee of (amount to be set by municipality) per tree removed. This fee shall be placed into a fund dedicated to tree planting and continued maintenance of the trees.

SECTION IV. Exemptions:

All persons shall comply with the tree replacement standard outlined above, except in the cases detailed below. Proper justification shall be provided, in writing, to the municipality by all persons claiming an exemption **[the municipality shall define what "proper justification" is such as photos or statements from WV licensed tree expert as per WV reg (?) or arborist.]:**

A. Residents who remove less than four (4) trees per acre that fall into category 1, 2, or 3 of the Tree Replacement Requirements Table within a five-year period. [The number of trees removed is a rolling count across a five-year period. For example, if 3 trees from category 1 are removed in July 2023, the 'count' resets to zero in July 2028. However, if 1 tree from category 1 is removed in July 2023 and another in July of 2025 the first tree will come off the count in July 2028 and the second in July 2030.]

B. Tree farms in active operation, nurseries, fruit orchards, and garden centers;

C. Properties used for the practice of silviculture under an approved forest stewardship or woodland management plan that is active and on file with the municipality;

D. Any trees removed as part of a municipal or state decommissioning plan. This exemption only includes trees planted as part of the construction and predetermined to be removed in the decommissioning plan.

E. Any trees removed pursuant to a West Virginia Department of Environmental Protection (WVDEP) or U.S. Environmental Protection Agency (EPA) approved environmental clean-up, or WVDEP approved habitat enhancement plan;

F. Approved game management practices, as recommended by the State of West Virginia Department of Environmental Protection, Division of Fish, Game and Wildlife;

G. Hazard trees may be removed with no fee or replacement requirement.

H. Invasive Trees, shrubs or plants may be removed with no fee or replacement requirement.

SECTION V. Enforcement:

This ordinance shall be enforced by the **[Police Department and/or other Municipal Officials of insert name of municipality]** during the course of ordinary enforcement duties.

SECTION VI. Violations and Penalties:

Any person(s) who is found to be in violation of the provisions of this ordinance shall be subject to a fine of $ [amount per tree to be established by municipality but shall not be less than the amount of the required replacement tree(s) and cost of planting] [Municipalities may require the planting of additional trees in lieu of a fine].

SECTION VII. Severability:

Each section, subsection, sentence, clause, and phrase of this Ordinance is declared to be an independent section, subsection, sentence, clause, and phrase, and finding or holding of any such portion of this Ordinance to be unconstitutional, void, or ineffective for any cause or reason shall not affect any other portion of this Ordinance.

SECTION VIII. Invasive Species:

A. *Plantings of Invasive Plant or Tree Species*. All new in-ground plantings of invasive plant or tree species are strictly prohibited. All existing plantings or trees must be contained by appropriate physical barriers to prevent the growth or spread of existing invasive plant or tree species beyond the boundaries of a resident's property.

B. *Control of Growth*. All persons must control the growth of invasive plant species and trees. Failure to control the spread of such vegetation and trees beyond the boundaries of a resident's property is a violation of this chapter.

C. *Inspections*. All places and premises in the City of Charles Town shall be subject to inspection by the enforcing officer. For purposes of this Ordinance, the enforcing officer shall be the Code Enforcement Officer. Such inspections shall be performed by the Code Enforcement Officer or his or her designated municipal employee. Such inspection shall be made if the Code Enforcement Officer has reason to believe that any section of this chapter is being violated.

1. Enforcement of Invasive Species Section

A. Whenever an invasive plant or tree species (as defined by this chapter) is found on any plot of land, lot or any other premises or place, and is found to lack appropriate physical barriers to prevent the spread or growth of the species, or is found to have spread beyond the boundaries of a property, a violation, in writing, shall be given by the Code Enforcement Officer to the owner of the property from which the invasive plant or tree species has spread, directing the owner to remove or abate the same within such time as shall be specified therein. The violation shall be served upon the property owner of record by regular and certified mail or by personal service.

B. In the event a property owner fails to correct a notice of violation within the time specified in the notice of violation, the Town (by and through those municipal personnel deemed necessary and appropriate by the Code Enforcement Officer) may thereafter enter upon the property and remove or abate the invasive plant species or trees. The property owner shall be responsible for all costs incurred by the City in correcting the violation and bringing the property into compliance. The City may also place a municipal lien against the property for all costs incurred by the Town in bringing the property into compliance. The amount of the lien shall be authorized by Resolution adopted by the City Council, and shall be added to and become a part of the taxes next to be assessed and levied upon the property, shall bear interest at the same rate as taxes, and

shall be collected and enforced by the same officer and in the same manner as taxes. Costs shall be in addition to any penalties imposed for any violation of this section.

2. Violations and Penalties.

A. Any person violating the provisions of this section shall be subject to the violations and penalties set forth herein.
B. Any person violating the provisions of this chapter shall, upon conviction, be punishable by a fine of not more than $1,000.00 or community service as determined by the Municipal Court. The continuation of such violation for each successive day shall constitute a separate offense.
C. In addition to the penalties set forth herein, any person who violates the provisions of this section shall be liable for any damages caused to any adjoining property, including, but not limited to, the cost of removal of the invasive plant or tree species extending onto the adjoining property, as well as the repair and replacement of any property damaged by the invasive plant or tree species.

City Property. This Ordinance shall not apply to City owned property or City conservation easements.

SECTION IX. Effective Date:

This Ordinance shall be in full force and effect from and after its adoption and any publication as may be required by law.

Adoption Date:

Approved By:

Appendix A

Approved list of Replacement tree Species and Planting Standards for

City of Charles Town, West Virginia

[The municipality shall provide a list of approved trees that are acceptable to be planted as replacement trees, or at a minimum develop a list of trees that shall not be used as replacement trees. The list shall include approved planting times/seasons and proper planting standard procedures or a reference to available literature containing this information.]

Tree Species	Planting Season	Planting Procedure (soil type, watering, pruning, staking, wrapping, exposure, depth, mulching, etc)

Ordinance Committee
101 East Washington Street
Charles Town, WV 25414

SCHEDULED

AGENDA ITEM (ID #)

Meeting: 09/17/26
Department: Ordinance Committee
Category: Ordinance
Initiator:

2026-1923: Article 201, Article 1101 and Article 1705

These three ordinances were referred by the City Council at the August 17, 2026, meeting.

ATTACHMENTS:

- Ord. #2021-003 - Article 201 - Citations for External Sanitation Violations and Common Nuisance Violations.pdf
- Ord. #2021-004 - Article 1101 Nuisances.pdf
- Ord. 2024-001 Article 1705 - WV State Building Code Signed -2024.pdf

ARTICLE 201
Citations for External Sanitation Violations and Common Nuisance Violations

201.01 Authority; Alternative Enforcement of External Sanitation Violation and Common Nuisances.

201.02 Purpose and Applicability.

201.03 Investigations.

201.04 Issuance of Citations.

201.05 Severability.

201.99 Penalty.

201.01 AUTHORITY; ALTERNATIVE ENFORCEMENT OF EXTERNAL SANITATION VIOLATION AND COMMON NUISANCES.

This Article is enacted pursuant to the authority of West Virginia Code § 8-1-5(a), Home Rule Program Act and pursuant to the approved City of Charles Town Home Rule Plan approved by the West Virginia Home Rule Board on October 6, 2014.

201.02 PURPOSE AND APPLICABILITY.

(a) The purpose of this Article is to provide additional and alternative methods and processes to enforce the Municipal Code provisions regarding external sanitation and common nuisances related to property located within the City in a fair, speedy, and inexpensive manner, and to improve compliance with such provisions. To the extent this article conflicts with an existing ordinance identified below, Article 201, et seq., shall be controlling.

(b) This article shall be in addition to those methods and processes otherwise contained in the Codified Ordinances of the City of Charles Town and shall be applied at the discretion of the enforcement officer enforcing the provisions of this section.

(c) This article shall apply to any of the following violations:

(1) Public nuisances as defined in Section 1101.02 (b), (c), and (d) of the Codified Ordinances of the City of Charles Town; and

(2) Violations of Sections 909.01 displaying goods, 909.03 snow removal, 909.04 weeds and rubbish, Article 951 garbage collection, and 1103.01 weeds of the Codified Ordinances of the City of Charles Town; and

(3) Violations of the Charles Town Zoning Ordinance, Articles 1321-1325, and the Charles Town Subdivision Ordinance, Articles 1331-1336.

(d) The Zoning Administrator and the Chief of Police and their designees shall have authority to enforce the provisions of this section and shall be referred to herein collectively as enforcement officials.

201.03 INVESTIGATIONS.

Upon receipt of information or upon investigation indicating the likelihood of a violation of any provision of the Codified Ordinances of the City of Charles Town regarding the violations set forth in Article 201, the enforcement official shall investigate the facts and may, to the extent permitted by law, inspect the premises.

201.04 ISSUANCE OF CITATIONS.

(a) If an investigation reveals that a code violation exists, the enforcement official may issue a citation for such violation to the person having either ownership or control of any land, building, structure, sign, property, licensed or permitted business or operation which is in violation. Nothing within this section shall prohibit the enforcement officer in his or her discretion from issuing a warning prior to issuing a citation. Nothing in this section shall preclude Code Enforcement action under any other provision of the Codified Ordinances of the City of Charles Town, provided, however, that no person shall be subject to criminal penalties under both this section and any other provision of the Codified Ordinances based on the same act or occurrence.

(b) A citation may be served by personal service in accordance with the West Virginia Rules of Civil Procedure, by delivery of the notice of citation to the person in violation. If personal service cannot be effectuated, the enforcement official may send the citation to the person via certified mail, return receipt requested, to the person's last known address. If the return receipt is not returned, a citation shall be conclusively presumed to have been served if it is also sent by regular mail, postage prepaid, which is not returned as undeliverable by the postal service. A citation that is sent by certified mail, return receipt requested, to an address provided to the City of Charles Town by a landlord pursuant to a Certificate of Rental Use and Occupancy under Article 136 of the Codified Ordinances or to the owner of vacant property under Article 1759 thereof shall conclusively be presumed to have been served.

(c) The citation shall be in writing and shall contain the following:

(1) The date the citation is issued;

(2) The name and address of the person(s) charged with the violation;

(3) The section of the ordinance that has been violated;

(4) The nature of the violation;

(5) The place and time the violation occurred;

(6) The amount of the fine imposed for the violation;

(7) The name, address and telephone number of the enforcement official issuing the citation;

(8) The return date on which the person is summoned to appear before the Municipal Court to answer the charges; and;

(9) The name, address, and telephone number of the office of the City Collector, where fines are to be paid, and of the Municipal Court, where citations may be contested.

201.05 SEVERABILITY.

(a) If any provision of this article or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this article which can be given effect without the invalid provision or application, and to this end the provisions of this article are severable. This City Council declares that it would have adopted this article irrespective of the invalidity of any particular portion thereof and intends that the invalid portions should be severed, and the balance of this article be enforced.

(b) All ordinances in conflict with this article are hereby repealed. All other articles and sections of the Charles Town Municipal Code, as amended, shall remain in full force and effect.

201.99 PENALTY.

(a) Any person issued a citation pursuant to Section 201.04 shall be punished by a fine as follows: within any 12-month period, $100.00 for a first offense citation, $200.00 for a second offense citation, and $500.00 for a third offense and subsequent citation thereafter. Each week that such a violation continues, and which shall pose an imminent threat to public health and safety, shall constitute a separate offense.

(b) All fines levied under this Article, together with all attorney fees reasonably incurred in the enforcement thereof, shall constitute a lien against all personal and real property owned by the person(s) subject to such fine.

(c) A person charged under this section shall have the right to contest the citation in Municipal Court, provided, however, that where a photograph of the violation accompanies the citation, a defense shall be limited to evidence that the enforcement official misinterpreted the subject provision and/or misapplied it to the facts unless the evidence, as a whole, negates the correctness of the facts contained in the citation. Furthermore, any person charged hereunder solely by reason of his/her ownership of the real estate, shall be entitled to the additional defense that he/she did not own the real estate at the time of the commission of the violation or that the violation was committed by a trespasser upon his/her real estate. Any person who is charged under this section and fails to appear at his/her hearing for a period of 15 minutes without a prior showing of just cause may be tried in absentia.

First Reading: May 3, 2021

Passed on Second Reading Following Public Hearing: May 17, 2021

Enacted this 19th day of May, 2021

City of Charles Town

Robert M. Trainor
Mayor

Attest:

Daryl Hennessy
City Manager/Clerk

ARTICLE 1101
Nuisances

1101.01 Public Nuisances Prohibited.
1101.02 Public Nuisances Defined.
1101.03 Enforcement Through Citations.
1101.04 Abatement of Public Nuisances.
1101.05 Cost of Abatement.
1101.06 Severability.
1101.99 Penalty.

CROSS REFERENCES

Power to abate - see W.Va. Code 8-12-5(23)

Abatement of nuisances - see W.Va. Code 16-3-6

1101.01 PUBLIC NUISANCES PROHIBITED.

No person shall erect, contrive, cause, continue, maintain, or permit to exist any public nuisance within the City or any nuisance described in the laws of the State of West Virginia.

1101.02 PUBLIC NUISANCES DEFINED.

(a) Generally, a public nuisance is a thing, act, occupation, condition or use of property which shall continue for such length of time as to:

(1) Substantially annoy, injure, or endanger the comfort, health, repose, or safety of the public; or

(2) In any way render the public insecure in life or in the use of property; or

(3) Greatly offend the public morals or decency; or

(4) Unlawfully and substantially interfere with, obstruct, or tend to obstruct or render dangerous for passage any street, alley, highway, body of water or other public way; or

(5) Hinder the enjoyment of public rights.

(b) Public Nuisances Affecting Health. The following acts, omissions, places, conditions, and things are hereby specifically declared to be public health nuisances, but shall not be construed to exclude other health nuisances coming within the definition of subsection (a) hereof:

(1) All decayed, harmfully adulterated, or unwholesome food or drink sold or offered for sale to the public;

(2) Carcasses of animals, birds or fowl not buried or otherwise disposed of in a sanitary manner within twenty-four hours after death;

(3) Accumulations of non-composting vegetable matter, trash, rotting lumber, bedding, packing material, abandoned vehicles or machinery, scrap metal or

any material in which flies, mosquitoes, disease-carrying insects, rats, or other vermin may breed or which may constitute a fire hazard;

(4) Garbage cans which are not fly-tight, or which are overflowing with trash shall not be permitted on the property, in truck beds, or the like;

(5) All stagnant water that results in disease carrying pests, including tires, ditches, depressions, gutters, fountains that do not work properly;

(6) The escape of smoke, soot, cinders, noxious acids, fumes, gases, fly ash or industrial dust within the City limits in such quantities as to endanger the health of persons or cause substantial injury to property;

(7) The pollution of any public well or cistern, stream, lake, canal, or body of water by sewage, or industrial wastes or other substances;

(8) Any use of property, substances or things within the City emitting or causing any foul, offensive, nauseous, noxious, or disagreeable odors, or stenches extremely repulsive to the physical senses of ordinary persons which annoy, discomfort, injure or inconvenience the health of an appreciable number of persons within the City;

(9) Any barn, stable, yard, shed, pen or other place where animals or fowl are kept which is not maintained in a clean condition; or any animals or fowl, which because of disease, unsanitary conditions, odor or noise, discomfort or injure the health or well-being of residents of the City;

(10) All abandoned wells or cisterns not securely covered or secured from public use;

(11) Any obstruction to watercourses, drainage ditches or ravines;

(12) All noxious weeds as defined by the laws of the State or ordinances of the City;

(13) Building materials not being used for immediate construction which are not in an enclosed accessory or other structure which has been approved for such purposes under a building permit;

(14) Exterior tarping used as a storage structure except tarping used to cover firewood or to cover plants in a hoop house;

(15) Outside storage of upholstered furniture constructed for interior use, carpeting, mattresses, box springs, appliances, clothing and any such fabric items or accessory structures designed for interior use that creates a habitat for pests; Outdoor furniture that is designed for outdoor use is permitted;

(16) Any structures intended for outside storage that are not constructed so as to be secure from the elements and pest infestation;

(17) Any existing structure or work undertaken in violation of the State Building Code or International Property Maintenance Code as duly adopted by the City;

(18) Any temporary structure or temporary use, which is employed ancillary to a building permit issued under the State Building Code or International Property Maintenance Code but for which no written temporary permit exists under said Code;

(19) The existence of temporary structures or uses that were once approved by the Building Official under the State Building Code or International Property Maintenance Code but which temporary use or permit has expired;

(20) Any shopping carts not on the premises of the business that owns them;

(21) Any hazardous liquids flowing from one property to another or flowing in a public right of way; and

(22) Any open flow or discharge of sewer.

(c) Public Nuisances Affecting Peace and Safety. The following acts, omissions, places, conditions, and things are hereby declared to be public nuisances affecting peace and safety, but such enumeration shall not be construed to exclude other nuisances affecting public peace or safety coming within the provisions of subsection (a) hereof:

(1) All buildings erected, repaired, or altered within the limits of the City in violation of the provisions of the ordinances of the City relating to materials and manner of construction of buildings and structures;

(2) All unauthorized signs, signals, markings, or devices which purport to be or may be mistaken as official traffic control devices placed or in view of any public highway or railway crossing;

(3) All buildings or structures so old, dilapidated or out of repair as to be dangerous, unsafe, or unsanitary;

(4) All wires over streets, alleys or public grounds which are strung less than fifteen feet above the surface of the street or ground;

(5) All willful or neglectful collection of debris or foreign matter or excess water that obstructs streets, alleys, sidewalks, or crosswalks, except as permitted by the ordinances of the City;

(6) All open and unguarded pits, wells, excavations, or basements freely accessible from any public street, alley, sidewalk, or crosswalk and all excavations in or under the same, except as permitted by the ordinances of the City;

(7) Any structure, material or condition which constitutes a fire hazard or will impair extinguishing a fire;

(8) Any unauthorized or unlawful use of property which causes which causes large crowds of people to gather, obstructing traffic and free use of the streets, alleys, or sidewalks;

(9) Any appliance not properly stored out of public view, or any appliance, visible to the public, that is not being used for its intended purpose;

(10) No more than three (3) small engine equipment shall be permitted to be stored outside. Small engine shall be defined as anything less than 30 horsepower, whether gas powered or other alternative power, and includes such things as riding lawn mowers, push mowers, garden tillers, snow blower/thrower, string trimmer, generator, and the like;

(11) Construction equipment, when not used in conjunction with a licensed business or an active and valid building permit, shall be stored out of sight.

(d) Storing, Parking or Leaving Abandoned, Dismantled or Other Such Motor Vehicle Prohibited. No person shall park, store, leave, or permit the parking, storing, or leaving of any motor vehicle of any kind which is abandoned, wrecked, dismantled, inoperative, rusted, junked, or partially dismantled whether attended or not, upon any public or private property within the City for a period in excess of ten days.

(1) The presence of such vehicles or parts thereof on private or public property shall be declared a public nuisance.

(2) This subsection shall not apply to any vehicle properly enclosed within a building on private property.

1101.03 ENFORCEMENT THROUGH CITATIONS.

The following violations may be enforced through the issuance of citations in accord with Article 201 of the Codified Ordinances of Charles Town: Public Nuisances as defined in Section 1101.02 subsections (b); (c); and (d) of the Codified Ordinances of the City of Charles Town. In addition to the use of citations, the subject property with the violation may be posted as being in violation of the Charles Town Municipal Code

1101.04 ABATEMENT OF PUBLIC NUISANCES.

(a) Investigations of Complaints. If the City Manager, or designee, determines that the utilization of the citation process found in Section 1101.03 or Article 201 of the Codified Ordinances of Charles Town, which has resulted in at least one guilty violation for the violator in municipal court, has been or will be ineffective in abating a public nuisance, the City Manager may file with the Circuit Court of Jefferson County a complaint of the public nuisance(s).

(b) Before filing a complaint with the Circuit Court, the City Manager must notify City Council of their intention to file such suit.

1101.05 COST OF ABATEMENT.

(a) In addition to any other penalty imposed, the cost of abating a public nuisance by the City shall be collected as a debt from the owner, occupant or person causing, permitting, or maintaining the nuisance.

(b) If notice to abate the nuisance has been given to the owner, such cost shall be assessed against the real estate and shall include all reasonable attorney fees and expenses incurred incident to said abatement. The said lien for costs shall be subject to perfecting by filing notice in the Office of the Clerk of the County Commission of Jefferson County, West Virginia.

1101.06 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.

1101.99 PENALTY.

(a) Any person violating any provision of this Article shall be punished by a fine as follows: within any 12-month period, $100 for the first offense, $200 for a second offense, and $500 for a third or subsequent offense. Each week that such a violation continues, and which shall pose an imminent threat to public health and safety, shall constitute a separate offense.

(b) Such fine, and costs as assessed by the municipal court, together with all attorney fees incurred in the enforcement thereof, and any potential abatement costs identified in Section 1101.05, shall constitute a lien against the real estate of the owner subject to perfecting by filing notice in the Office of the Clerk of the County Commission of Jefferson County, West Virginia.

First Reading: May 3, 2021

Passed on Second Reading Following Public Hearing: May 17, 2021

Enacted this 17th day of May, 2021

City of Charles Town

Robert M. Trainor
Mayor

Attest:

Daryl Hennessy
City Manager/Clerk

ARTICLE 1705
West Virginia State Building Code

EDITOR'S NOTE: Pursuant to an ordinance passed July 15, 1991 all penalties of imprisonment presently contained in the Building and Housing Code are deleted and rescinded.

1705.01 Adoption.

1705.02 Amendments.

1705.03 Permits.

1705.04 Permit fees.

1705.05 City Code Official & Building Inspector.

1705.06 Appeals.

1705.07 Penalties.

1705.08 Injunctive relief.

1705.09 Severability.

CROSS REFERENCES

Adoption by reference - see W. Va. Code 8-11-4

Building regulation - see W. Va. Code 8-12-13

State Building Code - see W. Va. Code 15A-11-5

1705.01 ADOPTION.

(a) Pursuant to the City's powers and authority contained in West Virginia Code Section 13, Article 12, Chapter 8, the City of Charles Town does hereby adopt the State Building Code set forth at Series 4 of Title 87 of the West Virginia Code of State Rules, as it may be amended from time to time, as the same has been promulgated pursuant to West Virginia Code Section 5, Article 11, Chapter 15A, as if the same were fully written out herein but subject to the additions, insertions and changes specified below (authority for the promulgation thereof pursuant to West Virginia Code Section 5b, Article 3, Chapter 29 having been repealed and such authority pursuant to said Section 5, Article 11, Chapter 15A having been enacted).

(b) Any version of Article 1705 entitled West Virginia State Building Code adopted prior to enactment of this version of Article 1705 and all other ordinances or parts of ordinances in conflict herewith are hereby repealed and are null and void, except that a repealed version shall continue to control and be applicable to all building permits issued and in effect while such version was in force and effect.

1705.02 AMENDMENTS.

The following additions, insertions and changes are hereby made to the codes and standards incorporated in the State Building Code as specified below:

(a) With respect to each of the codes and standards specified in the following Sections 1705.02(b) through 1705.02(m), inclusive:

(1) All appendices to such codes and standards, if any, are hereby adopted.

(2) All appeals under such codes and standards and all appeals under this Article 1705 shall be made pursuant to Section 1705.06, and all language to the contrary in such codes and standards shall be of no effect.

(3) All penalties for violation(s) of such codes and standards shall be punishable under the specific provisions of Section 1705.07, and all language to the contrary in such codes and standards shall be of no effect.

(b) With respect to the International Building Code, 2018 Edition:

(1) Insert "City of Charles Town" as appropriate and where prompted to do so by said code.

(2) Insert "July 1, 2013", where prompted to do so in Section 1612.3.

(c) With respect to the International Plumbing Code, 2018 Edition:

(1) Insert "City of Charles Town" as appropriate and where prompted to do so by said code.

(2) Insert "See Section 1705.04" where prompted to insert the jurisdiction's schedule in Section 106.6.2.

(3) Insert "twenty-five (25%) percent" where prompted to do so in subparagraph 2 of 106.6.3, and "fifty (50%) percent" where prompted to do so in subparagraph 3 of 106.6.3.

(4) Insert "eighteen inches (18")" where first prompted to do so and insert "two feet and six inches (2'6")" where next prompted to do so in Section 305.4.1.

(d) With respect to the International Residential Code for One- and Two-Family Dwellings, 2018 Edition:

(1) Insert "City of Charles Town" as appropriate and where prompted to do so by said code.

(e) With respect to the International Mechanical Code, 2018 Edition:

(1) Insert "City of Charles Town" as appropriate and where prompted to do so by said code.

(2) Insert "See Section 1705.04" where prompted to do so in Section 106.5.2.

(3) Insert "twenty-five (25%) percent" where prompted to do so in subparagraph 2 of 106.5.3 and "fifty (50%) percent" where prompted to do so in subparagraph 3 of 106.5.3.

(f) With respect to the International Property Maintenance Code, 2018 Edition:

(1) Insert "City of Charles Town" as appropriate and where prompted to do so by said code.

(g) With respect to the International Energy Conservation Code, 2015 Edition for Residential Buildings:

(1) Insert "City of Charles Town" as appropriate and where prompted to do so by said code.

(h) With respect to the International Existing Building Code, 2018 Edition:

(1) Insert "City of Charles Town" as appropriate and where prompted to do so by said code.

(i) With respect to the 2020 Edition of the National Electric Code, NFPA 70, no further additions, insertions or changes are made

(j) With respect to the International Fuel Gas Code, 2018 Edition:

(1) Insert "City of Charles Town" as appropriate and where prompted to do so by said code.

(k) With respect to the 2017 ICC/ANSI A117.1 American National Standards for Accessibility and Usable Buildings and Facilities, no further additions, insertions or changes are made.

(l) With respect to the 2013 ANSI/ASHRAE/IESNA Standard 90.1 for Commercial Buildings, no further additions, insertions or changes are made.

(m) With respect to the International Swimming Pool and Spa Code, 2018 Edition, no further additions, insertions or changes are made.

1705.03 PERMITS.

No building permit or other permit required under any provision of the State Building Code shall be issued or renewed with respect to any property that is then subject to a notice of violation or order issued under the State Building Code unless the work authorized by the contemplated permit will timely rectify all violations set forth in such notice of violation or order. Notwithstanding the foregoing, the City Code Official may, in his or her reasonable discretion and upon determination that such will further the City's objective of obtaining compliance with this Article, enter with the owner(s) of any property a written agreement providing for issuance of a permit on specified terms and conditions including, without limitation, benchmarks for work progress.

1705.04 PERMIT FEES.

(a) For New Home Construction and Additions: a $200.00 Building Permit Fee, plus a fee of $0.75 per square foot finished area and $0.20 per square foot unfinished area.

(b) For Residential Renovation, Restoration, or Remodeling of Existing Structure: a $75.00 Building Permit Fee, plus a fee of $0.20 per square foot.

(c) For Residential Porches, Decks, Garages, and other Accessory Structures: a $50.00 Building Permit Fee, plus a fee of $0.15 per square foot.

(d) For Demolition:

(1) Residential: a $50.00 Building Permit Fee

(2) Commercial: a $150.00 Building Permit Fee

(e) Re-inspection Fees: a $75.00 re-inspection fee if the Building Inspector is required to make more than one (1) visit for one inspection. Job not ready for inspection will also result in $50.00 re-inspection fee.

(f) For Commercial Construction, Additions and Accessory Structures: a $300.00 Building Permit Fee, plus $0.75 per square foot finished area.

(g) For Commercial Renovation, Restoration, Remodeling of Existing Structure: a $200.00 Permit Fee plus $0.50 per square foot.

(h) For Commercial Accessory Structures with no plumbing or electricity: a $100.00 Permit Fee.

(i) For All Temporary Structures: a $50.00 Building Permit Fee.

(j) For All Swimming Pools: a $250.00 Building Permit Fee, plus $0.10 per square foot.

(k) For Roofing and Siding:

(1) Residential: A $75.00 Building Permit Fee, plus $1.00 per 100 square feet

(2) Commercial: A $150.00 Building Permit Fee, plus $1.00 per 100 square feet

(l) For Sidewalks and Driveways:

(1) Residential: A $30.00 Building Permit Fee, plus $0.10 per square foot over 500 sq ft.

(2) Commercial: A $100.00 Building Permit Fee, plus $0.10 per square foot over 500 sq ft.

(m) Fences:

(1) Residential: A $40.00 Building Permit Fee

(2) Commercial: A $100.00 Building Permit Fee

(n) For Plumbing Permits:

(1) Residential: A $75.00 Permit Fee plus $2.50 per fixture

(2) Commercial: A $100.00 Permit Fee plus $5.00 per fixture

(o) For Mechanical Permits:

(1) Residential: A $75.00 Permit Fee plus: $0.10 per square foot of new conditioned space in new structures or $15.00 per unit replaced in existing structures

(2) Commercial: A $100.00 Permit Fee plus: $0.20 per square foot of new conditioned space in new structures or $25.00 per unit replaced in existing structures

(p) For Electrical Permits:

(1) Residential: A $100.00 Permit Fee plus: $0.15 per fixture or device

(2) Commercial: A $250.00 Permit Fee plus: $0.25 per fixture or device

(3) Panel or Meter upgrade only: $100.00

(q) Plan Review:

(1) Residential $150.00

(A) Residential Renovations: $75.00

(B) Residential Decks and Fences: $50.00

(2) Commercial $300.00

1705.05 CITY CODE OFFICIAL & BUILDING INSPECTOR.

(a) The City of Charles Town shall comply with the requirements of the Standards for the Certification and Continuing Education of Municipal, County, and Other Public Sector Building Code Officials, Building Code Inspectors and Plans Examiners set forth at Series 6 of Title 103 of the West Virginia Code of State Rule (the "Certification/Continuing Education Standards").

(b) The City Manager or designee shall designate a City Building Official, who shall also be known as the City Code Official, who meets the qualifications of a "Code Official" set forth in the Certification/Continuing Education Standards and is duly certified as such thereunder.

(c) All inspections required under the State Building Code shall be conducted on behalf of the City only by the City Code Official or any other individual who is authorized by the City Code Official to perform the relevant category of inspection on behalf of the City and who is duly certified (or otherwise permitted to act) as an "Inspector" in such category pursuant to the Certification/Continuing Education Standards. Any such other individual shall be under the authority of the City Code Official and shall issue a report regarding an inspection to the City Code Official for further action.

1705.06 APPEALS.

(a) There is established one Appeals Board for all appeals arising under Article 1705, comprised of five members, with up to three alternates, who are qualified by experience and training to pass on matters pertaining to building construction and who are not employees of the City. At least one member of the Appeals Board shall be a West Virginia Registered Professional Architect or Engineer, or a West Virginia Licensed General Building, Residential, Electrical, Piping, Plumbing, Mechanical, or Fire Protection Contractor, with at least 10 years' experience, five of which shall be in responsible charge of work. In addition to such members, the City Code Official shall be an ex-officio member but shall have no vote on any matter before the Appeals Board. The members of the Appeals Board shall be appointed by the City Council and shall serve staggered and overlapping terms.

(b) The Appeals Board shall adopt Rules of Procedure governing appeals before it; *provided* such Rules of Procedure shall provide that: (i) a majority of the five (5) voting members of the Appeals Board shall constitute a quorum and no meeting or hearing of the Appeals Board shall be conducted unless a quorum is present; (ii) notwithstanding that a quorum may be present to hear any appeal, the appellant or the appellant's representative may request postponement of the hearing at its commencement if five (5) voting members of the Appeals Board are not present; (iii) at any hearing, the appellant or the appellant's representative, the Code Official, and any other person whose interests are affected shall be given the opportunity to be heard and, for such purpose, the presiding officer of the Appeals Board shall administer oaths and affirmations; (iv) except as specified in the following item (v), any action of the Appeals Board at a meeting or hearing shall be taken and be official only upon the concurring vote of a majority vote of the voting members present; (v) the Appeals Board may modify or reverse a decision of the City Code Official only by the concurring vote of a majority of its five (5) voting members; and (vi) meetings and hearings of the Appeals Board may be held by electronic means by which all persons participating may hear and communicate with each, including, without limitation, by telephonic conference or by video conference, and any member of the Appeals Board participating in a meeting or hearing by such means shall be deemed present in such meeting or hearing for all purposes.

(c) All administrative appeals from actions of the City Code Official must be filed within twenty (20) days of service of the order, decision, or determination to be appealed and will follow the procedures set forth in the respective codes and standards incorporated in the Building Code where not inconsistent with this Section. At the time of filing any appeal to the Appeals Board, the appellant shall be required to pay a filing fee in the same amount as specified in Section 59-1-11(a)(1) of the West Virginia Code for docketing of civil appeals from magistrate court; *provided that,* such fee shall be refunded to the appellant in the event the appellant prevails on all matters appealed.

(d) Any appeals from decisions of the Appeals Board must be filed within thirty (30) days of the decision by Petition for Writ of Certiorari to the Circuit Court of Jefferson County.

(e) Appeals to the Appeals Board and appeals from the Appeals Board to the Circuit Court shall be based on, and limited to, a claim that the true intent of this Article and/or the State Building Code has been incorrectly interpreted, the provisions of this Article and/or

the State Building Code do not fully apply, or the requirements of this Article and/or State Building Code are adequately satisfied by other means.

1705.07 PENALTIES.

Any person violating any of the provisions of this Article, except as otherwise expressly provided herein, 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). Failure or refusal to comply with this Article shall constitute a separate offense for each and every day the violation continues. However, this penalty shall not be the exclusive remedy of the City, the City reserving all of the remedies provided by law.

1705.08 INJUNCTIVE RELIEF.

The City Code Official is authorized, with the consent of the Mayor, to institute judicial proceedings seeking injunctive relief to restrain any violation of this Article or compel compliance with this Article.

1705.09 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: December 18, 2023

Passed on Second Reading: January 17, 2024

(following Public Hearing)

Attest:

Robert M. Trainor

Mayor

John Nissel

City Manager/Clerk