CITY OF CHARLES TOWN
CITY COUNCIL
AGENDA • MAY 6, 2024

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

CALL TO ORDER

1. MOMENT OF SILENCE AND PLEDGE OF ALLEGIANCE

2. APPROVAL OF MINUTES

: **2024-473:** City Council Meeting Minutes - April 16, 2024
City Council Meeting Minutes April 16 - draft.pdf

3. PUBLIC COMMENT

4. WARD REPORTS

5. MAYOR'S REPORT

: **2024-481:** Mayor's Select Committee on Community Outreach
Mayor's Select Committee on Community Outreach.pdf

6. COMMITTEE REPORTS

: **2024-475:** Ordinance Committee Meeting - Wednesday, April 17, 2024
Ordinance Meeting Minutes 4_17_24.pdf

: **2024-477:** Board of Parks and Recreation Meeting - April 25, 2024

7. CITY MANAGER REPORT

: **2024-500:** City Manager Report - May 6, 2024
City Manager Report - May 6, 2024.pdf

8. POLICE CHIEF REPORT

9. UNFINISHED BUSINESS

: **2024-474:** Initiative of Charles Town joining with Ranson's Convention and Visitor's Bureau

: ***2024-425:*** *TXA2024-02*: Second Reading and Consideration of an Amendment to the Zoning Ordinance of the City of Charles Town, West Virginia with Regard to Section 1332.08 Neighborhood Residential District
1. Report.pdf

: **2024-427:** Public Hearing for Article 1759 Vacant Properties and Vacant Structures

: **2024-428:** Second Reading and Consideration of an Amendment to the Codified

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

: **2024-429:** Public Hearing on Article 101, Article 301, Article 361, Article 373, Article 521, and Article 545

: **2024-430:** Second Reading and Consideration of an Amendment to the Codified Ordinances of the City of Charles Town, West Virginia with Regard to Part 1 Administrative Code Article 101 Codified Ordinances as a Result of Adopted State Code Changes
Article 101 Codified Ordinances- state changes.pdf

: **2024-431** Second Reading and Consideration of an Amendment to the Codified Ordinances of the City of Charles Town, West Virginia with Regard to Part 3 Traffic Code Article 301 Definitions as a Result of Adopted State Code Changes
Article 301 Definitions - state changes.pdf

: **2024-432:** Second Reading and Consideration of an Amendment to the Codified Ordinances of the City of Charles Town, West Virginia with Regard to Part 3 Traffic Code Article 361 Parking Generally as a Result of Adopted State Code Changes
Article 361 Parking Generally - state changed.pdf

: **2024-433:** Second Reading and Consideration of an Amendment to the Codified Ordinances of the City of Charles Town, West Virginia with Regard to Part 3 Traffic Code Article 373 Bicycles as a Result of Adopted State Code Changes
Article 361 Bicycles - state changes.pdf

: **2024-434:** Second Reading and Consideration of an Amendment to the Codified Ordinances of the City of Charles Town, West Virginia with Regard to Part 5 General Offenses Code Article 521 Liquor Control as a Result of Adopted State Code Changes
Article 521 Liquor Control - state changes.pdf

: **2024-435:** Second Reading and Consideration of an Amendment to the Codified Ordinances of the City of Charles Town, West Virginia with Regard to Part 5 General Offenses Code Article 545 Weapons and Explosives as a Result of Adopted State Code Changes
Article 545 Weapons and Explosives - state changes.pdf

: **2024-483:** Ordinance to Approve the December 2023 Replacement Pages to the Codified Ordinances
Ordinance Approving December 2023 Replacement Pages.pdf

: **2024-437:** Letter to the Members of the Council Select Committe to Further Research Private Outdoor Dining Area (PODA) in Downtown Charles Town
Council Select Committee on PODA.pdf

: **2024-484:** First Reading and Consideration of an Amendment to the Codified Ordinances of the City of Charles Town, West Virginia with Regard to Part 7 Business Regulation and Taxation Code Article 745 Business and Occupation Tax
Article 745 Business and Occupation Tax.pdf

10. NEW BUSINESS

: **2024-471:** *TXA2024-01*: Authorization to Update the City's Bond Unit Cost List
1. Report.pdf

2. Estimate Comparison.pdf

: **2024-479:** Charles Town Tennis Program
Summer Tennis Program Proposal 2 2.26.24.pdf
Email 2-27-2024.pdf

: **2024-482:** City Council Appointment to the Charles Town Utility Board (CTUB) for a term ending December 31, 2027

: **2024-488:** Draft Public Comment Letters to the Hagerstown/Eastern Panhandle Metropolitan Planning Organization (HEPMPO) on their FY25 Unified Planning Work Program (UPWP), FY25-28 Transportation Improvements Plan (TIP), and Safety Action Plan (SAP)

11. REFERRALS TO COMMITTEES/COMMISSIONS

12. APPROVAL OF BILLS

: **2024-490:** Payment of Bills - May 6, 2024
GENERAL FUND COUNCIL REPORT 2024 05 02.pdf
CAPITAL RESERVE COUNCIL REPORT 2024 05 02.pdf
PARKS N REC COUNCIL REPORT 2024 05 02.pdf

13. ADJOURNMENT

14. INFORMATION ONLY - NEXT MEETING May 20, 2024

: **2024-453:** A Resolution Adopting the Jefferson County Multi-Jurisdictional Hazard Mitigation Plan
2024-003 - A Resolution to Adopt the Jefferson County 2023 Hazard Mitigation Plan.pdf

: **2024-476:** Planning Commission Meeting Minutes - February 26, 2024
2.26.24 PC MINUTES_APPROVED.pdf

: **2024-478:** Charles Town Police Department Statistic Report - March 2024
CTPD March 2024 Stats.pdf

: **2024-480:** Charles Town Utility Board (CTUB) Meeting Minutes - April 10, 2024
2024.04.10 UB MINUTES.pdf

: **2024-485:** Letter to the Charles Town City Council Supporting Josh Vance to Serve on the Council Select Committee on PODA
Letter of Support.pdf

: **2024-486:** Letter of Commendation - Patrolman Hinkle
Officer Hinkle.pdf

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

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

City Council
101 East Washington Street
Charles Town, WV 25414

Meeting: 05/06/24
Department: City Council
Category: Report
Initiator:

SCHEDULED

AGENDA ITEM (ID #)

2024-473: City Council Meeting Minutes - April 16, 2024

ATTACHMENTS:

- City Council Meeting Minutes April 16 - draft.pdf

CITY OF CHARLES TOWN

CITY COUNCIL

MINUTES • April 16, 2024

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

101 East Washington Street, Charles Town, WV 25414

CALL TO ORDER

Attendee Name	Title	Status	Arrived
Bob Trainor	Mayor	Present	
James Kratovil	Councilmember	Present	
Elizabeth Ricketts	Councilmember	Present	
Jeff Hynes	Councilmember	Present	
Kevin Tester	Councilmember	Present	
Julie Philabaum	Councilmember	Present	
Priscilla Rodd	Councilmember	Remote	
Micheal George	Councilmember	Present	
Rikki Twyford	Councilmember	Remote	7:47PM

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

1. MOMENT OF SILENCE AND PLEDGE OF ALLEGIANCE

2. APPROVAL OF MINUTES

2024-408: City Council Meeting Minutes - April 1, 2024

The following change was made to the April 1, 2024, meeting minutes:

Packet page 9, Agenda Item #2024-320: Article 147 - Utility Board, third paragraph, second line: remove the word "**City**" after "**...Ranson**", to read "the City of Ranson and..."

3. PUBLIC COMMENT

Ms. Whitmeyer expressed her disappointment that public comment is not part of the Planning Commission's Preliminary Planning on Subdivisions meetings and changing those procedures.

4. WARD REPORTS

Ward #1

Ms. Ricketts reported that:

- The Charles Town Utility Board (CTUB) is accepting public comment on their 2024 Source Water Protection and 2024 Sewer Strategic plans; and

- The Eastern Panhandle Transit Authority (EFTA) is currently discussing their draft budget; and
- The Charles Town Tree Board is looking for volunteers this Saturday, April 20, to assist with the Arbor Day tree plantings, beginning at 9:30AM at Evitts Run Park.

Mr. Kratovil had nothing to report.

Ward #2

Mr. Hynes had nothing to report.

Mr. Tester had nothing to report.

Ward #3

Ms. Philabaum thanked City staff and the Charles Town Now board for a fantastic Blooms and Blossoms event.

Ms. Rodd had nothing to report.

Ward #4

Mr. George had nothing to report.

5. MAYOR'S REPORT

Mayor Trainor reported that he attended the Finance Committee, April 3rd; Charles Town Utility Board (CTUB) meeting, April 10th; Region 9 meeting, April 11th; and the CTUB Sewer Treatment Plant Improvement Project progress meeting, April 11th.

He also read into the record a letter that he received from Dr. Francine Alkisswani, commending Charles Town Police Officer (Calvin) Hinkle for his respectful, courteous, and professional demeanor during a traffic stop.

Finally, Mayor Trainor announced that Charles Town has been awarded the 2023 Tree City USA Recognition from the Arbor Day Foundation.

2024-407: Update on the Mayor's Select Committee on the Charles Town Parking District Evaluation

Council action is detailed in Agenda Item #2024-410: Referral of Article 365 Charles Town Parking District to the Ordinance Committee.

6. COMMITTEE REPORTS

2024-402: Finance Committee Report - April 3, 2024

Mayor Trainor reviewed the Finance Committee report with the Council.

2024-403: Personnel Committee Report - April 8, 2024

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

7. CITY MANAGER REPORT

2024-420: City Manager Report - April 16, 2024

Mr. Nissel reviewed the City Manager report with the Council.

2024-404: Approval of New Insurance Broker

Ms. Rezmer introduced an initiative for the City to enter into an agreement with Millennium Insurance Group, possibly beginning May 1, 2024, to assist with the City's personnel insurance needs.

Ms. Philabaum moved to refer this agenda item to the Finance Committee. Mr. Hynes seconded the motion, and it passed by unanimous vote.

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

8. POLICE CHIEF REPORT

Chief Kutcher reviewed the Charles Town Police Department's March Statistics Report with the Council.

9. UNFINISHED BUSINESS

2024-401: Advertising for Candidates to Fill the Jefferson County Public Service District (JCPSD) Seat on Charles Town Utility Board (CTUB)

Staff advised Council that the Jefferson County Commission plans to submit their nominated candidates for consideration to fill the expired JCPSD seat on the Charles Town Utility Board of Directors before the May 6th Council meeting. As such, the Council agreed to schedule a workshop at 6:00PM, May 6, 2024, to interview the candidates in anticipation of making an appointment at the May 6, 2024 Council meeting.

10. NEW BUSINESS

2024-324: Update from Mark Peiffer, Director of Community Markets

Mr. Mark Peiffer, Director of Community Markets, Inc., presented a brief update on the Community Market programs. He reported that Community Markets has raised the necessary additional funds to purchase the refrigerated trailer that was the subject of their American Rescue Plan Act (ARPA) request in 2023.

Council agreed that Community Markets has met the reporting requirements as set at the July 17, 2023, City Council meeting.

2024-359: Presentation from Than Hitt of USGS Eastern Ecological Science Center on Fisheries Opportunities for Evitts Run

Mr. Than Hitt presented a brief report on fisheries opportunities for Evitts Run.

2024-109: Approval of Levy Rate and FY25 General Fund and Coal Severance Budgets

Mr. Kratovil moved to approve the FY25 Levy Rate of 11.78 [/$100 – Class 1]. Mr. George seconded the motion, and it passed by unanimous vote.

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

Mr. Kratovil moved to approve the FY25 Operating [General Fund] and Coal Severance Budgets. Mr. George seconded the motion, and it passed by unanimous vote.

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

2024-361: BR2024-02: Norborne-Glebe Bond Initiation - Phases 10B, 11, 12, 13

Mr. George moved to approve the establishment of a Performance Bond in the amount of $1,079,934.12 for Norborne Glebe Phase 10B. Mr. Hynes seconded the motion, and it passed by unanimous vote.

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

Ms. Philabaum moved to establish a Land Disturbance Bond in the amount of $1,635,228.03 for Norborne Glebe Phases 10B, 11, 12, and 13. Mr. George seconded the motion, and it passed by unanimous vote.

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

2024-362: Public Hearing: TXA2023-06 Minor/Major Site Plan Requirements - Text Amendment

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

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

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

Mr. George moved to approve the proposed text amendment changes to the Subdivision and Land Development Ordinance Section 1332.02 Applicability. Mr. Tester seconded the motion, and it passed by unanimous vote.

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

2024-363: Public Hearing: TXA2024-02 Neighborhood Residential commercial requirements - Text Amendment

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

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

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

Mr. George moved to approve the first reading of the proposed text amendment changes to the Zoning Ordinance Section 1322.08 Neighborhood Residential (NR) District. Mr. Tester seconded the motion, and it passed by unanimous vote.

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

2024-364: Public Hearing: TXA2024-03 Infill Development Requirements - Text Amendment

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

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

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

Mr. George moved to approve the proposed text amendment changes to the Subdivision and Land Development Ordinance Section 1333.09 Sidewalk & On-Street Parking Design Standards. Mr. Tester seconded the motion, and it passed by unanimous vote.

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

2024-379: Hagerstown/Eastern Panhandle Metropolitan Planning Organization (HEPMPO) update from Elizabeth Ricketts, Council's Representative

Ms. Ricketts presented an update on the HEPMPO activities related to Charles Town projects and initiatives.

2024-380: Selection for a Council Select Committee to Further Research Private Outdoor Designated Area (PODA) in Downtown Charles Town

Mr. Nissel recommended that in addition to the City manager, staff member and the CTPD Chief, Council appoint Mr. Hynes and Ms. Philabaum as the two Council representatives for the Council Select Committee. Mayor Trainor asked if there were any objections to those recommended appointments and there were none.

The Council agreed that the Select Committee is expected to submit their findings and recommendations in a report to Council no later than the October 7, 2024, Council meeting. The report will include but is not limited to the following:

- Anticipated PODA impacts to the Charles Town budget, staff, and police department.
- Possible PODA impacts to the quality of life, safety, and welfare of Charles Town residents.
- Prospective PODA economic opportunities for Charles Town and city businesses.
- Recommendations PODA days and hours of operations as well as PODA boundaries.
- Experiences from other cities who have adopted PODA or similar initiatives.
- Overall Pros and Cons to adopting PODA for Charles Town.

Ms. Rodd moved to add at least one resident from Ward #1 and #3 who is not a business owner or a City Council member to the Select Committee. Ms. Ricketts seconded the motion, and it failed by a 2-6 vote.

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

Mr. Hynes moved to include one retail business owner and one Class I alcohol licensed establishment owner on the Select Committee. Mr. Tester seconded the motion, and it passed by a 7-1 vote.

RESULT:	**APPROVED [7-1]**
MOVER:	Jeff Hynes
SECONDER:	Kevin Tester
AYES:	Ricketts, Hynes, Tester, Philabaum, Rodd, George, Twyford
NAYS:	Kratovil

Mr. George moved to nominate to the committee Mr. Josh Vance, as the Class I alcohol licensed establishment owner, and Ms. Leah Brooks as the retail business owner. Mr. Kratovil seconded the motion, and it passed by a 7-1 vote.

RESULT:	**APPROVED [7-1]**
MOVER:	Micheal George
SECONDER:	James Kratovil
AYES:	Kratovil, Ricketts, Hynes, Tester, Philabaum, George, Twyford
NAYS:	Rodd

The members of the PODA Council Select Committee are as follows:

City Manager; City Staff member; CTPD Chief Chris Kutcher; Council members – Ms. Julie Philabaum & Mr. Jeff Hynes; Mr. Josh Vance; and Ms. Leah Brooks.

2024-406: Property Acquisition and City Personnel Update - Executive Session

Mr. Nissel informed the Council that there was not an update for this agenda item.

11. REFERRALS TO COMMITTEES/COMMISSIONS

2024-410: Referral of Article 365 Charles Town Parking District to the Ordinance Committee

Mr. Kratovil moved to refer Article 365 Charles Town Parking District to the Ordinance Committee. Mr. Tester seconded the motion.

Ms. Philabaum moved to amend the motion by directing the Ordinance Committee to establish the parking enforcement times from 8:00AM to 4:00PM. Mr. George seconded the motion, and it passed by a 7-1 vote.

RESULT:	**APPROVED [7-1]**
MOVER:	Julie Philabaum
SECONDER:	Micheal George
AYES:	Ricketts, Hynes, Tester, Philabaum, Rodd, George, Twyford
NAYS:	Kratovil

Mr. George moved to amend the motion by directing the Ordinance Committee to change the City's two-hour metered parking spaces to 4-hour metered spaces. Ms. Philabaum seconded the motion, and it passed by unanimous vote.

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

Mr. George moved to amend the motion by directing the Ordinance Committee to keep the current 8-hour meters as 8-hours and program them to accept payment for up to 10-hours. Mr. Tester seconded the motion, and it passed by a 7-1 vote.

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

Ms. Ricketts moved to amend the motion by directing the Ordinance Committee to eliminate all time restrictions for Handicap Parking within the Free Parking Zone. Mr. Tester seconded the motion, and it passed by a 5-3 vote.

RESULT:	**APPROVED [5-3]**
MOVER:	Elizabeth Ricketts
SECONDER:	Kevin Tester
AYES:	Ricketts, Tester, Philabaum, Rodd, George
NAYS:	Kratovil, Hynes, Twyford

Ms. Twyford moved to amend the motion by directing the Ordinance Committee to keep the handicap parking space time limits dependent on the space's meter according to the current parking fee - $.25/hour. There was no second to the motion.

Ms. Twyford moved to amend the motion by directing the Ordinance Committee to keep the handicap parking space time limits dependent on the space's meter but there will be no charge for the metered space. Mr. George seconded the motion, and it failed by a 3-5 vote.

RESULT:	**FAILED [3-5]**
MOVER:	Rikki Twyford
SECONDER:	Micheal George
AYES:	Kratovil, Ricketts, Twyford
NAYS:	Hynes, Tester, Philabaum, Rodd, George

Ms. Philabaum moved to amend the motion by directing the Ordinance Committee to eliminate handicap parking time limits and charges at all metered spaces. Mr. Tester seconded the motion, and it failed by a 4-4 vote.

RESULT:	**FAILED [4-4]**
MOVER:	Julie Philabaum
SECONDER:	Kevin Tester
AYES:	Ricketts, Philabaum, Rodd, George
NAYS:	Kratovil, Tester, Hynes, Twyford

Mr. Kratovil moved to amend the motion by directing the Ordinance Committee to bag all parking meters [Free Parking] during the month of December. Ms. Ricketts seconded the motion, and it failed by a 1-7 vote.

RESULT:	**FAILED [1-7]**
MOVER:	James Kratovil
SECONDER:	Elizabeth Ricketts
AYES:	James Kratovil
NAYS:	Ricketts, Hynes, Tester, Philabaum, Rodd, George, Twyford

Ms. Philabaum moved to amend the motion by directing the Ordinance Committee to bag all parking meters [Fee Parking] from Black Friday through New Year's Day. Mr. George seconded the motion.

Ms. Philabaum revised her motion to amend the motion by directing the Ordinance Committee to bag all parking meters [Fee Parking] from Thanksgiving Day through New Year's Day. Mr. George seconded the amended motion, and it passed by a 6-2 vote.

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

Ms. Philabaum moved to amend the motion by directing the Ordinance Committee to enforce time limits throughout the parking zone from Thanksgiving Day through New Year's Day. Ms. Twyford seconded the motion, and it failed by a 4-4 vote.

RESULT:	**FAILED [4-4]**
MOVER:	Julie Philabaum
SECONDER:	Rikki Twyford
AYES:	Kratovil, Philabaum, George, Twyford
NAYS:	Hynes, Tester, Ricketts, Rodd

Ms. Rodd moved to amend the motion by directing the Ordinance Committee to eliminate holiday parking enforcement. There was no second to the motion.

Mr. Hynes moved to table this agenda item indefinitely. There was no second to the motion.

Ms. Philabaum moved to amend the motion by directing the Ordinance Committee to change the 4-hour metered parking spaces on the 200 block of N. George Street [depicted on packet page 16] to 8-hour metered parking spaces and to increase the number of annual parking permits available from 180 to 200. Ms. Ricketts seconded the motion, and it failed by a 1-7 vote.

RESULT:	**FAILED [1-7]**
MOVER:	Julie Philabaum
SECONDER:	Elizabeth Ricketts
AYES:	Philabaum
NAYS:	Kratovil, Ricketts, Hynes, Tester, Rodd, George, Twyford

Mr. Kratovil moved to amend the motion by directing the Ordinance Committee to accept the new parking zone map [packet page 16]. Mr. George seconded the motion, and it passed by a 7-1 vote.

RESULT:	**APPROVED [7-1]**
MOVER:	James Kratovil
SECONDER:	Micheal George
AYES:	Kratovil, Ricketts, Tester, Philabaum, Rodd, George, Twyford
NAYS:	Hynes

Mr. Kratovil's original motion, as amended, passed by a 6-2 vote.

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

Ms. Ricketts moved to terminate the paid parking program in Charles Town on July 1, 2024. Mr. Tester seconded the motion, and it failed by a 4-4 vote.

RESULT:	**FAILED [4-4]**
MOVER:	Elizabeth Ricketts
SECONDER:	Kevin Tester
AYES:	Ricketts, Hynes, Tester, Rodd
NAYS:	Kratovil, Philabaum, George, Twyford

12. APPROVAL OF BILLS

2024-421: Payment of Bills - April 16, 2024

Mr. Kratovil moved to approve the bills for payment.

Ms. Ricketts questioned two payments to Greenway Engineering that may be duplicate invoices. Mr. Nissel will investigate the Greenway invoices and report back to the Council.

Mayor Trainor asked if there was any objection to paying the bills minus the Greenway Engineering payments. Hearing no objections, he declared the bills approved for payment.

13. ADJOURNMENT

Mayor Trainor asked if there was any other business to come before the Council. Hearing none, he adjourned the meeting at 11:10PM.

14. INFORMATION ONLY - NEXT MEETINGS - Council Workshop May 6, 2024, 6:00PM, Regular Council Meeting at 7:00PM

2024-409: Charles Town Utility Board Meeting Minutes - March 27, 2024

2024-411: Charles Town Tree Board Minutes - March 14, 2024, Meeting

2024-419: Signed HdL Companies Contract

2024-424: A Resolution to Celebrate Arbor Day April 26, 2024

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

City Council
101 East Washington Street
Charles Town, WV 25414

Meeting: 05/06/24
Department: City Council
Category: Appointment
Initiator:

SCHEDULED

AGENDA ITEM (ID #)

2024-481: Mayor's Select Committee on Community Outreach

ATTACHMENTS:

- Mayor's Select Committee on Community Outreach.pdf

May 2, 2024

Re: Mayor's Select Committee on Community Outreach

Dear Council members

As Charles Town continues to grow in population, it's in our best interest to explore possible ideas and initiatives that will assist and augment existing ongoing efforts that welcome our neighbors, both old and new, to Charles Town, foster community awareness of our rich historic and cultural heritage, and encourage wider community involvement in our many celebrations and events. As such, I have commissioned a Select Committee to research possible initiatives that will assist and augment the existing outreach programs and initiatives.

The Select Committee's mission, focused on exploring specific ideas and initiatives that will contribute to our ongoing community outreach efforts, includes but is not necessarily limited to:

> Community volunteer initiatives, such as, roadside cleanup events; city-wide beautification projects; and historic-trail tours; and
>
> Exploring and developing policy for the creation and maintenance of a city-wide community events calendar.

The Select Committee is expected to build upon the solid collaboration that exists between city and community stakeholders, as well as coordinate with other persons and organizations engaged in similar activities in Charles Town and the surrounding area.

The following personnel are hereby appointed to the Select Committee:

- Mr. Robert Trainor, Mayor
- Mr. John Nissel, Charles Town City Manager
- Ms. Priscilla Rodd, Ward 3 Council Representative
- Mr. Micheal George, Ward 4 Council Representative
- Mr. Randy Hilton
- Ms. Lanae Johnson
- Mr. Todd Coyle
- Ms. Athena Roper

A final report on the Select Committee's activities, conclusions, and recommendations will be delivered to the Charles Town City Council no later than 7 October 2024 Council meeting, at which time this Select Committee is expected to be dissolved. All meetings of this Select Committee will conform with applicable WV State and City ordinances, rules, and regulations.

Robert M. Trainor
Mayor

Note: The activities of this Select Committee are in no way intended to interfere with or supplant any other organization similarly engaged in Community Outreach activities for the City of Charles Town.

City Council
101 East Washington Street
Charles Town, WV 25414

Meeting: 05/06/24
Department: City Council
Category: Report
Initiator:

SCHEDULED

AGENDA ITEM (ID #)

2024-475: Ordinance Committee Meeting - Wednesday, April 17, 2024

ATTACHMENTS:

- Ordinance Meeting Minutes 4_17_24.pdf

City of Charles Town Ordinance Committee Report - April 18, 2024

Call to Order:
19:01

Committee Members In Attendance: (Via Zoom)

Rikki Twyford, Julie Philabaum, Kevin Tester

Also in attendance: Alissa - Community Development Director

Agenda / Discussions:

Outdoor Dining Ordinance
Current outdoor dining ordinances from Charleston, Huntington, and Parkersburg were all examined. A draft of the future Charles Town ordinance will be created, then vetted by City Staff and several local business owners, before being finalized by the Ordinance Committee.

- ***Recommendation to City Council:***
  - *None at this time*

Livestock - Article 110.07
We have reviewed the ordinance and do not think that any action should be taken, nor updates should be made.

- ***Recommendation to City Council:***
  - *None at this time*

Adjournment:
19:52

Next Meeting:
May 16, 2024 at 18:00

City Council
101 East Washington Street
Charles Town, WV 25414

Meeting: 05/06/24
Department: City Council
Category: Report
Initiator:

SCHEDULED

AGENDA ITEM (ID #)

2024-477: Board of Parks and Recreation Meeting - April 25, 2024

ATTACHMENTS:

City Council
101 East Washington Street
Charles Town, WV 25414

Meeting: 05/06/24
Department: City Council
Category: Report
Initiator:

SCHEDULED

AGENDA ITEM (ID #)

2024-500: City Manager Report - May 6, 2024

ATTACHMENTS:

- City Manager Report - May 6, 2024.pdf

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

City Manager Report
May 6, 2024

- City Hall painting has been completed and we have received a very favorable response from many of our constituents.
- CTUB Article 147: As directed by the Council I have met with both the City Manager at Ranson as well as the County Administrator for Jefferson County regarding any adjustments they want to make to Article 147. Those redlines have been forwarded to me for review.
- We received an initial update from HDL and they have identified nearly 50 companies that are conducting business in the city. We will be getting a detailed report shortly which I will share with the Council.
- The Maintenance crew is busy working at the skate park to enclose the ramps to ready them for priming and a mural. This effort will also reduce the amount of trash and debris from collecting under the ramps.
- The basketball court at Evitts run has been power washed and the restrooms are being prepped for the summer months.
- The staff is prepping the pool for the 2024 season, and we are interviewing guards for the summer. We currently have over 270 kids enrolled in swim lessons.
- We will be scheduling a free pick-up day in the next two to three weeks for yard waste. The program will be advertised on the website.
- The ribbon cutting for Poke Boba was this weekend and, in a few weeks, we will be cutting the ribbon on the new wine shop in town "pourchoices"

City Council
101 East Washington Street
Charles Town, WV 25414

Meeting: 05/06/24
Department: City Council
Category: Report
Initiator:

SCHEDULED

AGENDA ITEM (ID #)

2024-474: Initiative of Charles Town joining with Ranson's Convention and Visitor's Bureau

ATTACHMENTS:

City Council
101 East Washington Street
Charles Town, WV 25414

Meeting: 05/06/24
Department: City Council
Category: Report
Initiator:

SCHEDULED

AGENDA ITEM (ID #)

2024-425: TXA2024-02: Second Reading and Consideration of an Amendment to the Zoning Ordinance of the City of Charles Town, West Virginia with Regard to Section 1332.08 Neighborhood Residential District

ATTACHMENTS:

- 1. Report.pdf

TXA2024-02

Neighborhood Residential Commercial Requirements

Date: For the May 6, 2024 City Council meeting
Report by: James Newman, City Planner, Zoning/Subdivision Administrator.

ISSUE

While the NR zoning district requires that 10% of the area under development be set aside for Neighborhood Commercial uses. Neighborhood Commercial is a Zoning District which permits residential and non-residential uses. The10% requirement does not specify that such Neighborhood Commercial uses must be commercial in nature, and must be corrected.

PURPOSE

The purpose of the NR District is to provide for a mix of housing types and related services and Uses, including Commercial Uses and office services. It is the intent of the zoning classification to allow mixed development on undeveloped land and, where applicable as may be further described in this Ordinance, the Redevelopment of specific parcels within the City.

The NR District applies to parcels or tracts larger than five (5) acres. The intent is to create a cohesive pattern of primarily residential development that allows a mix of Uses, including neighborhood servicing Commercial and office Uses and/or Commercial and office Uses that complement the primarily residential character of the neighborhood.

CITY COUNCIL INITIATION

On January 17, 2024, City Council referred this item to the Planning Commission for discussion and eventual public hearing.

PLANNING COMMISSION

The Planning Commission discussed this item as part of their January 30, 2024 work session.

The Planning Commission held a public hearing for this item at their February 26, 2024 meeting. There was no public comment. The Commission **unanimously** voted to recommend **approval**, subject to change which kept the Neighborhood Commercial language (the initial proposed amendment would have struck that wording).

CITY COUNCIL HEARING

Council held a public hearing for this item on April 16, 2024. There were no comments from the public. Council unanimously approved the first read of this item.

AMENDMENT PROCESS

Pursuant to and in accordance with West Virginia Code Chapters 8-11-4, City Council upon recommendation by the Planning Commission may, by ordinance, amend, supplement, change, modify or repeal this Ordinance, subject to readings at two meetings.

TEXT AMENDMENT

The proposed text amendment to the Zoning Ordinance is in red below:

Section 1322.08, Neighborhood Residential (NR) District

…

(B) *Application*:

…

3. The NR District must contain a mix of Uses compatible with surrounding Uses, particularly existing residential neighborhoods adjoining the proposed development or Redevelopment. At least fifty percent (50%) of the total area must be residential, ten percent (10%) of the total usable land area must be Open Space and not less than ten percent (10%) of the total area must be comprised of Neighborhood Commercial non-residential uses. A market assessment substantiating the proposed mix of residential, Commercial and Open Space Uses shall be submitted with the application;

CRITERIA

Before amending the zoning ordinance, the governing body with the advice of the planning commission, must find:

1. **That the amendment is consistent with the adopted comprehensive plan, or;**

   Meets the Vision Statement by:
   1. "*Promoting access to jobs and livelihoods*".
   2. "*Stimulating…business development and growth*".

   Key Themes and Goals met:
   -**Growth and Land Use**: The City of Charles Town will strategically plan for and promote sustainable and well-designed growth and development
   throughout its Urban Growth Boundary while maintaining a vibrant, walkable, and mixed-use Downtown that serves as the City's
   image center and core of civic life.

   -**Vibrancy, Sustainability, and Livability**: The City of Charles Town will promote and encourage economic development activities that capitalize on community assets,
   support the needs of present and future residents, and strive to ensure a sustainable and diverse economic base.

2. **If the amendment is inconsistent, then the governing body with the advice of the planning commission, must find that there have been major changes of an economic, physical or social nature within the area involved which were not anticipated when the comprehensive plan was adopted and those changes have substantially altered the basic characteristics of the area.**

   Not applicable, first criterion is met.

City Council
101 East Washington Street
Charles Town, WV 25414

Meeting: 05/06/24
Department: City Council
Category: Ordinance
Initiator:

SCHEDULED

AGENDA ITEM (ID #)

2024-427: Public Hearing for Article 1759 Vacant Properties and Vacant Structures

ATTACHMENTS:

City Council
101 East Washington Street
Charles Town, WV 25414

Meeting: 05/06/24
Department: City Council
Category: Ordinance
Initiator:

SCHEDULED

AGENDA ITEM (ID #)

2024-428: Second Reading and Consideration of an Amendment to the Codified Ordinances of the City of Charles Town, West Virginia with Regard to Part 17 Building and Housing Code Article 1759 Vacant Properties and Vacant Structures.

ATTACHMENTS:

- Article_1759_clean_-_second_reading__17463035.2_SJDOCS_.pdf

ARTICLE 1759
Vacant Buildings

1759.01 Purpose and scope.

1759.02 Definitions.

1759.03 Registration of vacant buildings; enforcement.

1759.04 Maintenance of vacant buildings.

1759.05 Appeals.

1759.06 Schedule of registry fees.

1759.07 Severability.

1759.08 Transition Provisions.

1759.01 PURPOSE AND SCOPE.

This Article is enacted pursuant to W. V. Code Chapter 8, Article 12, Section 16c for the purpose of ensuring that each Vacant Building in the City is properly monitored and maintained so as to provide for public health, safety, and welfare, including being safe for entry by police officers, fire fighters, and other emergency personnel in times of emergency. This article provides for registration and inspection of Vacant Buildings.

1759.02 DEFINITIONS.

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

(a) "Alternative Means of Service" means, when service of notice or process under this Article is required to be made by Certified Mail but cannot be obtained, service of the notice or process by all of the following: (i) regular U.S. mail addressed as specified in subsections (i) or (ii) of the definition of Certified Mail; (ii) publication as a Class II legal advertisement (as defined in W. Va. Code § 59-3-2); and (iii) posting on the front door or other conspicuous location on the subject Building. Service of notice or process by Alternative Means of Service shall be deemed made on the third (3rd) day following the earliest date on which such mailing, publishing, and posting have all occurred.

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

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

Building Code, as adopted and amended by the City under Article 1705 of the Codified Ordinances.

(d) "Certified Mail" means U.S. certified mail, return receipt requested, addressed to: (i) in all cases except where a Non-resident Owner has designated a Local Agent pursuant to Section 1759.03(c) of this Article, the name and last known address of the Owner according to the records of the Jefferson County Tax Office; and (ii) in the case where a Non-resident Owner has designated a Local Agent pursuant to Section 1759.03(c) of this Article, the name and address of the designated Local Agent. Service of notice or process by Certified Mail shall be deemed made upon delivery, as evidenced by the return receipt.

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

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

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

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

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

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

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

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

(h) "Vacant Building" means any residential Building that has not been occupied lawfully as a residence, or any non-residential Building that has not been occupied lawfully for its ordinary expected use, during the immediately preceding six (6) consecutive months or, in the case of seasonal Buildings, such as vacation homes, one (1) year.

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

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

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

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

(A) A new Building under construction while a building permit for the construction is issued, the work is proceeding on schedule with appropriate inspection requests, and the permit is unexpired.

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

(i) "Vacant Buildings Official" means the City Building Official designated under Article 1705 of the Codified Ordinances.

1759.03 REGISTRATION OF VACANT BUILDINGS; ENFORCEMENT.

(a) Registry. There shall be established and maintained a Vacant Buildings Registry, in which all Vacant Buildings in the City shall be registered.

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

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

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

(d) Voluntary Registration. By July 1 of each year, the Owner of any Vacant Building within the City is required to register the Vacant Building in the Vacant Building Registry by submitting a completed Vacant Building Registration to the Vacant Buildings Official. A Vacant Building Registration will not be considered effective unless and until any registry fees required under Section 1759.03(g) are received by the Vacant Buildings Official.

(e) Involuntary Registration. Staff shall investigate any Building that is suspected to be a Vacant Building and determine whether it shall be considered a Vacant Building. Upon Staff's determination that a Building is a Vacant Building, Staff shall: (i) set forth in a written statement its findings supporting the determination; (ii) place the Owner of such Vacant Building on the list of persons to receive Notice of Requirement to Register pursuant to Section 1759.03(b); (iii) notify the Owner of the Vacant Building in writing by Certified Mail or Alternative Means of Service of Staff's determination that the Building is a Vacant Building that the Owner must register in the City's Vacant Buildings Registry by submission of a completed Vacant Building Registration by the following July 1, after which the City will involuntarily register the Vacant Building, with all applicable fees due; and (iv) in the event the Owner fails to register the Vacant Building by timely submitting a completed Vacant Building Registration, involuntarily register the Vacant Building in the Vacant Building Registry and assess against the Owner any registry fees required under Section 1759.03(g) whether or not the subject Vacant Building is then registered in the Vacant Buildings Registry pursuant to voluntary or involuntary registration in a prior year.

(f) Exemption from Registration. The Owner of a Vacant Building may submit in writing to the Vacant Buildings Official, for presentation to and consideration by City Council, a request for exemption from registration of such Vacant Building in the Vacant Buildings Registry due to inability to occupy the Building for a period stated and for reasons stated in the request. Upon a finding of good cause shown, City Council may exempt the Building from registration for a time specified in City Council's decision. Examples of circumstances when good cause for an exemption may exist include when the Vacant Building is being actively marketed for sale following the Owner's move to other

property, or when the Vacant Building is being offered for lease following a prior tenant's vacation of the property.

(g) Registry Fees.

(1) The voluntary registry fee set forth in Section 1759.06(a) for the applicable type of Building shall be assessed to the Owner of a Vacant Building upon its initial voluntary registration by the Owner and also in the instance that the Vacant Building is voluntarily re-registered in the Vacant Buildings Registry after previously having been registered and later removed from such registry. Thereafter, the voluntary registry fee shall not be further assessed for so long as the Owner continues to voluntarily register the Vacant Building annually. The voluntary registry fee shall be submitted with the Owner's submission of the Vacant Building Registration by which the Vacant Building is first registered (or first re-registered in the case of a prior registration and removal from the registry) and due at that time.

(2) The involuntary registry fee set forth in Section 1759.06(b) for the applicable type of Building shall be assessed to the Owner of a Vacant Building in each year that it is involuntarily registered pursuant to Section 1759.03(e). In addition to the involuntary registry fee, the Owner shall reimburse the City for all its costs incurred in notifying the Owner of Staff's determination of Vacant Building status and of the registry fee due. The Owner shall be notified in writing of the involuntary registry fee due, together with all costs reimbursable to the City hereunder, by Certified Mail or Alternative Means of Service, which amounts are due when service of the notice is deemed made under Section 1759.02(a) or Section 1759.02(d), as the case may be.

(3) The City may take the following actions in order to collect any registry fees and costs reimbursable to the City that are not paid in full within thirty (30) days of when due:

(A) After providing the Owner the notice specified below, file in the Office of the Clerk of the County Commission of Jefferson County a lien against the Vacant Building for the full amount of the delinquent registry fees and reimbursable costs, plus filing fees. Prior to filing such lien, the Vacant Buildings Official shall notify the Owner of the Vacant Building in writing by Certified Mail or Alternative Means of Service that the City may file said lien unless all delinquent amounts are paid by a date stated in the notice, which stated date shall be no less than thirty (30) days following the date on which service of the notice is deemed made under Section 1759.02(a) or Section 1759.02(d), as the case may be.

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

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

(h) Removal from Registry. In the event a Building in the Vacant Buildings Registry becomes lawfully occupied or is removed from the subject real property, the Owner of the Building is required to provide to the Vacant Buildings Official a written notice explaining the situation, together with evidence thereof (such as a copy of a lease of the property, photographs of demolition, etc.), and requesting removal of the Building from the Vacant Buildings Registry. Upon Staff's verification of lawful occupation or removal of the Building, the Building shall be removed from the Vacant Buildings Registry. In the event Staff is unable to verify lawful occupation or removal of the Building, the Vacant Buildings Official shall notify the Owner of the Building in writing by Certified Mail or Alternative Means that Staff has determined that it is unable to verify lawful occupation or removal of the Building and that the Building shall continue to be considered a Vacant Building and remain registered in the Vacant Buildings Registry.

1759.04 MAINTENANCE OF VACANT BUILDINGS.

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

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

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

1759.05 APPEALS.

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

1759.06 SCHEDULE OF REGISTRY FEES.

(a) Voluntary Registry Fee. The following voluntary registry fee, as specified for the type of Building at issue based upon its use when last occupied, shall be charged upon the voluntary registration of a Vacant Building pursuant to Section 1759.03(d) as provided in Section 1759.03(g)(1):

(1) Less than one-year: $250

(2) At least one year but less than two years: $500

(3) At least two years but less than three years: $1,000

(4) Plus an additional $1,000 per year for each year thereafter.

(b) Involuntary Registry Fee. Any vacant property existing upon the registry, and not voluntarily registered pursuant to Article 1759.03(b), will be subject to registration fees each year in accordance with the schedule above, with the exception of the initial fee, which shall be assessed at twice the rate."

(c) Use of Registry Fees. All registry fees assessed under this Article shall, when collected, be deposited in a separate account and be used for only the following purposes, as City Council shall determine from time to time:

(1) To improve public safety efforts, especially for police and fire personnel, who most often contend with dangerous situations manifested in Vacant Buildings; and

(2) To monitor and administer this Article.

1759.07 SEVERABILITY.

If any provision of this Article is held to be invalid or unconstitutional by any court of competent jurisdiction, such invalidity or unconstitutionality shall not otherwise affect or

invalidate the other provisions hereto, all of which are hereby declared, and shall be construed, to be separate and severable.

1759.08 TRANSITION PROVISIONS.

All registry fees, fines, penalties, liens, notices, letters, communications, orders, remedies, or other enforcement actions assessed, charged, imposed, placed, filed, issued, or otherwise instituted or taken under any prior version of this Article shall remain fully effective and enforceable notwithstanding the revision of this Article and nothing herein shall be deemed to modify, negate, limit, or otherwise affect such items.

City Council
101 East Washington Street
Charles Town, WV 25414

Meeting: 05/06/24
Department: City Council
Category: Ordinance
Initiator:

SCHEDULED

AGENDA ITEM (ID #)

2024-429: Public Hearing on Article 101, Article 301, Article 361, Article 373, Article 521, and Article 545

ATTACHMENTS:

City Council
101 East Washington Street
Charles Town, WV 25414

Meeting: 05/06/24
Department: City Council
Category: Ordinance
Initiator:

SCHEDULED

AGENDA ITEM (ID #)

2024-430: Second Reading and Consideration of an Amendment to the Codified Ordinances of the City of Charles Town, West Virginia with Regard to Part 1 Administrative Code Article 101 Codified Ordinances as a Result of Adopted State Code Changes

ATTACHMENTS:

- Article 101 Codified Ordinances- state changes.pdf

ARTICLE 101

Codified Ordinances

101.01 Designation; citation; headings.
101.02 General definitions.
101.03 Rules of construction.
101.04 Repeal of repealing act; effect of repeal.
101.05 Construction of section references.
101.06 Acts by agent or deputy.
101.07 Conflicting provisions.
101.08 Separability.
101.99 General penalty.

CROSS REFERENCES

See sectional histories for similar State law
Maximum penalty permitted - see W. Va. Code 8-11-1, 8-12-5(57)
Authority to impose penalties - see W. Va. Code 8-11-1, 8-12-2(11)
Codification of ordinances - see W. Va. Code 8-11-4(b)

101.01 DESIGNATION; CITATION; HEADINGS.

(a) All ordinances of a permanent and general nature of the Municipality as revised, recodified, rearranged, renumbered and consolidated into component codes, chapters, articles and sections shall be known and designated as the Codified Ordinances of Charles Town, West Virginia, 1989, for which designation "Codified Ordinances" may be substituted. Code, chapter, article and section headings do not constitute any part of the law as contained in the Codified Ordinances.

(b) All references to codes, chapters, articles and sections are to such components of the Codified Ordinances unless otherwise specified. Any component code may be referred to and cited by its name, such as the "Traffic Code". Sections may be referred to and cited by the designation "Section" followed by the number, such as "Section 101.01".

101.02 GENERAL DEFINITIONS.

As used in the Codified Ordinances, unless otherwise expressly provided or the context otherwise requires:

(a) Council means the legislative authority of the Municipality.
(b) County means Jefferson County, West Virginia.
(c) Land or lands and real estate or real property include lands, tenements and hereditaments, and all rights thereto and interests therein except chattel interests.
(d) Laws of the State includes the Constitution of the State and the Constitution of the United States, and treaties and laws made in pursuance thereof. (WVaC 2-2-10)
(e) Municipality or City means the City of Charles Town, West Virginia.
(f) Offense includes every act or omission for which a fine, forfeiture or punishment is imposed by law. (WVaC 2-2-10)
(g) Owner, when applied to property, includes any part owner, joint owner or tenant in common of the whole or part of such property.
(h) Person or whoever includes corporations, societies, associations and partnerships, and other similar legal business organizations.
(i) Personal estate or personal property includes goods, chattels, real and personal, money, credits, investments and the evidences thereof. (WVaC 2-2-10)
(j) Preceding, succeeding or following used in reference to any section or sections of an article means next preceding, next succeeding or next following that in which such reference is made. (WVaC 2-2-10)
(k) Premises, as applied to property, includes land and building.
(l) Property or estate embraces both real and personal estate. (WVaC 2-2-10)
(m) Public place includes any street, sidewalk, park, cemetery, school yard, body of water or watercourse, public conveyance or any other place for the sale of merchandise, public accommodation or amusement.
(n) Registered mail includes certified mail.
(o) State means the State of West Virginia or any department, division, commission, board, educational or other institution of the State.
(p) Street includes alleys, avenues, boulevards, lanes, roads, highways, viaducts and all other public thoroughfares within the Municipality.
(q) Tenant or occupant, as applied to premises, includes any person holding a written or oral lease, or who actually occupies the whole or any part of such premises alone or with others.
(r) Written or in writing includes any representation of words, letters or figures, whether by printing, engraving, writing or otherwise. But when the signature of any person is required, it must be in his or her own proper handwriting, or his or her mark, attested, proved or acknowledged. Unless a provision of this code specifically provides otherwise, an electronic signature satisfies this signature requirement if the electronic signature meets the requirements of West Virginia Code 39A-1-2. (WVaC 2-2-10)

101.03 RULES OF CONSTRUCTION.

(a) General Rule. All words and phrases shall be construed and understood according to the common and approved usage of the language, but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in the law shall be construed and understood according to such peculiar and appropriate meaning.

(b) Gender and Plural. A word importing the singular number only may be applied to several persons or things, as well as to one person or thing; a word importing the plural number only may be applied to one person or thing as well as to several; and a word importing the masculine gender only may be applied to females as well as males.
(WVaC 2-2-10)

(c) Computation of Time. The time within which an act is to be done shall be computed by excluding the first day and including the last, or if the last be a Saturday, Sunday or legal holiday it shall also be excluded.
(WVaC 2-2-3)

(d) Joint Authority. Words purporting to give a joint authority to three or more persons confer such authority upon a majority of them,

and not upon any less number. (WVaC 2-2-10)

(e) Exceptions. The rules of construction shall not apply to any law which contains any express provision excluding such construction, or when the subject matter or context of such law may be repugnant thereto.

101.04 REPEAL OF REPEALING ACT; EFFECT OF REPEAL.

(a) When a law which has repealed another is itself repealed, the former law shall not be revived without express words for that purpose.
(WVaC 2-2-9)

(b) The repeal of a law, or its expiration by virtue of any provision contained therein, shall not affect any offense committed, or penalty or punishment incurred, before the repeal took effect or the law expired, save only that the proceedings thereafter shall conform as far as practicable to the laws in force at the time such proceedings take place, unless otherwise specially provided; and that if any penalty or punishment be mitigated by the new law, such new law may, with the consent of the part affected thereby, be applied to any judgment pronounced after it has taken effect. (WVaC 2-2-8)

(c) The repeal by any provision of the Codified Ordinances of an ordinance validating previous acts, contracts or transactions shall not affect the validity of such acts, contracts or transactions, but the same shall remain as valid as if there had been no such repeal, but no further.
(WVaC 2-2-11)

101.05 CONSTRUCTION OF SECTION REFERENCES.

When reference is made to any section or group of sections of the Codified Ordinances, such reference shall extend to and include any amendment of or supplement to the section or group of sections so referred to or any section or sections hereafter enacted in lieu thereof; and unless otherwise provided, whenever a reference to a section or group sections is made in any amendment or supplement to any section of the Codified Ordinances hereafter enacted, such reference shall be deemed to refer to the section or sections as the same shall then stand or as thereafter amended.

Whenever in a penalty section reference is made to a violation of a section or an inclusive group of sections, such reference shall be construed to mean a violation of any provision of the section or sections included in such reference.

References in the Codified Ordinances to action taken or authorized under designated sections of the Codified Ordinances include, in every case, action taken or authorized under the applicable legislative provision which is superseded by the Codified Ordinances.

If a section refers to a series of numbers or letters, the first and the last number or letters in the series are deemed to be included.

101.06 ACTS BY AGENT OR DEPUTY.

When a section requires that an act be done by an officer or person, it shall be sufficient if it be done by his agent or deputy, unless it be such as cannot lawfully be done by reputation.
(WVaC 2-2-5)

101.07 CONFLICTING PROVISIONS.

If the provisions of different codes, articles or sections of the Codified Ordinances conflict with or contravene each other, the provisions bearing the latest passage date shall prevail. If the conflicting provisions bear the same passage date, the conflict shall be construed so as to be consistent with the meaning or legal effect of the questions of the subject matter taken as a whole.

101.08 SEPARABILITY.

Each section of the Codified Ordinances and every part of each section is an independent section and part of a section, and the holding of any section or a part thereof to be unconstitutional, void or ineffective for any cause does not affect the validity or constitutionality of any other section or part thereof.

101.99 GENERAL PENALTY.

Whenever, in the Codified Ordinances or in any ordinance of the Municipality, any act is prohibited or is made or declared to be unlawful or an offense, or whenever the doing of any act is required or the failure to do any act is declared to be unlawful, where no specific penalty is otherwise provided, whoever violates any such provision shall be fined not more than five hundred dollars ($500.00). Each day any such violation continues shall constitute a separate offense.
(Ord. 91-0-3-4. Passed 3-4-91.)

City Council
101 East Washington Street
Charles Town, WV 25414

Meeting: 05/06/24
Department: City Council
Category: Ordinance
Initiator:

SCHEDULED

AGENDA ITEM (ID #)

2024-431 Second Reading and Consideration of an Amendment to the Codified Ordinances of the City of Charles Town, West Virginia with Regard to Part 3 Traffic Code Article 301 Definitions as a Result of Adopted State Code Changes

ATTACHMENTS:

- Article 301 Definitions - state changes.pdf

ARTICLE 301

Definitions

301.01 Meaning of words and phrases.
301.02 Authorized emergency vehicle.
301.03 Bicycle.
301.04 Bus.
301.05 Business district.
301.06 Controlled-access highway.
301.07 Crosswalk.
301.08 Driver.
301.083 **Electric bicycles.**
301.085 Electric personal assistive mobility device.
301.09 Explosives.
301.10 Flammable liquid.
301.11 Gross weight.
301.12 Intersection.
301.13 Laned roadway.
301.14 Moped.
301.15 Motorcycle.
301.16 Motor-driven cycle.
301.17 Motor vehicle.
301.18 Owner.
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301.20 Parking area.
301.201 Passenger van.
301.21 Pedestrian.
301.22 Person.
301.23 Pole trailer.
301.24 Police officer.
301.25 Private road or driveway; private property.
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301.28 Railroad train.
301.29 Residence district.
301.30 Residential street.
301.31 Right of way.
301.32 Roadway.
301.33 Safety zone.
301.34 School bus.
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301.36 Semitrailer.
301.37 Sidewalk.
301.38 Stop.
301.39 Stop, stopping or standing.
301.40 Street or highway; alley.
301.41 Through street or through highway.
301.42 Traffic.
301.43 Traffic control devices.
301.44 Traffic control signal.
301.45 Trailer.
301.46 Truck.
301.47 Vehicle.
301.48 Wheelchair.

CROSS REFERENCES

See sectional histories for similar State law
Speed race defined - see TRAF. 335.04

301.01 MEANING OF WORDS AND PHRASES.

The following words and phrases when used in this Traffic Code shall, for the purpose of this Traffic Code, have the meanings respectively ascribed to them in this article.
(WVaC 17C-1-1)

301.02 AUTHORIZED EMERGENCY VEHICLE.

"Authorized emergency vehicle" means vehicles of the Fire Department, duly chartered rescue squad, Police Department, ambulance service, hospital police department, state, county or municipal agency and such privately owned ambulances, tow trucks, wreckers, flag car services, vehicles providing road service to disabled vehicles, service vehicles of a public service corporation, postal service vehicles, snow removal equipment, Class A vehicles of firefighters, Class A vehicles of members of ambulance services, Class A vehicles of members of duly chartered rescue squads, emergency management and operations vehicles operated by airports and designated pursuant

to West Virginia Code 17C-15-26 and all other emergency vehicles as are designated by the agency responsible for the operation and control of these persons or organizations. Class A vehicles are as defined by West Virginia Code 17A-10-1. Agency authorization and emergency equipment are provided in West Virginia Code 17C-15-26. Agencies responsible for issuing authorization for emergency vehicle permits may promulgate such regulations that are necessary for the issuance of permits for emergency vehicles. In the event that emergency medical technician's ("EMTs") or paramedics on the scene of an emergency are unable to drive an ambulance in the course of administering patient care, firefighters on the scene shall be permitted to drive an ambulance: provided, that the Fire Department with which the firefighters are associated or members and the emergency medical services provider that owns the ambulance have previously entered into a memorandum of understanding or other agreement authorizing such action and the firefighter driving the ambulance has completed an Emergency Vehicle Operations Course ("EVOC") otherwise required by the West Virginia Code or legislative rule promulgated thereunder. (WVaC 17C-1-6)

301.03 BICYCLE.

"Bicycle" means every device which does not have a motor attached and which is propelled by human power upon which any person may ride, having two tandem wheels either of which is more than twenty inches in diameter.
(WVaC 17C-1-8)

301.04 BUS.

"Bus" means every motor vehicle designed for carrying more than seven passengers and used for the transportation of persons; and every motor vehicle, other than a taxicab, designed and used for the transportation of persons for compensation. (WVaC 17C-1-13)

301.05 BUSINESS DISTRICT.

"Business district" means the territory contiguous to and including a street or highway when within any 600 feet along such highway there are buildings in use for business or industrial purposes, including but not limited to hotels, banks or office buildings, railroad stations, and public buildings which occupy at least 300 feet of frontage on one side or 300 feet collectively on both sides of the street or highway.
(WVaC 17C-1-45)

301.06 CONTROLLED-ACCESS HIGHWAY.

"Controlled-access highway" means every highway, street or roadway in respect to which owners or occupants of abutting lands and other persons have no legal right of access to or from the same except at such points only and in such manner as may be determined by the public authority having jurisdiction over such highway, street or roadway.
(WVaC 17C-1-41)

301.07 CROSSWALK.

"Crosswalk" includes:

(a) That part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the street or highway measured from the curbs or, in the absence of curbs, from the edges of the traversable roadway; and

(b) Any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface. (WVaC 17C-1-43)

301.08 DRIVER.

"Driver" means every person who drives or is in actual physical control of a vehicle. (WVaC 17C-1-31)

301.083 ELECTRIC BICYCLES.

(a) For the purpose of this section, the term "electric bicycle" means a two or three wheeled vehicle with fully operable pedals and an electric motor of fewer than 750 watts. There is a "three-class system" to differentiate between the models and top-assisted speeds of electric bicycles.

(1) "Class 1" electric bicycles have a motor that provides assistance only when the rider is pedaling, and that ceases to provide assistance when the e-bike reaches 20 mph.

(2) "Class 2" electric bicycles have a motor that may be used exclusively to propel the bicycle, and that is not capable of providing assistance when the e-bike reaches 20 mph.

(3) "Class 3" electric bicycles have a motor that provides assistance only when the rider is pedaling, and that ceases to provide assistance when the e-bike reaches 28 mph.

(b) "Throttle" refers to a device that controls the flow of power to the electric motor on an electric bicycle for the purpose of propelling the electric bicycle. (WVaC 17C-1-70)

301.085 ELECTRIC PERSONAL ASSISTIVE MOBILITY DEVICE.

"Electric personal assistive mobility device" or "EPAMD" means a self-balancing, two nontandem-wheeled device, designed to transport only one person, with an electric propulsion system with average power of seven hundred fifty watts (one horse power), whose maximum speed on a paved level surface, when powered solely by such a propulsion system while ridden by an operator who weighs one hundred seventy pounds, is less than twenty miles per hour.
(WVaC 17C-1-66)

301.09 EXPLOSIVES.

"Explosives" means any chemical compound or mechanical mixture that is commonly used or intended for the purpose of producing an explosive and which contains any oxidizing and combustive units or other ingredients in such proportions, quantities or packing that an ignition by fire, by friction, by concussion, by percussion or by detonator of any part of the compound or mixture may cause such a sudden generation of highly heated gases that the resultant gaseous pressures are capable of producing destructive effects on contiguous objects or of destroying life or limb. (WVaC 17C-1-24)

301.10 FLAMMABLE LIQUID.

"Flammable liquid" means any liquid which has a flash point of seventy degrees Fahrenheit, or less, as determined by a tagliabue or equivalent closedcup test device.
(WVaC 17C-1-25)

301.11 GROSS WEIGHT.

"Gross weight" means the weight of a vehicle without load plus the weight of any load thereon. (WVaC 17C-1-26)

301.12 INTERSECTION.

"Intersection" includes:

(a) The area embraced within the prolongation or connection of the lateral curb lines or, if none, then the lateral boundary lines of the roadways of two streets or highways which join one another at, or approximately at, right angles, or the area within which vehicles traveling upon different streets or highways joining at any other angle may come in conflict; and

(b) Where a street or highway includes two roadways thirty feet or more apart, then every crossing of each roadway of such divided street or highway by an intersecting highway shall be regarded as a separate intersection. In the event such intersecting street or highway also includes two roadways thirty feet or more apart, then every crossing of two roadways of such streets or highways shall be regarded as a separate intersection. (WvaC 17C-1-42)

301.13 LANED ROADWAY.

"Laned roadway" means a roadway which is divided into two or more clearly marked lanes for vehicular traffic.
(WVaC 17C-1-39)

301.14 MOPED.

"Moped" means every motorcycle or motor-driven cycle unless otherwise specified in this Traffic Code, which is equipped with two or three wheels, foot pedals to permit muscular propulsion and an independent power source providing a maximum of two brake horsepower, but excludes electric bicycles as defined in Section 301.083. If a combustion engine is used, the maximum piston or rotor displacement shall be fifty cubic centimeters regardless of the number of chambers in such power source. The power source shall be capable of propelling the vehicle, unassisted, at a speed not to exceed thirty miles per hour on a level road surface and shall be equipped with a power drive system that functions directly or automatically only, not requiring clutching or shifting by the operator after the drive system is engaged. (WVaC 17C-1-5a)

301.15 MOTORCYCLE.

"Motorcycle" means every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, but excluding a tractor.
(WVaC 17C-1-4)

301.16 MOTOR-DRIVEN CYCLE.

"Motor-driven cycle" means every motorcycle having a piston displacement of more than fifty cubic centimeters but not more than 150 cubic centimeters, or with not more than five brake horsepower.
(WVaC 17C-1-5)

301.17 MOTOR VEHICLE.

"Motor vehicle" means every vehicle which is self-propelled and every vehicle which is propelled by electric power obtained from overhead trolley wires, but not operated upon rails, except motorized wheelchairs. (WVaC 17C-1-3)

301.18 OWNER.

"Owner" means a person who holds the legal title of a vehicle or in the event a vehicle is the subject of an agreement for the conditional sale or lease thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee, or in the event a mortgagor of a vehicle is entitled to possession, then such conditional vendee or lessee or mortgagor shall be deemed the owner for the purpose of this Traffic Code.
(WVaC 17C-1-32)

301.19 PARK.

"Park" when prohibited, means the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading.
(WVaC 17C-1-54)

301.20 PARKING AREA.

"Parking area" means lots, areas or other accommodations for the parking of vehicles off the street or highway and open to public use with or without charge.
(WVaC 17C-1-60)

301.201 PASSENGER VAN.

“Passenger van” means any van or other motor vehicle owned by any agency, business or other legal entity and operated for the purpose of transportation of children under the age of eighteen years, other than a van utilized for private use, taxicab, bus or school bus. Passenger vans include, but are not limited to, vehicles used by daycare centers, after-school centers and nursery schools: provided, that the term “passenger van” does not include any van or other motor vehicle which is utilized for the specific purpose of transporting children to medical facilities for the purpose of medical or dental treatment and which loads and unloads the children on private property, making no stops for loading or unloading along public roads or highways.
(WVaC 17C-1-64)

301.21 PEDESTRIAN.

"Pedestrian" means any person afoot or any person using a wheelchair.
(WVaC 17C-1-30)

301.22 PERSON.

"Person" means every natural person, firm, copartnership, association or corporation. (WVaC 17C-1-29)

301.23 POLE TRAILER.

"Pole trailer" means every vehicle without motive power designed to be drawn by another vehicle and attached to the towing vehicle by means of a reach, or pole, or by being boomed or otherwise secured to the towing vehicle and ordinarily used for transporting long or irregularly shaped loads such as poles, pipes, trusses or structural members capable, generally, of sustaining themselves as beams between the supporting connections. (WVaC 17C-1-17)

301.24 POLICE OFFICER.

"Police officer" means every officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations. (WVaC 17C-1-33)

301.25 PRIVATE ROAD OR DRIVEWAY; PRIVATE PROPERTY.

(a) "Private road" or "driveway" means every way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.

(b) "Private property" means real estate in private ownership without regard to the manner in which it is used. (WVaC 17C-1-36)

301.26 RAILROAD.

"Railroad" means a carrier of persons or property, upon cars, other than streetcars, operated upon stationary rails. (WVaC 17C-1-21)

301.27 RAILROAD SIGN OR SIGNAL.

"Railroad sign" or "signal" means any sign, signal or device erected by authority of a public body or official or by a railroad and intended to give notice of the presence of railroad tracks or the approach of a railroad train. (WVaC 17C-1-49)

301.28 RAILROAD TRAIN.

"Railroad train" means a steam engine, electric or other motor, with or without cars coupled thereto, operated upon rails, except streetcars.
(WVaC 17C-1-22)

301.29 RESIDENCE DISTRICT.

"Residence district" means the territory contiguous to and including a street or highway not comprising a business district when the property on such street or highway for a distance of 300 feet or more is in the main improved with residences or residences and buildings in use for business.
(WVaC 17C-1-46)

301.30 RESIDENTIAL STREET.

"Residential street" means the entire width between the boundary lines of every way, whether publicly or privately maintained, located within any subdivision, development or other similar area used primarily for residential purposes when any part thereof is open to the common use of those living in such area for the purpose of vehicular travel.
(WVaC 17C-1-62)

301.31 RIGHT OF WAY.

"Right of way" means the privilege of the immediate use of the street or highway.
(WVaC 17C-1-51)

301.32 ROADWAY.

"Roadway" means that portion of a street or highway improved, designed or ordinarily used for vehicular travel, exclusive of the berm or shoulder. In the event a street or highway includes two or more separate roadways, the term "roadway" as used herein shall refer to any such roadway separately but not to all such roadways collectively.
(WVaC 17C-1-37)

301.33 SAFETY ZONE.

"Safety zone" means the area or space officially set apart within a roadway for the exclusive use of pedestrians and which is protected or is so marked or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone.
(WVaC 17C-1-44)

301.34 SCHOOL BUS.

"School bus" means every motor vehicle owned by a public or governmental agency and operated for the transportation of children to or from school, or privately owned and operated for compensation for the transportation of children to or from school.
(WVaC 17C-1-7)

301.35 SCHOOL GROUNDS.

"School grounds" includes the land on which a school is built together with such other land used by students for play, recreation or athletic events while attending school.
(WVaC 17C-1-55)

301.36 SEMITRAILER.

"Semitrailer" means every vehicle with or without motive power, other than a pole trailer, designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that some part of its weight and that of its load rests upon or is carried by another vehicle. (WVaC 17C-1-16)

301.37 SIDEWALK.

"Sidewalk" means that portion of a street or highway between the curb lines, or the lateral lines of a roadway, and the adjacent property lines intended for the use of pedestrians.
(WVaC 17C-1-38)

301.38 STOP.

"Stop" when required, means complete cessation from movement.
(WVaC 17C-1-52)

301.39 STOP, STOPPING OR STANDING.

"Stop", "stopping," or "standing," when prohibited, means any stopping or standing of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic control sign or signal.
(WVaC 17C-1-53)

301.40 STREET OR HIGHWAY; ALLEY.

(a) "Street" or "highway" means the entire width between the boundary lines of every way publicly maintained when any part thereof

is open to the use of the public for purposes of vehicular travel.
(WVaC 17C-1-35)

(b) "Alley" means a street or highway intended to provide access to the rear or side of lots or buildings in urban districts and not intended for the purpose of through vehicular traffic.

301.41 THROUGH STREET OR THROUGH HIGHWAY.

"Through street" or "through highway" means every street or highway or portion thereof at the entrances to which vehicular traffic from intersecting streets or highways is required by law to stop before entering or crossing the same and when stop signs are erected as provided in this Traffic Code.
(WVaC 17C-1-40)

301.42 TRAFFIC.

"Traffic" means pedestrians, ridden or herded animals, vehicles, streetcars and other conveyances either singly or together while using any street or highway for purposes of travel. (WVaC 17C-1-50)

301.43 TRAFFIC CONTROL DEVICES.

"Traffic control device" means any sign, signal, marking and device not inconsistent with this Traffic Code placed or erected by authority of a public body or official having jurisdiction, for the purpose of regulating, warning or guiding traffic.
(WVaC 17C-1-47)

301.44 TRAFFIC CONTROL SIGNAL.

"Traffic control signal" means any device, whether manually, electrically or mechanically operated, by which traffic is alternately directed to stop and to proceed.
(WVaC 17C-1-48)

301.45 TRAILER.

"Trailer" means every vehicle with or without motive power, other than a pole trailer, designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that no part of its weight rests upon the towing vehicle.
(WVaC 17C-1-15)

301.46 TRUCK.

"Truck" means every motor vehicle designed, used or maintained primarily for the transportation of property.
(WVaC 17C-1-12)

301.47 VEHICLE.

"Vehicle" means every device in, upon or by which any person or property is or may be transported or drawn upon a street or highway, except devices moved by human power or used exclusively upon stationary rails or tracks or wheelchairs.
(WVaC 17C-1-2)

301.48 WHEELCHAIR.

“Wheelchair” means a motorized or nonmotorized wheeled device designed for, and used by, a person with disabilities that is incapable of a speed in excess of eight miles per hour.
(WVaC 17C-1-65)

City Council
101 East Washington Street
Charles Town, WV 25414

Meeting: 05/06/24
Department: City Council
Category: Ordinance
Initiator:

SCHEDULED

AGENDA ITEM (ID #)

2024-432: Second Reading and Consideration of an Amendment to the Codified Ordinances of the City of Charles Town, West Virginia with Regard to Part 3 Traffic Code Article 361 Parking Generally as a Result of Adopted State Code Changes

ATTACHMENTS:

- Article 361 Parking Generally - state changed.pdf

ARTICLE 361

Parking Generally

361.01 **Definitions.**
361.02 **Stopping, standing, or parking on streets and highways.**
361.03 **Registered owner prima-facie liable for unlawful parking.**
361.04 **Parking time limit.**
361.05 **Temporary no parking zones.**
361.06 **Severability.**
361.07 **Accessible parking.**
361.99 **Penalties and appeals.**

CROSS REFERENCES

See sectional histories for similar State law
Authority to regulate the standing or parking of vehicles - see W. Va. Code 17C-2-8(a)(1)
Authority to regulate parallel and angle parking - see W. Va. Code 17C-13-4
Applicable West Virginia State Codes to this Article include: WV Code 17-24A-2; 17C-14; 17C-14-13
Impounding of abandoned vehicles - see TRAF. 303.07
Duty to stop engine, set brake on grade and remove key - see TRAF. 349.01

361.01 DEFINITIONS.

For the purposes of this article, the words or terms defined in this article have the meanings ascribed to them:

(a) Commercial vehicle shall mean any motor vehicle, truck, bus, tractor-trailer, or other tandem vehicle licensed or used for the transportation of property and/or people, delivery of goods, wares, merchandise or any other commercial-related service upon any street of the City.

(b) Recreational vehicle shall mean any motor home, travel trailer, truck camper, or camping trailer with or without motive power designed for human habitation for recreational or emergency occupancy.

(Ord. 2021-007. Passed 10-12-21.)

361.02 STOPPING, STANDING, OR PARKING ON STREETS AND HIGHWAYS.

In addition to those prohibitions cited in WV Code 17C-13 & 14 the following sections apply:

(a) Parking for Certain Purposes Prohibited. No person shall park any vehicle upon any street within the Municipality for the principal purpose of:

(1) Displaying such vehicle for sale.
(2) Displaying advertising.
(3) Washing, greasing or repairing such vehicle, except repairs made necessary by an emergency.
(4) Relieving the crowded condition of any parking lot, automobile sales lot, repair garage, or automobile rental lot.

(b) Loading and Unloading Zones. No person shall stop, stand or park a vehicle for any purpose or length of time other than for the expeditious unloading and delivering or pickup and loading of materials in any place marked as a loading and unloading zone during the hours of 8:00 a.m. and 5:00 p.m., on all weekdays, except legal holidays as specified in West Virginia Code §2-2-1, official acts or court proceedings and as revised, amended or modified from time to time by the State Legislature. One additional holiday will be recognized for City Election Day. In no case shall the stop for loading and unloading of materials exceed fifteen (15) minutes.

(c) Bus Stops.

(1) No person shall stop, stand or park a vehicle other than a bus in a bus stop when any such stop or stand has been officially designated and appropriately posted, except that the driver of a passenger vehicle may temporarily stop therein for the purpose of and while actually, engaged in loading or unloading passengers when such stopping does not interfere with any bus waiting to enter or about to enter such zone, and then only for a period not to exceed three (3) minutes if such stopping is not prohibited therein by posted signs.

(2) The operator of a bus shall not stop, stand or park such vehicle upon any street at any place for the purpose of loading or unloading passengers or their baggage other than at a bus stop so designated and posted as such, except in case of an emergency.

(3) The operator of a bus shall enter a bus stop on a public street in such a manner that the bus when stopped to load or unload passengers or baggage shall be in a position with the right front wheel of such vehicle not further than eighteen (18) inches from the curb and the bus approximately parallel to the curb so as not to unduly impede the movement of other vehicular traffic.

(d) Painted Curbs or Streets. No person shall park a vehicle where signs explicitly prohibit stopping, standing, or parking or where the curbing or street is painted yellow or red.

(e) Posted Signs. No person shall park a vehicle at any place in excess of the maximum time limited by signs. The vehicle must completely vacate the space after the time limit or will be cited for a violation.

(f) Parking in Alleys and Narrow Streets. No person shall stop, stand or park any vehicle upon a street, other than an alley, in such a manner or under such conditions as to leave available less than ten (10) feet of the width of the roadway for free movement of vehicular traffic, except that a driver may stop temporarily during the actual loading or unloading of passengers or when directed to by a police officer or traffic control signal. Except as otherwise provided by law, no person shall stop, stand or park a vehicle within an alley except while actually loading and unloading, and then only for a period not to exceed thirty (30) minutes.

(g) Parking Between Sidewalk and Curb. When a portion of any street is paved no person shall park any vehicle between the sidewalk and curb or drive such vehicle between the sidewalk and curb.

(h) Parking of Commercial and Recreational Vehicles.

(1) No person shall park any commercial or recreational vehicle as defined in this article on any street of the City except for the purpose of loading or unloading, and then only for the period of time which is spent in the actual loading or unloading of such vehicle.

(2) No person shall park, under the exception cited in Section 361.01(h)(l), any commercial or recreational vehicle on any street within the residential districts of the City between one (1) hour after sunset and one (1) hour before sunrise.

(3) No person shall park the trailer of any tractor-trailer, the property-carrying unit of any tandem vehicle, or any utility trailer upon

any street in the City unless the same is fully connected to the tractor or other regular propelling unit so that the same can be immediately moved when required.
(Ord. 2021-007. Passed 10-12-21.)

361.03 REGISTERED OWNER PRIMA-FACIE LIABLE FOR UNLAWFUL PARKING.

In any hearing on a charge of illegally parking a motor vehicle, testimony that a vehicle bearing a certain license plate was found unlawfully parked as prohibited by the provisions of this Traffic Code, and further testimony that the records of the Department of Motor Vehicles shows that the license plate was issued to the defendant, shall be prima-facie evidence that the vehicle which was unlawfully parked was so parked by the defendant. A certified copy of registration from the Department of Motor Vehicles shall be proof of such ownership.
(Ord. 2021-007. Passed 10-12-21.)

361.04 PARKING TIME LIMIT.

(a) No person shall leave any vehicle continuously parked on any street, road, highway, thoroughfare, alley, or municipal parking lot within the Charles Town parking district (including all parking zones established therein), as specified in Sections 365.01 and 365.02, with or without a valid parking permit, for a period of more than seventy-two (72) consecutive hours. Violation of this subsection (a) shall subject the vehicle to fines and impoundment at the owner's expense pursuant to Section 303.07(1).

(b) No person shall leave any vehicle continuously parked on any street, road, highway, thoroughfare, alley, any other City property or right-a-way within the Charles Town city limits but outside the Charles Town parking district, with or without a valid parking permit, for a period of more than five (5) consecutive days. Any vehicle parked in violation of this subsection (b) for a period of more than five (5) consecutive days shall be deemed and considered an "abandoned motor vehicle," as such term is defined in West Virginia Code Section 17-24A-1(3), for the purposes of Section 303.07(b) and West Virginia Code Section 17-24A-3 and shall be subject to fines and impoundment at the owner's expense pursuant to such provisions.

(c) In the event any police officer observes, or any member of the public certifies to a police officer, that a vehicle appears to have been parked in violation of either of subsection (a) or (b) above, the police officer shall place upon the vehicle a written notice that: (i) the vehicle is believed to have been parked in violation of the relevant subsection, as specified; (ii) that the vehicle is subject to impoundment if not moved within the period of the next consecutive seventy-two (72) hours, in the case of an apparent violation of subsection (a), or the next consecutive one hundred twenty hours (120), in the case of an apparent violation of subsection (b); and (iii) the owner or operator of the vehicle should contact the Charles Town Police Department prior to expiration of the specified period for moving the vehicle. Failure of the owner or operator to move the vehicle prior to expiration of the specified period may result in its impoundment.

(d) Exceptions to this section; to facilitate demolition, construction, repair, or similar operations, must be requested in writing not less than seven (7) days prior to the start of the requested exception period. The approval authority for the aforementioned exception shall be both the City Manager or designated representative and the Charles Town Police Chief or designated representative. The maximum time period for an approved exception to this section is seven (7) days, which may be renewed at the discretion of the approval authority. Exception requests under this section that include paid parking spaces will be subject to parking rates per Article 365.03.
(Ord. 2021-007. Passed 10-12-21.)

361.05 TEMPORARY NO PARKING ZONES.

(a) No person shall stop, stand, park or leave any vehicle in a designated temporary or emergency no parking zone.

(b) Temporary No Parking Zones may be established for special events, parades, or planned construction. These zones will be posted by employees of the City of Charles Town, no less than twenty-four (24) hours prior to the parking restriction taking effect. Signs noticing the No Parking Zone will display the dates and times that the No Parking Zone will be in effect. Any vehicle in violation of this section will be subject to impoundment at the vehicle owner's expense.

(c) Emergency No Parking Zones may be established for public safety, emergency repairs, or disaster recovery efforts without prior notice. Any vehicle in these zones may be subject to towing or impoundment as required.
(Ord. 2021-007. Passed 10-12-21.)

361.06 SEVERABILITY.

The provisions of this article shall be liberally construed to accomplish its objective and purposes. If any provision of this article is held to be invalid or unconstitutional by any court of competent jurisdiction, such invalidity or unconstitutionality shall not otherwise affect or invalidate the other provisions hereto, all of which are hereby declared, and shall be construed, to be separate and severable.
(Ord. 2021-007. Passed 10-12-21.)

361.07 ACCESSIBLE PARKING.

(a) As used in this section, the following terms have the meanings ascribed to them in this subsection:

(1) A person or applicant with a “mobility impairment” means a person who is a citizen of West Virginia and as determined by a physician, allopath or osteopath chiropractor, advanced nurse practitioner or physician’s assistant licensed to practice in West Virginia:

A. Cannot walk two hundred feet without stopping to rest;

B. Cannot walk without the use of or assistance from a brace, cane, crutch, prosthetic device, wheelchair, other assistive device or another person;

C. Is restricted by lung disease to such an extent that the person’s force (respiratory) expiratory volume for one second, when measured by spirometry, is less than one liter or the arterial oxygen tension is less than sixty mm/hg on room air at rest;

D. Uses portable oxygen;

E. Has a cardiac condition to such an extent that the person’s functional limitations are classified in severity as Class III or Class IV according to standards established by the American heart association; or

F. Is severely limited in his or her ability to walk because of an arthritic, neurological, or other orthopedic physical condition.

(2) “Special registration plate” means a registration plate that displays the international symbol of access, as adopted by the Rehabilitation International Organization in 1969 at its Eleventh World Congress on Rehabilitation of the Disabled, in a color that contrasts with the background, in letters and numbers the same size as those on the plate, and which may be used in lieu of a regular registration plate;

(3) “Removable windshield placard” (permanent or temporary) means a two-sided, hanger style placard measuring three inches by nine and one half inches, with all of the following on each side:

A. The international symbol of access, measuring at least three inches in height, centered on the placard, in white on a blue background for permanent designations and in white on a red background for temporary designations;

B. An identification number measuring one inch in height;

C. An expiration date in numbers measuring one inch in height for a temporary placard; and

D. The seal or other identifying symbol of the issuing authority.

(4) “Regular registration fee” means the standard registration fee for a vehicle of the same class as the applicant’s vehicle;

(5) “Public entity” means state or local government or any department, agency, special purpose district or other instrumentality of a state or local government.

(6) "Public facility" means all or any part of any buildings, structures, sites, complexes, roads, parking lots or other real or personal property, including the site where the facility is located.

(7) "Place(s) of public accommodation" means a facility or facilities operated by a private entity whose operations affect commerce and fall within at least one of the following categories:

A. Inns, hotels, motels and other places of lodging;

B. Restaurants, bars or other establishments serving food or drink;

C. Motion picture houses, theaters, concert halls, stadiums or other places of exhibition or entertainment;

D. Auditoriums, convention centers, lecture halls or other places of public gatherings;

E. Bakeries, grocery stores, clothing stores, hardware stores, shopping centers or other sales or rental establishments;

F. Laundromats, dry cleaners, banks, barber and beauty shops, travel agencies, shoe repair shops, funeral parlors, gas or service stations, offices of accountants and attorneys, pharmacies, insurance offices, offices of professional health care providers, hospitals or other service establishments;

G. Terminals, depots or other stations used for public transportation;

H. Museums, libraries, galleries or other places of public display or collection;

I. Parks, zoos, amusement parks or other places of recreation;

J. Public or private nursery, elementary, secondary, undergraduate or post-graduate schools or other places of learning and day care centers, senior citizen centers, homeless shelters, food banks, adoption agencies or other social service establishments; and

K. Gymnasiums, health spas, bowling alleys, golf courses or other places of exercise or recreation.

(8) "Commercial facility" means a facility whose operations affect commerce and which are intended for nonresidential use by a private entity.

(9) "Accessible parking" formerly known as "handicapped parking" is the present phrase consistent with language within the American with Disabilities Act (ADA).

(10) "Parking enforcement personnel" includes any law enforcement officer as defined by West Virginia Code 30-29-1, and private security guards, parking personnel and other personnel authorized by a city, county or the state to issue parking citations.

(b) An accessible parking space should comply with the provisions of the Americans with Disabilities Act accessibility guidelines, contained in 28 C.F.R. 36, Appendix A, Section 4.6. In particular, the parking space should be a minimum of eight feet wide with an adjacent eight-foot access aisle for vans having side mounted hydraulic lifts or ramps or a five-foot access aisle for standard vehicles. Access aisles should be marked using diagonal two- to four-inch-wide stripes spaced every twelve or twenty-four inches apart along with the words "no parking" in painted letters which are at least twelve inches in height. All accessible parking spaces should have a signpost in front or adjacent to the accessible parking space displaying the international symbol of access sign mounted at a minimum of eight feet above the pavement or sidewalk and the top of the sign. Lines or markings on the pavement or curbs for parking spaces and access aisles may be in any color, although blue is the generally accepted color for accessible parking.

(c) A vehicle displaying a disabled veterans special registration plate issued pursuant to West Virginia Code 17A-3-14(c)(6) shall be recognized and accepted as meeting the requirements of this section.

(d) A vehicle from any other state, United States territory or foreign country displaying an officially issued special registration plate, placard or decal bearing the international symbol of access shall be recognized and accepted as meeting the requirements of this section, regardless of where the plate, placard or decal is mounted or displayed on the vehicle.

(e) Stopping, standing or parking places marked with the international symbol of access shall be designated in close proximity to all public entities including state, county and municipal buildings and facilities, places of public accommodation and commercial facilities. These parking places shall be reserved solely for persons with a mobility impairment and disabled veterans at all times.

(f) Any person whose vehicle properly displays a valid, unexpired special registration plate or removable windshield placard may park the vehicle for unlimited periods of time in parking zones unrestricted as to length of parking time permitted: Provided, that this privilege does not mean that the vehicle may park in any zone where stopping, standing or parking is prohibited or which creates parking zones for special types of vehicles or which prohibits parking during heavy traffic periods during specified rush hours or where parking would clearly present a traffic hazard. To the extent any provision of any ordinance of any political subdivision of this State is contrary to the provisions of this section, the provisions of this section take precedence and apply.

The parking privileges provided for in this subsection apply only during those times when the vehicle is being used for the loading or unloading of a person with a mobility impairment. Any person who knowingly exercises, or attempts to exercise, these privileges at a time when the vehicle is not being used for the loading or unloading of a person with a mobility impairment and, upon first conviction thereof, in addition to any other penalty he or she may otherwise incur, shall be fined two hundred dollars ($200.00); upon second conviction thereof, in addition to any other penalty, he or she may otherwise incur, shall be fined three hundred dollars ($300.00); and upon third and subsequent convictions thereof, in addition to any other penalty he or she may otherwise incur, shall be fined five hundred dollars ($500.00).

(g) Any person whose vehicle does not display a valid, special registration plate or removable windshield placard may not stop, stand or park a motor vehicle in an area designated, zoned or marked for accessible parking with signs or instructions displaying the international symbol of access, either by itself or with explanatory text. The signs may be mounted on a post or a wall in front of the accessible parking space and instructions may appear on the ground or pavement, but use of both methods is preferred. Accessible parking spaces for vans having an eight-foot adjacent access aisle should be designated as "van accessible" but may be used by any vehicle displaying a valid special registration plate or removable windshield placard.

Any person who violates the provisions of this subsection is guilty of a misdemeanor and, upon conviction thereof, shall be fined two hundred dollars ($200.00); upon second conviction thereof, in addition to any other penalty he or she may otherwise incur, shall be fined three hundred dollars ($300.00); and upon third and subsequent convictions thereof, in addition to any other penalty he or she may otherwise incur, shall be fined five hundred dollars ($500.00).

(h) All signs that designate areas as "accessible parking" or that display the international symbol of access shall also include the words "Up to $500 fine".

(i) No person may stop, stand or park a motor vehicle in an area designated or marked off as an access aisle adjacent to a van-accessible parking space or regular accessible parking space. Any person, including a driver of a vehicle displaying a valid removable windshield placard or special registration plate, who violates the provisions of this subsection is guilty of a misdemeanor and, upon conviction thereof, shall be fined two hundred dollars ($200.00); upon second conviction thereof, in addition to any other penalty he or she may otherwise incur, shall be fined three hundred dollars ($300.00); and upon third and subsequent convictions thereof, in addition to any other penalty he or she may otherwise incur, shall be fined five hundred dollars ($500.00).

(j) Parking enforcement personnel who otherwise enforce parking violations may issue citations for violations of this section and shall reference the number on the vehicle's license plate, since the driver normally will not be present.

(k) Law-enforcement agencies may establish a program to use trained volunteers to collect information necessary to issue citations to persons who illegally park in designated accessible parking spaces. Any law-enforcement agency choosing to establish a program shall provide for workers' compensation and liability coverage. The volunteers shall photograph the illegally parked vehicle and complete a form, to be developed by supervising law-enforcement agencies, that includes the vehicle's license plate number, date, time and location of the illegally parked vehicle. The photographs must show the vehicle in the accessible space and a readable view of the license plate. Within the discretion of the supervising law-enforcement agency, the volunteers may issue citations or the volunteers may submit the

photographs of the illegally parked vehicle and the form to the supervising law-enforcement agency, who may issue a citation, which includes the photographs and the form, to the owner of the illegally parked vehicle. Volunteers shall be trained on the requirements for citations for vehicles parked in marked, zoned or designated accessible parking areas by the supervising law-enforcement agency.

(l) Local authorities who adopt the basic enforcement provisions of this section and issue their own local ordinances shall retain all fines and associated late fees. These revenues shall be used first to fund the provisions of subsection (k) of this section, if adopted by local authorities, or otherwise shall go into the local authorities' General Revenue Fund. Otherwise, any moneys collected as fines shall be collected for and remitted to the state.

(WVaC 17C-13-6)

361.99 PENALTIES AND APPEALS.

(a) General Article Penalty. Whoever violates any provision of this article shall be assessed fines and penalties. according to the following:

(1) The following violations will result in a fine of ten dollars ($10.00) if paid within five (5) days; if paid after five (5) days but before thirty (30) days an additional twenty dollars ($20.00) penalty will apply for a total fine amount of thirty dollars ($30.00); if paid after thirty (30) days an additional thirty dollars ($30.00) penalty will apply for a total fine and penalty amount of sixty dollars ($60.00):

A. Expired meter;
B. Failure to display a valid parking permit or pay via an applicable mobile pay app at the Liberty Street Parking Lot;
C. Parking permit violation;
D. Exceeding the two (2) hour free parking;
E. Improper manner of parking;
F. Exceeding time in a ten minute take away parking space.

(2) Accessible parking violations (WV Code 17C-13-6): first conviction is two hundred dollars ($200.00); second conviction is three hundred dollars ($300.00); and subsequent convictions are five hundred dollars ($500.00).

(3) Violation of Section 361.04(a) is sixty dollars ($60.00).

(4) Abandoned or junked motor vehicles: not more than five hundred dollars ($500.00) or imprisonment of not more than thirty (30) days, or both.

(5) Other violations not otherwise listed in this section will result in a fine of sixty dollars ($60.00).

(b) To appeal a ticket, a person must notify the Charles Town Municipal Court within five (5) calendar days of the date and time the parking ticket was originally issued. At the time an appeal is made, the required fines and/or penalties will be fixed until a resolution is reached by a municipal judge. If the ticket is upheld as valid, the owner/operator will satisfy the fixed cost of the citation and may be subject to additional court costs.

(Ord. 2021-007. Passed 10-12-21.)

City Council
101 East Washington Street
Charles Town, WV 25414

Meeting: 05/06/24
Department: City Council
Category: Ordinance
Initiator:

SCHEDULED

AGENDA ITEM (ID #)

2024-433: Second Reading and Consideration of an Amendment to the Codified Ordinances of the City of Charles Town, West Virginia with Regard to Part 3 Traffic Code Article 373 Bicycles as a Result of Adopted State Code Changes

ATTACHMENTS:

- Article 361 Bicycles - state changes.pdf

ARTICLE 373

Bicycles

373.01 Compliance; code application to bicycles.
373.02 Obedience to traffic rules; exceptions.
373.03 Riding upon seats; number of persons.
373.04 Attaching bicycle or sled to vehicle.
373.05 Riding on roadways and bicycle paths.
373.06 Carrying articles.
373.07 Lights and reflector on bicycle; brakes.
373.08 Reckless operation; control, course and speed.
373.09 Riding bicycle on sidewalks.
373.10 Bicycle helmets for children.
373.11 Electric bicycles.
373.99 Penalty.

CROSS REFERENCES

See sectional histories for similar State law
Authority to regulate bicycle operation - see W. Va. Code 17C-2-8(a)(8)
Bicycle defined - see TRAF. 301.03
Moped equipment and operation - see TRAF. 345.29

373.01 COMPLIANCE; CODE APPLICATION TO BICYCLES.

(a) No person shall do any act forbidden or fail to perform any act required in this article.

(b) The parent of any child and the guardian of any ward shall not authorize or knowingly permit any such child or ward to violate any of the provisions of this Traffic Code.

(c) These regulations applicable to bicycles shall apply whenever a bicycle is operated upon any street or highway or upon any path set aside for the exclusive use of bicycles subject to those exceptions stated herein.

(WVaC 17C-11-1)

373.02 OBEDIENCE TO TRAFFIC RULES; EXCEPTIONS.

Every person riding a bicycle upon a roadway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by this Traffic Code, except as to special regulations in this article and except as to those provisions of this Traffic Code which by their nature can have no application.

(WVaC 17C-11-2)

373.03 RIDING UPON SEATS; NUMBER OF PERSONS.

(a) A person propelling a bicycle shall not ride other than upon or astride a permanent and regular seat attached thereto.

(b) No bicycle shall be used to carry more persons at one time than the number for which it is designed and equipped.

(WVaC 17C-11-3)

373.04 ATTACHING BICYCLE OR SLED TO VEHICLE.

No person riding upon any bicycle, coaster, skateboard, roller skates, sled or toy vehicle shall attach the same or himself to any vehicle upon a roadway.

(WVaC 17C-11-4)

373.05 RIDING ON ROADWAYS AND BICYCLE PATHS.

(a) Any person operating a bicycle upon a roadway at less than the normal speed of traffic at the time and place and under the conditions then existing shall ride in the lane marked for bicycle use or, if no lane is marked for bicycle use, as close as practicable to the right-hand curb or edge of the roadway except under any of the following situations:

(1) When overtaking and passing another bicycle or vehicle proceeding in the same direction;

(2) When preparing for a left turn at an intersection or into a private road or driveway; or

(3) When reasonably necessary to avoid any condition or potential conflict including, but not limited to, a fixed or moving object, parked or moving vehicle, bicycle, pedestrian, animal, surface hazard, turn lane, or substandard-width lane, which makes it unsafe to continue along the right- hand curb or edge or within a bicycle lane. For the purposes of this subsection, a “substandard-width lane” is a lane that is too narrow for a bicycle and another vehicle to travel safely side by side within the lane.

(b) Any person operating a bicycle upon a one-way roadway with two or more marked traffic lanes may ride as near the left-hand curb or edge of such roadway as practicable.

(c) Persons riding bicycles upon a roadway may not ride more than two abreast except on paths or parts of roadways set aside for the exclusive use of bicycles.

(WVaC 17C-11-5)

373.06 CARRYING ARTICLES.

No person operating a bicycle shall carry any package, bundle or article which prevents the driver from keeping at least one hand upon the handlebars.

(WVaC 17C-11-6)

373.07 LIGHTS AND REFLECTOR ON BICYCLE; BRAKES.

(a) Every bicycle when in use at nighttime shall be equipped with a lamp on the front which shall emit a white light visible from a distance of at least 500 feet to the front and with a red reflector on the rear of a type approved by the Department of Motor Vehicles

which shall be visible from all distances from fifty feet to 300 feet to the rear when directly in front of lawful upper beams of head lamps on a motor vehicle. A lamp emitting a red light visible from a distance of 500 feet to the rear may be used in addition to the red reflector.

(b) Every bicycle shall be equipped with a brake which will enable the operator to make the braked wheels skid on dry, level, clean pavement.

(WVaC 17C-11-7)

373.08 RECKLESS OPERATION; CONTROL, COURSE AND SPEED.

No person shall operate a bicycle:

(a) Without due regard for the safety and rights of pedestrians and drivers and occupants of all other vehicles, and so as to endanger the life, limb or property of any person while in the lawful use of the streets or sidewalks or any other public or private property;

(b) Without exercising reasonable and ordinary control over such bicycle;

(c) In a weaving or zigzag course unless such irregular course is necessary for safe operation in compliance with law;

(d) Without both hands upon the handle grips except when necessary to give the required hand and arm signals, or as provided in Section 373.06;

(e) At a speed greater than is reasonable and prudent under the conditions then existing.

373.09 RIDING BICYCLE ON SIDEWALKS.

(a) No person shall ride a bicycle upon the sidewalk on any part of Washington Street, or George Street, within the City. No person shall ride a bicycle upon the sidewalk within the business district of the City. The business district shall be located between and including Samuel Street, on the East, and West Street on the West and the Blocks between Liberty Street on the North and Congress Street on the South.

(b) No person twelve years of age or more shall ride any bicycle upon any sidewalk within the City. Persons under twelve years of age riding a bicycle upon the sidewalk outside the business district shall yield the right of way to any pedestrian and shall give audible signal before overtaking a pedestrian.

373.10 BICYCLE HELMETS FOR CHILDREN.

(a) Definitions. As used in this section:

(1) "Bicycle" means a human-powered vehicle with wheels designed to transport, by the action of pedaling, one or more persons seated on one or more saddle seats on its frame. Such term also includes a human-powered vehicle, and any attachment to such vehicle designed to transport by pedaling when the vehicle is used on a public roadway, public bicycle path or other public right-of-way, but does not include a tricycle.

(2) "Tricycle" means a three-wheeled human-powered vehicle designed for use as a toy by a single child under the age of six years, the seat of which is no more than two feet from ground level.

(3) "Public roadway" means a right of way under the jurisdiction and control of this State or the Municipality for use primarily by motor vehicles.

(4) "Public bicycle path" means a right of way under the jurisdiction and control of this State or the Municipality for use primarily by bicycles and pedestrians.

(5) "Other public right-of-way" means any right of way other than a public roadway or public bicycle path that is under the jurisdiction and control of this State or the Municipality and is designed for use and used by vehicular or pedestrian traffic.

(6) "Protective bicycle helmet" means a piece of headgear which meets or exceeds the impact standards for protective bicycle helmets set by the American National Standards Institute (ANSI) or the Snell Memorial Foundation's standards for protective headgear or American Society for Testing and Materials (ASTM) for use in bicycling.

(7) "Passenger" means any person who travels on a bicycle in any manner except as an operator.

(8) "Operator" means a person who travels on a bicycle seated on a saddle seat from which that person is intended to and can pedal the bicycle.

(WVaC 17-11A-3)

(b) Requirements for Helmet Use.

(1) It is unlawful for any person under fifteen years of age to operate or be a passenger on a bicycle or any attachment to a bicycle used on a public roadway, public bicycle path or other public right of way unless at all times when the person is so engaged he or she wears a protective bicycle helmet of good fit, fastened securely upon the head with the straps of the helmet.

(2) It is unlawful for any parent or legal guardian of a person under fifteen years of age to knowingly permit such person to operate or be a passenger on a bicycle or on any attachment to a bicycle used on a public roadway, public bicycle path or other public right of way unless at all times when the person is so engaged he or she wears a protective bicycle helmet of good fit, fastened securely upon the head with the straps of the helmet.

(WVaC 17C-11A-4)

(c) Sale of Bicycle Helmets. Any helmet sold or offered for sale for use by operators and passengers of bicycles shall be conspicuously labeled in accordance with the standard described in subsection (a)(6) hereof, which shall constitute the manufacturer's certification that the helmet conforms to the applicable safety standards. (WVaC 17C-11A-5)

(d) Civil Actions. A violation of subsection (b) hereof is not admissible as evidence of negligence or contributory negligence or comparative negligence in any civil action or proceeding for damages, and shall not be admissible in mitigation of damages.

(WVaC 17C-11A-6)

373.11 ELECTRIC BICYCLES.

(a) The operator of an electric bicycle has all of the rights and privileges and is subject to all of the duties applicable to the driver of a vehicle subject to this chapter, except as otherwise provided by this section and except as to those provisions of this chapter which by their nature can have no application.

(b) A person owning or operating an electric bicycle is not subject to the provisions of West Virginia Code 17A-1-1 et seq., 17B-1-1 et seq., or 17D-1-1 et seq., relating to registration, title, driver's license, and financial responsibility requirements.

(c) A person may not tamper with or modify an electric bicycle so as to change the motor-powered speed capability or motor

engagement between pedal-assist and throttle-assist types of engagement. If a motor on an electric bicycle is modified so that a limit established in Section 301.083 is exceeded, that vehicle is no longer an electric bicycle. The provisions of this subsection are not applicable to a modified electric bicycle operated solely and exclusively on a person's own property.

(d) An electric bicycle must comply with the equipment and manufacturing requirements for bicycles adopted by the United States Consumer Product Safety Commission (16 C.F.R. Part 1512).

(e) The motor on an electric bicycle must disengage or cease to propel the electric bicycle when the operator stops pedaling, or when the operator applies the brakes and stops pedaling.

(f) A Class 3 electric bicycle must be equipped with a speedometer that displays the speed the electric bicycle is traveling in miles per hour.

(g) Class 2 electric bicycles are permitted to use a throttle to propel the bicycle.

(h) Electric bicycles operated on public roadways, public bicycle paths, public multiuse paths, and other public rights-of-way where bicycles are permitted to travel are subject to the following restrictions:

(1) Class 1, and Class 2 electric bicycles being used on roads and trails where traditional, non-electronic bicycle use is allowed will be given the same rights and privileges of a traditional, non-electric bicycle and will be subject to all of the duties of a traditional, non-electric bicycle. This rule intends to facilitate increased access to public lands that may otherwise be inaccessible to those with disabilities, health issues, or age-related limitations.

(2) A Class 3 electric bicycle may not be operated on a bicycle path, multiuse trail, or single-use trail unless it is within a highway or roadway: provided, that the provisions of this subdivision are not applicable to a bicycle path, multiuse trail, or single-use trail if the municipality, local authority, or governing body of a state agency that has jurisdiction over the bicycle path, multiuse trail, or single-use trail expressly permits that operation.

(3) Electric bicycles will not be given special access beyond what traditional or non-electric bicycles are allowed. For example, electric bicycles will not be allowed on roads or trails or in areas where traditional, non-electric bicycle travel is prohibited.

(4) This subsection may not be construed to limit the authority of the owner of a private way or the owner of private property to restrict or allow the operation of electric bicycles on the way or property.

(i) Age restrictions related to the operation of electric bicycles are as follows:

(1) A person under sixteen years of age may not operate a Class 3 electric bicycle;

(2) A person under fifteen years of age who is an operator or passenger on an electric bicycle shall wear a properly fitted and fastened bicycle helmet, pursuant to the Child Bicycle Safety Act, West Virginia Code 17C-11A-1 et seq.

(j) A person under the influence of alcohol or controlled substances shall not operate a Class 1,Class 2 or Class 3 electric bicycle. (WVaC 17C-11-8)

373.99 PENALTY.

(EDITOR'S NOTE: See Section 303.99 for general Traffic Code penalty.)

City Council
101 East Washington Street
Charles Town, WV 25414

Meeting: 05/06/24
Department: City Council
Category: Ordinance
Initiator:

SCHEDULED

AGENDA ITEM (ID #)

2024-434: Second Reading and Consideration of an Amendment to the Codified Ordinances of the City of Charles Town, West Virginia with Regard to Part 5 General Offenses Code Article 521 Liquor Control as a Result of Adopted State Code Changes

ATTACHMENTS:

- Article 521 Liquor Control - state changes.pdf

ARTICLE 521

Liquor Control

521.01 Definitions.
521.02 Article not applicable to certain uses by physicians, druggists and others.
521.03 Prohibited acts generally.
521.03A Sale of alcohol on Sundays.
521.04 Unlawful sale or possession by alcoholic liquor licensee.
521.05 Unlawful purchase of alcoholic liquors from State agency.
521.06 Intoxication or drinking in public places; illegal possession.
521.07 Acts prohibited by non-intoxicating beer licensee.
521.08 Unlawful purchase of non-intoxicating beer.
521.09 Acts prohibited by private club licensee.
521.10 Unlawful purchase from private club.
521.11 Acts prohibited by wine dealers.
521.12 Unlawful purchase of wine.
521.13 Unlawful purchase from retail liquor licensee.
521.14 Hard cider.
521.15 Off-premises sales not required to be bagged.
521.99 Penalty.

CROSS REFERENCES

See sectional histories for similar State law
Authority to regulate liquor sales - see W. Va. Code 8-12-5(20)
Nonintoxicating beer - see W. Va. Code Art. 11-16
Local option - see W. Va. Code Art. 60-5
Search warrants - see W. Va. Code 60-6-18
Public drunkenness - see GEN. OFF. 517.05

521.01 DEFINITIONS.

For the purposes of this article:

(a) "Alcohol" means ethyl alcohol whatever its origin and shall include synthetic ethyl alcohol but not denatured alcohol.

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

(c) "An agency" means a drugstore, grocery store, or general store designated by the Commission as a retail distributor of alcoholic liquor for the West Virginia Alcohol Beverage Control Commission.

(d) "Beer" means any beverage obtained by the fermentation of barley, malt, hops, or any other similar product or substitute, and containing more alcohol than that of nonintoxicating beer.

(e) "Brewery" means an establishment where beer is manufactured or in any way prepared.

(f) "Commissioner" or "Commission" means the West Virginia Alcohol Beverage Control Commissioner.

(g) "Department" means the organization through which the Commission exercises powers imposed upon it by this article.

(h) "Distillery" means an establishment where alcoholic liquor other than wine or beer is manufactured or in any way prepared.

(i) "Intoxicated" means a person's faculties are impaired by alcohol or other substance to the point where physical or mental control or both are markedly diminished.

(j) "Manager" means an individual who is the applicant's or licensee's on-premises employee, member, partner, shareholder, director, or officer who meets the licensure requirements of West Virginia Code 11-16-1 et seq. and rules promulgated thereunder who actively manages, conducts, and carries on the day-to-day operations of the applicant or licensee with full and apparent authority or actual authority to act on behalf of the applicant or licensee. Such duties include but are not limited to: coordinating staffing; reviewing and approving payroll; ordering and paying for inventory, such as nonintoxicating beer, wine and liquor, as applicable; and managing security staff, security systems, video and other security equipment; and any further acts or actions involved in managing the affairs of the business, on behalf of owners, partners, members, shareholders, officers, or directors.

(k) "Manufacture" means to distill, rectify, ferment, brew, make, mix, concoct, process, blend, bottle, or fill an original package with any alcoholic liquor.

(l) "Manufacturer" means any person engaged in the manufacture of any alcoholic liquor, and among others includes a distiller, a rectifier, a wine maker, and a brewer. (WVaC 60-1-5)

(m) (1) "Nonintoxicating beer" means all natural cereal malt beverages or products of the brewing industry commonly referred to as beer, lager beer, ale, and all other mixtures and preparations produced by the brewing industry, including malt coolers and nonintoxicating craft beers with no caffeine infusion or any additives masking or altering the alcohol effect containing at least one half of one percent (½%) alcohol by volume, but not more than eleven and nine-tenths percent (11.9%) of alcohol by weight, or fifteen percent (15%) alcohol by volume, whichever is greater. The word "liquor" as used in West Virginia Code 60-1-1 et seq. does not include or embrace nonintoxicating beer nor any of the beverages, products, mixtures or preparations included within this definition.

(2) "Nonintoxicating craft beer" means any beverage obtained by the natural fermentation of barley, malt, hops, or any other similar product or substitute and containing not less than one half of one percent (½%) by volume and not more than fifteen percent (15%) alcohol by volume or eleven and nine-tenths percent (11.9%) alcohol by weight with no caffeine infusion or any additives masking or altering the alcohol effect. (WVaC 11-16-3)

(n) "Original package" means any closed or sealed container or receptacle used for holding alcoholic liquor.

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

(p) "Powdered alcohol" means an alcohol manufactured in a powder or crystalline form for either direct use or reconstitution as an alcoholic liquor or food. For purposes of this chapter, powdered alcohol excludes any material intended for industrial purposes.

(q) "Public place" means any place, building, or conveyance to which the public has, or is permitted to have access, including restaurants, soda fountains, hotel dining rooms, lobbies and corridors of hotels and any highway, street, lane, park, or

place of public resort or amusement: provided, that the term "public place" shall not mean or include any of the above-named places or any portion or portions thereof which qualify and are licensed under the provisions of this article to sell alcoholic liquors for consumption on the premises: provided, however, that the term "public place" shall not mean or include any legally demarcated area designated solely for the consumption of beverages and freshly prepared food that directly connects and adjoins any portion or portions of a premise that qualifies and is licensed under the provisions of this article to sell alcoholic liquors for consumption thereupon: provided further, that the term "public place" shall not include a facility constructed primarily for the use of a Division I, II, or III college or university that is a member of the National Collegiate Athletic Association, or its successor, and used as a football, basketball, baseball, soccer, or other Division I, II, or III sports stadium which holds a special license to sell wine pursuant to the provisions of West Virginia Code 60-8-3, in the designated areas of sale and consumption of wine and other restrictions established by that section and the terms of the special license issued thereunder.

(r) "Sale" means any transfer, exchange, or barter in any manner or by any means, for a consideration, and shall include all sales made by a principal, proprietor, agent, or employee.

(s) "Selling" includes solicitation or receipt of orders; possession for sale; and possession with intent to sell.

(t) "Spirits" means any alcoholic beverage obtained by distillation and mixed with potable water and other substances in solution and includes brandy, rum, whiskey, cordials, and gin.

(u) "State liquor store" means a store established and operated by the Commission under this article for the sale of alcoholic liquor in the original package for consumption off the premises.

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

(w) "Winery" means an establishment where wine is manufactured or in any way prepared. (WVaC 60-1-5; Ord. 2022-011. Passed 11-7-22.)

521.02 ARTICLE NOT APPLICABLE TO CERTAIN USES BY PHYSICIANS, DRUGGISTS AND OTHERS.

The provisions of this article shall not prevent:

(a) A physician from prescribing the use of alcoholic liquors when necessary for a bona fide patient;

(b) A druggist from selling, upon a prescription properly issued by a physician, alcoholic liquors for medicinal purposes;

(c) A physician, dentist or veterinarian, in the legitimate practice of his profession, from using and administering alcoholic liquors;

(d) Hospitals, sanitariums or that division of any institution which is regularly conducted as a hospital, dispensary or infirmary from using or administering alcoholic liquors to bona fide patients. Institutions and the divisions thereof provided in this section may carry a stock of alcoholic liquors sufficient for this purpose;

(e) Religious organizations from using wine for sacramental purposes.

(WVaC 60-6-5; Ord. 2022-011. Passed 11-7-22.)

521.03 PROHIBITED ACTS GENERALLY.

No person shall:

(a) Manufacture or sell in this City, without a license, any alcoholic liquor except as permitted by West Virginia Code Chapter 60;

(b) Aid or abet in the manufacture or sale of alcoholic liquor without a license, except as permitted by West Virginia Code Chapter 60;

(c) Sell or tender without a license any alcoholic liquor other than provided by West Virginia Code Article 60-6;

(d) Adulterate any alcoholic liquor by the addition of any drug, methyl alcohol, crude, unrectified or impure form of ethyl alcohol, or any other foreign or deleterious substance or liquid;

(e) Refill, with alcoholic liquor, any bottle or other container in which alcoholic liquor has been sold at retail in this State;

(f) Advertise any alcoholic liquor in this City except in accordance with the rules and regulations of the West Virginia Alcohol Beverage Control Commissioner;

(g) Distribute, deal in, process or use crowns, stamps or seals required under the authority of West Virginia Code Chapter 60, except in accordance with the rules and regulations prescribed by the West Virginia Alcohol Beverage Control Commissioner.

(h) Manufacture or sell, aid or abet in the manufacture or sale, possess, transport or ship, use or in any other manner provide or furnish powdered alcohol.

(WVaC 60-6-7)

(i) Manufacture, sell, give or offer to make a sale or gift of, transport or otherwise possess any alcoholic liquor or nonintoxicating beer except as permitted by West Virginia Code Chapters 11 and 60.

(j) Whoever violates subsection (a) to (h) hereof is guilty of a misdemeanor for a first offense. (Ord. 2022-011. Passed 11-7-22.)

521.03 A SALE OF ALCOHOL ON SUNDAYS.

(a) "On-Premise Licensee" shall be defined to mean any person who holds one of the following Class A licenses issued by the West Virginia Alcohol Beverage Control Administration to sell alcoholic beverages:

(1) Private Club (less than 1,000 members) - liquor, wine & non-intoxicating beer;
(2) Private Club (1,000 or more members) - liquor, wine & non-intoxicating beer;
(3) Fraternal Club (Non-Profit) - liquor, wine & non-intoxicating beer;
(4) Fraternal Club (Non-Profit) - non-intoxicating beer;
(5) Tavern - non-intoxicating beer;
(6) Private Wine Restaurant - wine only;
(7) Private Wine Restaurant - wine & non-intoxicating beer only;
(8) Private Wine Spa - wine only;
(9) Private Wine Bed & Breakfast - wine only;
(10) Brew Pub (Resident Brewer/Importer License Required);
(11) Special Events (Fairs and Festivals) - wine & non-intoxicating beer;
(12) Special Events (Fairs and Festivals) - wine only;
(13) Special Events (Fairs and Festivals) - non-intoxicating beer only; or Growler.

(b) "Person" shall be defined to mean an individual, firm, corporation, association, partnership, limited partnership, Limited Liability Company or other entity, regardless of its form, structure or nature.

(c) Notwithstanding anything to the contrary contained in the Code of City of Charles Town, Code of West Virginia, or Code of State Rules of West Virginia, any On-Premise Licensee shall be permitted to sell alcoholic beverages pursuant to the terms of its license, beginning at ten o'clock a.m. (10:00 a.m.) on any Sunday.

(Ord. 2022-011. Passed 11-7-22.)

521.04 UNLAWFUL SALE OR POSSESSION BY ALCOHOLIC LIQUOR LICENSEE.

No person licensed under West Virginia Code Chapter 60 shall:

(a) Sell, furnish, tender or serve alcoholic liquors of a kind other than that which the license or West Virginia Code Chapter 60 authorizes him or her to sell;

(b) Sell, furnish, tender or serve beer to which wine, spirits or alcohol has been added;
(c) Sell, furnish, tender or serve wine to which other alcoholic spirits have been added, otherwise than as required in the manufacture of the wine under rules of the Commission; (WVaC 60-6-8)
(d) (1) Sell, furnish, tender or serve alcoholic liquors or nonintoxicating beer to a person who is:
A. Less than twenty-one years of age;
B. An habitual drunkard;
C. Intoxicated;
D. Addicted to the use of any controlled substance as defined by West Virginia Code Chapter 60A;
E. Mentally incompetent.
(2) It shall be a defense to a violation of subsection (d)(1)A. hereof if the seller shows that the purchaser:
A. Produced written evidence which showed his or her age to be at least the required age for purchase and which bore a physical description of the person named on the writing which reasonably described the purchaser; or
B. Produced evidence of other facts that reasonably indicated at the time of sale that the purchaser was at least the required age. (WVaC 60-3-22; 60-6-8)
(e) Sell, furnish, tender or serve alcoholic liquors except as authorized by his or her license;
(f) Sell, furnish, tender or serve alcoholic liquors other than by the drink, poured from the alcoholic liquors' original container: provided, that under certain requirements exceptions to liquor by the drink are as follows:
(1) A private club licensed under West Virginia Code 60-7-1 et seq., that is in good standing with the Commissioner and has paid a $1000 on-premises only bottle service fee to the Commissioner, may sell or serve liquor by the bottle to two or more persons for consumption on the licensed premises only, and any liquor bottle sold by such a private club shall be sold at retail for personal use, and not for resale, to a person for not less than 300 percent of the private club's cost, and the liquor bottle shall be removed from the licensed premises by any person or the licensee; and
(2) A Class A licensee licensed under West Virginia Code 60-8-1 et seq., may sell or serve wine by the bottle to two or more persons for consumption on the licensed premises only, unless such licensee has obtained a license or privilege authorizing other activity;
(g) Sell, furnish, tender, or serve pre-mixed alcoholic liquor that is not in the original container: provided, that a licensee may sell, furnish, tender, and serve up to fifteen recipes of pre-mixed beverages consisting of alcoholic liquors and nonalcoholic mixer, in a manner approved by the Commissioner and in accord with public health and safety standards:
(1) The licensee shall use approved dispensing and storage equipment which shall be cleaned at the end of the day. Failure to clean the dispensing and storage equipment shall result in the immediate suspension or revocation of the permit;
(2) The licensee shall sanitize and clean the pre-mixing beverage storage equipment after each use or after each batch of the pre-mixed beverage is made; and
(3) The licensee shall maintain a written record reflecting the cleaning and sanitizing of the storage and dispensing equipment for inspection by the Commissioner and health inspectors;
(4) A violation or violations of this subdivision may result in the suspension or revocation of the permit and may result in additional sanctions under West Virginia Code Chapter 60 or 11-16-1 et seq.
(h) Sell, furnish, tender or serve any alcoholic liquor when forbidden by the provisions of this article;
(i) Sell, possess, possess for sale, tender, serve, furnish or provide any powdered alcohol;
(j) Keep on the premises covered by his or her license alcoholic liquor other than that which he or she is authorized to sell, furnish, tender, or serve by such license or by this article.
Whoever violates this section is guilty of a misdemeanor for the first offense.
(WVaC 60-6-8; Ord. 2022-011. Passed 11-7-22.)

521.05 UNLAWFUL PURCHASE OF ALCOHOLIC LIQUORS FROM STATE AGENCY.

No person shall:
(a) Being under the age of twenty-one years, for the purpose of purchasing alcoholic liquors from a State liquor store or an agency, misrepresent his or her age, or for such purpose present or offer any written evidence of age which is false, fraudulent or not actually his or her own, or illegally attempt to purchase alcoholic liquors from a State liquor store or an agency.
(b) Knowingly buy for, give to or furnish to anyone under the age of twenty-one years to whom they are not related by blood or marriage, any alcoholic liquors from whatever source. (WVaC 60-3-22a; Ord. 2022-011. Passed 11-7-22.)

521.06 INTOXICATION OR DRINKING IN PUBLIC PLACES; ILLEGAL POSSESSION.

(a) A person shall not:
(1) Appear in a public place in an intoxicated condition;
(2) Drink alcoholic liquor or nonintoxicating beer in a public place;
(3) Tender a drink of alcoholic liquor or nonintoxicating beer to another person in a public place;
(4) Operate a business without a license issued under West Virginia Code 60-1-1 et seq., which knowingly facilitates the consumption of alcoholic liquors in a public place by providing for on-site items such as cups, glasses, ice and nonalcoholic beverages used to mix with alcoholic liquors, refrigeration, or on-site storage of alcoholic liquors in a lounge area or space for persons to gather, perhaps offering musical entertainment, exotic.
(5) dancing, or other such nude entertainment, or other similar activity or entertainment. Such business may be commonly known as a "bring your own bottle", " bring your own booze" or "BYOB" establishments;
(6) Possess alcoholic liquor in the amount in excess of ten gallons, in containers not bearing stamps or seals of the West Virginia Alcohol Beverage Control Commissioner, without having first obtained written authority from the Commissioner therefor; or
(7) Possess any alcoholic liquor which was manufactured or acquired in violation of the provisions of West Virginia Code Chapter 60.
(8) Possess any open container of alcoholic liquor or nonintoxicating beer in or on any public sidewalk, walkway, entrance way, street, lane, or other public place.
(b) Any law-enforcement officer may arrest without a warrant and take the following actions against a person who, in his or her presence, violates subdivision (1) of subsection (a) of this section:
(1) If there is some non-intoxicated person who will accept responsibility for the intoxicated person, the officer may issue the intoxicated person a citation specifying the date for appearance before a judicial officer and release him or her to the custody of the individual accepting responsibility: provided, that the issuance of a citation shall be used whenever feasible;
(2) If it does not impose an undue burden on the officer, he or she may, after issuance of the citation, transport the individual to the individual's present residence or arrange for the transportation;
(3) If the individual is incapacitated or the alternatives provided in subdivisions (1) and (2) of this subsection are not possible, the officer shall transport or arrange for transportation to the appropriate judicial officer as defined by West Virginia Code 27-11-17; or
(4) If the individual is incapacitated and, in the law-enforcement officer's judgment, is in need of acute medical attention, that

officer shall arrange for transportation by ambulance or otherwise to a hospital emergency room. The officer shall accompany the individual until he or she is discharged from the emergency room or admitted to the hospital. If the individual is released from the emergency room, the officer may proceed as described in subdivisions (1), (2) and (3) of this subsection. If the individual is admitted to the hospital, the officer shall issue a citation to the individual specifying a date for appearance before a judicial officer.

(c) Upon presentment before the proper judicial officer, the law-enforcement officer serves as the chief complaining witness. The judicial officer shall determine if there is probative evidence that the individual may be guilty of the charge of public intoxication. If such evidence is not presented, the charge shall be dismissed, and the individual released. If sufficient evidence is presented, the judicial officer shall issue a warrant and establish bail or issue a summons to the individual. Once a warrant or summons has been issued, the following actions may be taken:

(1) If the individual is no longer incapacitated, he or she may be released;

(2) If the individual is still incapacitated but a non-intoxicated person is available to accept responsibility for him or her, he or she may be released to the responsible person; or

(3) If the individual is still incapacitated and no responsible person is available, the judicial officer shall proceed under the provisions of West Virginia Code Article 27-5 or 6A.

(d) Any law-enforcement officer may arrest and hold in custody, without a warrant, until complaint may be made before a judicial officer and a warrant or summons issued, any person who in the presence of the law- enforcement officer violates any one or more of subdivisions (1) through (5), subsection (a) of this section: provided, that the law-enforcement officer may use reasonable force to prevent harm to himself or herself, the individual arrested or others in carrying out the provisions of this section.
(Ord. 2022-011. Passed 11-7-22.)

521.07 ACTS PROHIBITED BY NONINTOXICATING BEER LICENSEE.

(a) It is unlawful:

(1) For any licensee, his, her, its, or their servants, agents, or employees, to sell, give, or dispense, or any individual to drink or consume, in or on any licensed premises, or in any rooms directly connected, nonintoxicating beer on weekdays between the hours of 2:00 a.m. and 6:00 a.m., except in private clubs licensed under the provisions of West Virginia Code Article 60-7, where the hours shall conform with the hours of sale of alcoholic liquors;

(2) For any licensee, his, her, its, or their servants, agents, or employees to sell, furnish, or give any nonintoxicating beer, as defined in this article, to any person visibly or noticeably intoxicated or to any person known to be insane or known to be a habitual drunkard;

(3) For any licensee, his, her, its, or their servants, agents, or employees to sell, furnish, or give any nonintoxicating beer as defined in this article to any person who is less than twenty-one years of age;

(4) For any distributor to sell or offer to sell, or any retailer to purchase or receive, any nonintoxicating beer as defined in this article, except for cash and a right of action shall not exist to collect any claims for credit extended contrary to the provisions of this subdivision. Nothing contained in this section prohibits a licensee from crediting to a purchasing person the actual price charged for packages or containers returned by the original purchasing person as a credit on any sale, or from refunding to any purchasing person the amount paid or deposited for the containers when title is retained by the vendor: provided, that a distributor may accept an electronic transfer of funds if the transfer of funds is initiated by an irrevocable payment order on the invoiced amount for the nonintoxicating beer. The cost of the electronic fund transfer shall be borne by the retailer and the distributor shall initiate the transfer no later than noon of one business day after the delivery;

(5) For any brewer or distributor to give, furnish, rent, or sell any equipment, fixtures, signs, supplies, or services directly or indirectly or through a subsidiary or affiliate to any licensee engaged in selling products of the brewing industry at retail or to offer any prize, premium, gift, or other similar inducement, except advertising matter, including indoor electronic or mechanical signs, of nominal value up to twenty-five dollars ($25.00) per stock keeping unit, to either trade or consumer buyers; provided, that a distributor may offer, for sale or rent, tanks of carbonic gas: provided, however, that, in the interest of public health and safety, a distributor may, independently or through a subsidiary or affiliate, furnish, sell, install, or maintain draught line equipment, supplies, and cleaning services to a licensed retailer so long as the furnishing or sell of draught line services may be negotiated at no less than actual cost: provided further, that a distributor may furnish, rent, or sell equipment, fixtures, signs, services, or supplies directly or indirectly or through a subsidiary or affiliate to any licensee engaged in selling products of the brewing industry at retail under the conditions and within the limitations as prescribed in this section. Nothing contained in this section prohibits a brewer from sponsoring any professional or amateur athletic event or from providing prizes or awards for participants and winners in any events.

(6) For any brewer or distributor to sponsor any professional or amateur athletic event or provide prizes or awards for participants and winners when a majority of the athletes participating in the event are minors, unless specifically authorized by the Commissioner;

(7) For any retail licensee to sell or dispense nonintoxicating beer through draught lines where the draught lines have not been cleaned at least every two weeks in accordance with rules promulgated by the Commissioner, and where written records of all cleanings are not maintained and available for inspection;

(8) For any licensee to permit in his or her premises any lewd, immoral, or improper entertainment, conduct, or practice;

(9) For any licensee except the holder of a license to operate a private club issued under the provisions of West Virginia Code 60-7-1 et seq or a holder of a license or a private wine restaurant issued under the provisions of West Virginia Code 60-8-1 et seq. to possess a Federal license, tax receipt, or other permit entitling, authorizing, or allowing the licensee to sell liquor or alcoholic drinks other than nonintoxicating beer;

(10) For any licensee to obstruct the view of the interior of his or her premises by enclosure, lattice, drapes, or any means which would prevent plain view of the patrons occupying the premises. The interior of all licensed premises shall be adequately lighted at all times: provided, that provisions of this subdivision do not apply to the premises of a Class B retailer, the premises of a private club licensed under the provisions of West Virginia Code 60-7-1 et seq., or the premises of a private wine restaurant licensed under the provisions of West Virginia Code 60-8-1 et seq.;

(11) For any licensee to manufacture, import, sell, trade, barter, possess, or acquiesce in the sale, possession, or consumption of any alcoholic liquors on the premises covered by a license or on premises directly or indirectly used in connection with it: provided, that the prohibition contained in this subdivision with respect to the selling or possessing or to the acquiescence in the sale, possession, or consumption of alcoholic liquors is not applicable with respect to the holder of a license to operate a private club issued under the provisions of West Virginia Code 60-7-1 et seq. nor shall the prohibition be applicable to a private wine restaurant licensed under the provisions of West Virginia Code 60-8-1 et seq. insofar as the private wine restaurant is authorized to serve wine;

(12) For any retail licensee to sell or dispense nonintoxicating beer, as defined in this article, purchased, or acquired from any source other than a distributor, brewer, or manufacturer licensed under the laws of this state;

(13) For any licensee to permit loud, boisterous, or disorderly conduct of any kind upon his or her premises or to permit the use of

loud musical instruments if either or any of the same may disturb the peace and quietude of the community where the business is located: provided, that a licensee may have speaker systems for outside broadcasting as long as the noise levels do not create a public nuisance or violate local noise ordinances;

(14) For any person whose license has been revoked, as provided in this article, to obtain employment with any retailer within the period of one year from the date of the revocation, or for any retailer to knowingly employ that person within the specified time;

(15) For any distributor to sell, possess for sale, transport, or distribute nonintoxicating beer except in the original container;

(16) For any licensee to knowingly permit any act to be done upon the licensed premises, the commission of which constitutes a crime under the laws of this State or Municipality;

(17) For any Class B retailer to permit the consumption of nonintoxicating beer upon his or her licensed premises;

(18) For any Class A licensee, his, her, its, or their servants, agents, or employees, or for any licensee by or through any servants, agents, or employees, to allow, suffer, or permit any person less than eighteen years of age to loiter in or upon any licensed premises; except, however, that the provisions of this subdivision do not apply where a person under the age of eighteen years or soft drink lawfully prepared and served or sold for consumption on the premises; is in or upon the premises in the immediate company of a parent or legal guardian, or where and while a person under the age of eighteen years is in or upon the premises for the purpose of and actually making a lawful purchase of any items or commodities sold, or for the purchase of and actually receiving any lawful service rendered in the licensed premises, including the consumption of any item of food, drink, or soft drink lawfully prepared and served or sold for consumption on the premises:

(19) For any distributor to sell, offer for sale, distribute, or deliver any nonintoxicating beer outside the territory assigned to any distributor by the brewer or manufacturer of nonintoxicating beer or to sell, offer for sale, distribute, or deliver nonintoxicating beer to any retailer whose principal place of business or licensed premises is within the assigned territory of another distributor of the nonintoxicating beer: provided, that nothing in this section is considered to prohibit sales of convenience between distributors licensed in this State where one distributor sells, transfers, or delivers to another distributor a particular brand or brands for sale at wholesale; and

(20) For any licensee or any agent, servant, or employee of any licensee to knowingly violate any rule lawfully promulgated by the Commissioner in accordance with the provisions of West Virginia Code Chapter 29A.

(b) Any person who violates any provision of West Virginia Code 11-16, including, but not limited to, any provision of this section, or any rule, or order lawfully promulgated by the Commissioner, or who makes any false statement concerning any material fact in submitting an application for a license or for a renewal of a license or in any hearing concerning the revocation of a license, or who commits any of the acts in this section declared to be unlawful is guilty of a misdemeanor and, upon conviction thereof, shall be punished for each offense by a fine of not less than twenty-five dollars ($25.00), nor more than five hundred dollars ($500.00), or confined in the county or regional jail for not less than thirty days nor more than six months, or by both fine and confinement. Magistrates have concurrent jurisdiction with the circuit court and any other courts having criminal jurisdiction in their county for the trial of all misdemeanors arising under this article.

(c) (1) A Class B licensee that:

A. Has installed a transaction scan device on its licensed premises; and

B. Can demonstrate that it requires each employee, servant, or agent to verify the age of any individual to whom nonintoxicating beer or nonintoxicating craft beer is sold, furnished, or given away by the use of the transaction device is not subject to:

1. Any criminal penalties whatsoever, including those set forth in subsection (b) of this section;
2. Any administrative penalties from the Commissioner; or
3. Any civil liability whatsoever for the improper sale, furnishing, or giving away of nonintoxicating beer or nonintoxicating craft beer to an individual who is less than twenty- one years of age by one of his or her employees, servants, or agents.

Any agent, servant, or employee who has improperly sold, furnished, or given away nonintoxicating beer to an individual less than twenty-one years of age is subject to the criminal penalties of subsection (b) of this section. Any agent, servant, or employee who has improperly sold, furnish, or given away nonintoxicating beer to an individual less than twenty-one years of age is subject to termination from employment, and the employer shall have no civil liability for the termination.

(2) For purposes of this section, a Class B licensee can demonstrate that it requires each employee, servant, or agent to verify the age of any individual to whom nonintoxicating beer is sold by providing evidence:

A. That is has developed a written policy which requires each employee, servant, or agent to verify the age of each individual to whom nonintoxicating beer will be sold, furnished, or given away;

B. That it has communicated this policy to each employee, servant, or agent; and

C. That it monitors the actions of its employees, servants, or agents regarding the sale, furnishing, or giving away of nonintoxicating beer and that it has taken corrective action for any discovered noncompliance with this policy.

(3) "Transaction scan" means the process by which a person checks, by means of a transaction scan device, the age and identity of the cardholder, and "transaction scan device" means any commercial device or combination of devices used at a point of sale that is capable of deciphering in an electronically readable format the information enclosed on the magnetic strip or bar code of a driver's license or other governmental identity card.

(4) Nothing in this section nor any rule of the Commissioner shall prevent or be considered to prohibit any licensee from employing any person who is at least eighteen years of age to serve in the licensee's lawful employ, including the sale or delivery of nonintoxicating beer as defined in this article. With the prior approval of the Commissioner, a licensee whose principal business is the sale of food or consumer goods, or the providing of recreational activities, including, but not limited to, nationally franchised fast food outlets, family oriented restaurants, bowling alleys, drug stores, discount stores, grocery stores, and convenience stores, may employ persons who are less than eighteen years of age but at least sixteen years of age: provided, that the person's duties may include the sale of nonintoxicating beer or alcoholic liquors only when directly supervised by a person twenty-one years of age or older; provided, however, that the authorization to employ persons under the age of eighteen years shall be clearly indicated on the licensee's license.

(WVaC 11-16-18; Ord. 2022-011. Passed 11-7-22.)

521.08 UNLAWFUL PURCHASE OF NONINTOXICATING BEER.

(a) No person under the age of twenty-one years shall purchase, consume, sell, possess or serve nonintoxicating beer.

Nothing in this section, nor any rule or regulation of the Alcohol Beverage Control Commissioner, shall prevent or be deemed to prohibit any person who is at least eighteen years of age from serving in the lawful employment of any licensee, which may include the sale or delivery of nonintoxicating beer. Further, nothing in this section, nor any rule or regulation of the Commissioner, shall prevent or be deemed to prohibit any person who is less than eighteen but at least sixteen years of age from being employed by a licensee whose principal business is the sale of food or consumer goods or the providing of recreational activities, including, but not limited to, nationally

franchised fast food outlets, family-oriented restaurants, bowling alleys, drug stores, discount stores, grocery stores and convenience stores: provided, that such person shall not sell or deliver nonintoxicating beer.

Nothing in this subsection shall prohibit a person who is at least eighteen years of age from purchasing or possessing nonintoxicating beer when he or she is acting upon the request of or under the direction and control of any member of a state, federal or local law-enforcement agency or the West Virginia Alcohol Beverage Administration while the agency is conducting an investigation or other activity relating to the enforcement of the alcohol beverage control statutes and the rules and regulations of the Commissioner.

(b) No person under the age of twenty-one years for the purpose of purchasing nonintoxicating beer, shall misrepresent his or her age, or for such purpose present or offer any written evidence of age which is false, fraudulent or not actually his or her own, or shall illegally attempt to purchase nonintoxicating beer.

(c) No person shall knowingly buy for, give to or furnish nonintoxicating beer to anyone under the age of twenty-one years to whom they are not related by blood or marriage.

(WVaC 11-16-19; Ord. 2022-011. Passed 11-7-22.)

521.09 ACTS PROHIBITED BY PRIVATE CLUB LICENSEE.

(a) It is unlawful for any licensee, or agent, employee or member thereof, on such licensee's premises to:

(1) Sell, offer for sale, tender, or serve any alcoholic liquors other than by the drink poured from the original package or container, except as authorized in Section 521.04;

(2) Authorize or permit any disturbance of the peace, obscene, lewd, immoral or improper entertainment, conduct or practice. A private resort hotel holding a license issued pursuant to West Virginia Code 60-7-1 et seq., may sell, tender or dispense nonintoxicating beer, wine, or alcoholic liquors in or on the premises licensed under West Virginia Code 29-22A-1 et seq., and 29-22C-1 et seq., or West Virginia Code 29-25-1 et seq., during hours of operation authorized by West Virginia Code 29-22A-1 et seq., and 29-22C-1 et seq., or 29-25-1 et seq;

(3) Sell, give away or permit the sale of, gift to or the procurement of any nonintoxicating beer, wine or alcoholic liquors for or to, or permit the consumption of nonintoxicating beer, wine or alcoholic liquors on the licensee's premises, by any person less than twenty-one years of age;

(4) Sell, give away, or permit the sale of, gift to, or the procurement of any nonintoxicating beer, wine or alcoholic liquors, for or to any person known to be considered legally incompetent, or for or to any person who is physically incapacitated due to consumption of nonintoxicating beer, wine or alcoholic liquor or the use of drugs;

(5) Sell, give or dispense nonintoxicating beer, wine or alcoholic liquors in or on any licensed premises, or in any rooms directly connected therewith between the hours of 3:00 a.m. and 6:00 a.m. on weekdays, Saturdays, and Sundays, or between the hours of 3:00 a.m. and 1:00 p.m. in any county upon approval as provided for in West Virginia Code 7-1-3ss, on any Sunday; and

(6) Permit the consumption by, or serve to, on the licensed premises any nonintoxicating beer, wine or alcoholic liquors, covered by this article, to any person who is less than twenty-one years of age;

(7) With the intent to defraud, alter, change or misrepresent the quality, quantity or brand name of any alcoholic liquor;

(8) Sell or offer for sale any alcoholic liquor to any person who is not a duly elected or approved dues- paying member in good standing of the private club or a guest of such member;

(9) Sell, offer for sale, give away, facilitate the use of or allow the use of carbon dioxide, cyclopropane, ethylene, helium or nitrous oxide for purposes of human consumption except as authorized by the Commissioner;

(10) A. Employ any person who is less than sixteen years of age in a position where the primary responsibility for such employment is to sell, furnish, tender, serve, or give nonintoxicating beer, wine or alcoholic liquors to any person;

B. Employ any person who is between sixteen years of age and younger than twenty-one years of age who is not directly supervised by a person aged twenty-one or over in a position where the primary responsibility for such employment is to sell, furnish, tender, serve, or give nonintoxicating beer, wine or alcoholic liquors to any person; or

(11) Violate any reasonable rule of the Commissioner. (WVaC 60-7-12)

(b) No licensee shall advertise in any news media or other means, outside of the licensee's premises, the fact that alcoholic liquors may be purchased thereat.

(Ord. 2022-011. Passed 11-7-22.)

521.10 UNLAWFUL PURCHASE FROM PRIVATE CLUB.

(a) No person under the age of twenty-one years shall order, pay for, share the cost of or attempt to purchase any nonintoxicating beer, wine or alcoholic liquors from a licensee or consume any nonintoxicating beer, wine or alcoholic liquors purchased from a private club licensee or possess any nonintoxicating beer, wine or alcoholic liquors purchased from a licensee. Provided, that nothing in this subsection shall prohibit a person who is at least eighteen years of age from purchasing or possessing nonintoxicating beer, wine or alcoholic liquors when he or she is acting upon the request of or under the direction and control of any member of a state, federal or local law-enforcement agency or the West Virginia Alcohol Beverage Administration while the agency is conducting an investigation or other activity relating to the enforcement of the alcohol beverage control statutes and the rules and regulations of the Commissioner.

(b) No person under the age of twenty-one years, for the purpose of purchasing nonintoxicating beer, wine or alcoholic liquors from a private club licensee, misrepresent his or her age, or for such purpose present or offer any written evidence of age which is false, fraudulent or not actually his or her own, or illegally attempt to purchase nonintoxicating beer, wine or alcoholic liquors from a licensee.

(c) No person shall knowingly buy for, give to or furnish to anyone under the age of twenty-one years any nonintoxicating beer, wine or alcoholic liquors purchased from a licensee.

(WVaC 60-7-12a; Ord. 2022-011. Passed 11-7-22.)

521.11 ACTS PROHIBITED BY WINE DEALERS.

It shall be unlawful:

(a) For a supplier or distributor to sell or deliver wine purchased or acquired from any source other than a person registered under the provisions of West Virginia Code 60-8-6, or for a retailer to sell or deliver wine purchased or acquired from any source other than a licensed distributor or a farm winery as defined in West Virginia Code 60-1-5a;

(b) Unless otherwise specifically provided for by the provisions of West Virginia Code Article 60-8, for a licensee under West Virginia Code Article 60-8 to acquire, transport, possess for sale, or sell wine other than in the original package;

(c) For a licensee, his or her servants, agents or employees to sell, furnish or give wine to any person less than twenty-one years of age or to a mentally incompetent person or person who is physically incapacitated due to the consumption of alcoholic liquor or the use of drugs: provided that the provisions of West Virginia Code 60-3A-25a shall apply to sales of wine;

(d) For a licensee to permit a person who is less than eighteen years of age to sell, furnish or give wine to any person, except as provided for in subsection (g) of this section;

(e) For a supplier or distributor to sell or deliver any brand of wine purchased or acquired from any source other than the primary source of supply of the wine which granted the distributor the right to sell such brand at wholesale. For the purposes of this article, "primary source of supply" means the vintner of the wine, the importer of a foreign wine who imports the

wine into the United States, the owner of a wine at the time it becomes a marketable product, the bottler of a wine, or an agent specifically authorized by any of the above enumerated persons to make a sale of the wine to a West Virginia distributor: provided, that no retailer shall sell or deliver wine purchased or acquired from any source other than a distributor or farm winery licensed as such in this State: provided, however, that nothing herein is considered to prohibit sales of convenience between distributors licensed in this State wherein one such distributor sells, transfers or delivers to another such distributor a particular brand or brands for sale at wholesale of which brand or brands such other distributor has been authorized by a licensed supplier to distribute. The Commissioner shall promulgate legislative rules necessary to carry out the provision of this subsection;

(f) For a person to violate any rule promulgated by the Commissioner under West Virginia Code Article 60-8.

(g) Nothing in this article, nor any rule or regulation of the Commissioner, shall prevent or be considered to prohibit any licensee from employing any person who is at least eighteen years of age to serve in any licensee's lawful employment, including the sale of wine or distribution of wine on behalf of a winery, farm winery, farm entity, supplier or distributor under the provisions of this article. With the prior approval of the Commissioner, a licensee may employ persons who are less than eighteen years of age but at least sixteen years of age: Provided, that the person's duties may include the sale of nonintoxicating beer or wine only when directly supervised by a person twenty-one years of age or older: Provided, however, that the authorization to employ persons under eighteen years of age shall be clearly indicated on the licensee's license: Provided, further, that nothing in this article, nor any rule or regulation of the Commissioner, shall prevent or be considered to prohibit any licensee from employing any person who is at least twenty-one years of age for the ordering and delivery of wine when licensed for the ordering and delivery of wine under the provisions of this article.

(WVaC 60-8-20; Ord. 2022-011. Passed 11-7-22.)

521.12 UNLAWFUL PURCHASE OF WINE.

(a) No person under the age of twenty-one years shall purchase, consume, sell, possess or serve wine or other alcoholic liquor.

Nothing in this section, nor any rule or regulation of the Alcohol Beverage Control Commissioner, shall prevent or be deemed to prohibit any person who is at least eighteen years of age from serving in the lawful employment of any licensee, which may include the sale or delivery of wine. Further, nothing in this section, nor any rule or regulation of the Commissioner, shall prevent or be deemed to prohibit any person who is less than eighteen but at least sixteen years of age from being employed by a licensee whose principal business is the sale of food or consumer goods or the providing of recreational activities, including, but not limited to, nationally franchised fast food outlets, family-oriented restaurants, bowling alleys, drug stores, discount stores, grocery stores and convenience stores: provided, that such person shall not sell or deliver wine or alcoholic liquor.

Nothing in this subsection shall prohibit a person who is at least eighteen years of age from purchasing or possessing wine or alcoholic liquor when he or she is acting upon the request of or under the direction and control of any member of a state, federal or local law-enforcement agency or the West Virginia Alcohol Beverage Administration while the agency is conducting an investigation or other activity relating to the enforcement of the alcohol beverage control statutes and the rules and regulations of the Commissioner.

(b) No person under the age of twenty-one years, for the purpose of purchasing wine or other alcoholic liquors from a licensee, shall misrepresent his or her age, or for such purpose present or offer any written evidence of age which is false, fraudulent, or not actually his or her own, or illegally attempt to purchase wine or other alcoholic liquors.

(c) No person shall knowingly buy for, give to or furnish wine or other alcoholic liquors from any source to anyone under the age of twenty-one years to whom they are not related by blood or marriage. (WVaC 60-8-20a; Ord. 2022-011. Passed 11-7-22.)

521.13 UNLAWFUL PURCHASE FROM RETAIL LIQUOR LICENSEE.

(a) (1) No person who is eighteen or over but under the age of twenty-one years shall purchase, consume, sell, serve or possess alcoholic liquor. Any person who is under eighteen years who purchases, consumes, sells, serves or possesses alcoholic liquor is guilty of a status offense, as that term is defined in West Virginia Code 49-1-4, and, upon adjudication therefor, shall be referred to the Department of Health and Human Resources for services, as provided in West Virginia Code 49-5-11.

(2) Nothing is this section, nor any rule or regulation of the Alcohol Beverage Control Commissioner, shall prevent or be deemed to prohibit any person who is at least eighteen years of age from serving in the lawful employment of a licensee which includes the sale and serving of alcoholic liquor.

(3) Nothing in this subsection shall prohibit a person who is at least eighteen years of age from purchasing or possessing alcoholic liquor when he or she is acting upon the request of or under the direction and control of any member of a state, federal or local law-enforcement agency or the West Virginia Alcohol Beverage Administration while the agency is conducting an investigation or other activity relating to the enforcement of the alcohol beverage control statutes and the rules and regulations of the Commissioner.

(b) No person under the age of twenty-one years shall, for the purpose of purchasing liquor from a retail licensee, misrepresent his or her age, or for such purpose present or offer any written evidence of age which is false, fraudulent, or not actually his or her own, or illegally attempt to purchase liquor from a retail licensee.

(c) No person shall knowingly buy for, give to or furnish to anyone under the age of twenty-one to whom he or she is not related by blood or marriage any liquor from whatever source.

(d) No person while on the premises of a retail outlet shall consume liquor or break the seal on any package or bottle of liquor.

(WVaC 60-3A-24; Ord. 2022-011. Passed 11-7-22.)

521.14 HARD CIDER.

(a) "Hard Cider" means a type of wine that is derived primarily from the fermentation of apples, pears, peaches, honey or other fruit, or from apple, pear, peach, or other fruit juice concentrate and water; contains no more than 0.64 grams of carbon dioxide per 100 milliliters; contains at least one half of one percent (½%) and less than twelve and one-half percent (12 ½%) alcohol by volume; and is advertised, labeled, offered for sale, or sold, as hard cider or cider containing alcohol, and not as a wine, wine product, or as a substitute for wine. (WVaC 60-8A-1)

(b) Except as stated in West Virginia Code Article 60-8A, all wine licenses and other wine requirements set forth in West Virginia Code 60-8-1 et seq., 60-4-3b, and 60-6-2, shall apply to the manufacture, distribution or sale of hard cider. Any person or licensee legally authorized to manufacture, distribute, or sell wine may manufacture, distribute or sell hard cider in the same manner and to the same persons, and subject to the same limitations and conditions, as such license or legal right authorizes him or her to manufacture, distribute or sell wine. No additional wine license fees shall be charged for the privilege of manufacturing, distributing, or selling hard cider.

(c) Except as stated in West Virginia Code Article 60-8A, all hard cider distributors are bound by all wine distribution requirements set forth in West Virginia Code 60-8-1 et seq., 60-4-3b, and 60-6-2, which shall apply to distribution of hard cider. Any person or licensee legally authorized to distribute hard cider may distribute hard cider in the same manner and to the same persons, and subject to the same limitations and conditions, as a license or legal right would authorize him or her to distribute wine. An additional hard cider license fee shall not be charged for the privilege of distributing hard cider.

(WVaC 60-8A-2; Ord. 2022-011. Passed 11-7-22.)

521.15 OFF-PREMISES SALES NOT REQUIRED TO BE BAGGED.

(a) A licensee who is licensed for off-premises sales of nonintoxicating beer or nonintoxicating craft beer is not required to place

nonintoxicating beer or nonintoxicating craft beer, in a bag. (WVaC 11-16-5a)

(b) Alcoholic liquors in this state are not required to be placed in a bag by a licensee who is licensed for off-premises sales of alcoholic liquors.
(WVaC 60-1-3a)

521.99 PENALTY.

(EDITOR'S NOTE: See Section 501.99 for general Code penalty if no specific penalty is provided.)

(a) Whoever violates Section 521.05(a), 521.12(b) or 521.13(b) shall be fined not more than fifty dollars ($50.00), or imprisoned for not more than seventy-two hours, or both, or, in lieu of such fine and imprisonment, may, for the first offense, be placed on probation for not more than one year.

(b) Whoever violates Section 521.05(b), 521.12(c) or 521.13(d) shall be fined not more than one hundred dollars ($100.00), or imprisoned for not more than ten days, or both.
(WVaC 11-16-19, 60-3-22a, 60-8-20a, 60-3A-24)

(c) Whoever violates subdivision (1), subsection (a) of Section 521.06 shall be sentenced by a judicial officer in accordance with the following options:

(1) Upon first offense, a fine of not less than five dollars ($5.00) nor more than one hundred dollars ($100.00). If the individual, prior to conviction, agrees to voluntarily attend an alcohol education program of not more than six hours duration at the nearest community mental health - mental retardation center, the judicial officer may delay sentencing until the program is completed and upon completion may dismiss the charges;

(2) Upon conviction for a second offense, a fine of not less than five dollars ($5.00) nor more than one hundred dollars ($100.00) and not more than sixty days in jail or completion of not less than five hours of alcoholism counseling at the nearest community mental health - mental retardation center;

(3) Upon third and subsequent convictions, a fine of not less than five dollars ($5.00) nor more than one hundred dollars ($100.00) and not less than five nor more than thirty days in jail or a fine of not less than five dollars ($5.00) nor more than one hundred dollars ($100.00) and completion of not less than five hours of alcoholism counseling at the nearest community mental health - mental retardation center: provided, that three convictions for public intoxication within the preceding six months is considered evidence of alcoholism. For the educational counseling programs described in this subsection the community mental health - mental retardation center may charge each participant its usual and customary fee and shall certify in writing to the referring judicial officer the completion or failure to complete the prescribed program for each individual.

(4) A person charged with a violation of subdivision (1), subsection (a) of Section 521.06 who is an alcoholic shall be found not guilty by reason of addiction and proper disposition made pursuant to West Virginia Code Articles 27-5 and 6A.

(d) Whoever violates subdivision (2), subsection (a) of Section 521.06 shall be fined not less than five dollars ($5.00) nor more than one hundred dollars ($100.00); and upon a second or subsequent conviction thereof, shall be fined not less than five dollars ($5.00) nor more than one hundred dollars ($100.00) or imprisoned not more than thirty days, or both.

(e) Whoever violates subdivision (3), subsection (a) of Section 521.06 shall be fined not less than five dollars ($5.00) nor more than one hundred dollars ($100.00) or imprisoned not more than thirty days, or both.

(f) Whoever violates subdivision (4) or (5), subsection (a) of Section 521.06 shall be fined not less than one hundred dollars ($100.00) nor more than five hundred dollars ($500.00). Upon conviction of a second or subsequent offense, he or she is guilty of a felony and, shall be prosecuted under appropriate State law.
(WVaC 60-6-9)

(g) (1) Whoever violates Section 521.08(a) shall be fined an amount not to exceed five hundred dollars ($500.00) or shall be confined in jail, or, in the case of a juvenile, a detention facility, for a period not to exceed seventy-two hours, or both fined and confined or, in lieu of such fine and confinement, may, for the first offense, be placed on probation for a period not to exceed one year.

(2) Whoever violates Section 521.08(b) shall be fined an amount not to exceed one hundred dollars ($100.00) or shall be confined in jail, or in the case of a juvenile, a juvenile detention facility, for a period not to exceed seventy-two hours, or both such fine and confinement or, in lieu of such fine and confinement, may, for the first offense, be placed on probation for a period not exceeding one year.

(3) Whoever violates Section 521.08(c) shall be fined an amount not to exceed one hundred dollars ($100.00) or shall be confined in jail for a period not to exceed ten days, or both such fine and confinement.

(h) Whoever violates Section 521.09 shall be fined not less than five hundred dollars ($500.00) or more than one thousand dollars ($1,000), or imprisoned not more than thirty days, or both.
(WVaC 60-7-12)

(i) Whoever violates Section 521.10(a) or (b) shall be fined not more than five hundred dollars ($500.00) or imprisoned not more than thirty days, or both, and in addition may, for the first offense be placed on probation for a period not to exceed one year.

(j) Whoever violates Section 521.10(c) shall be fined not more than five hundred dollars ($500.00) or imprisoned not more than ten days, or both.
(WVaC 60-7-12a)

(k) Whoever violates 521.12(a) or 521.13(a) shall be fined not more than five hundred dollars ($500.00) or imprisoned not more than seventy-two hours, or both, or in lieu thereof, may, for the first offense, be placed on probation for a period not to exceed one year.
(WVaC 11-16-19, 60-8-20a, 60-3A-24)

(l) Whoever violates Section 521.13(c) shall be fined not more than two hundred fifty dollars ($250.00) or imprisoned not more than ten days, or both.
(WVaC 60-3A-24; Ord. 2022-011. Passed 11-7-22.)

City Council
101 East Washington Street
Charles Town, WV 25414

Meeting: 05/06/24
Department: City Council
Category: Ordinance
Initiator:

SCHEDULED

AGENDA ITEM (ID #)

2024-435: Second Reading and Consideration of an Amendment to the Codified Ordinances of the City of Charles Town, West Virginia with Regard to Part 5 General Offenses Code Article 545 Weapons and Explosives as a Result of Adopted State Code Changes

ATTACHMENTS:

- Article 545 Weapons and Explosives - state changes.pdf

ARTICLE 545

Weapons and Explosives

545.01 Definitions.
545.02 Carrying a deadly weapon without provisional license or other authorization by persons under twenty-one years of age.
545.03 Exceptions as to prohibitions against carrying concealed handguns for persons at least eighteen years of age and fewer than twenty-one years of age.
545.04 Persons prohibited from possession of firearms.
545.05 Possession of deadly weapons by minors prohibited.
545.06 Possession of machine guns.
545.07 Display or sale of deadly weapons.
545.08 Brandishing deadly weapons.
545.09 Possessing deadly weapons on premises of educational facilities. (Repealed)
545.10 Fireworks.
545.11 Discharging firearms.
545.12 Throwing or shooting missiles.
545.99 Penalty.

CROSS REFERENCES

See sectional histories for similar State law
Authority to prohibit carrying weapons - see W. Va. Code 8-12-5(16)
Limitations on power to restrict ownership - see W. Va. Code 8-2-5a
Dangerous weapons - see W. Va. Code Art. 61-7

545.01 DEFINITIONS.

As used in this article, unless the context otherwise requires:

(a) "Antique firearm" means:

(1) Any firearm, including, but not limited to, a firearm with a match lock, flintlock, percussion cap, or similar type of ignition system which was manufactured on or before 1898;

(2) Any replica of any firearm described in subsection (a)(l) hereof if such replica is not designed or redesigned to use rimfire or conventional centerfire fixed ammunition which is no longer manufactured in the United States and which is not readily available in the ordinary channels of commercial trade; and

(3) Any muzzle-loading rifle, muzzle-loading shotgun, or muzzle-loading pistol, which is designed to use black powder, or black powder substitute, and which cannot use fixed ammunition. For purposes of this subdivision, the term "antique firearm" shall not include any weapon which includes a firearm frame or receiver, any firearm which is converted into a muzzle- loading weapon, or any muzzle-loading weapon which can be readily converted to fire fixed ammunition by replacing the barrel, bolt, breechblock, or any combination thereof.

(b) "Blackjack" means a short bludgeon consisting, at the striking end, of an encased piece of lead or some other heavy substance and, at the handle end, a strap or springy shaft which increases the force of impact when a person or object is struck. "Blackjack" includes, but is not limited to, a billy, billy club, sand club, sandbag or slapjack.

(c) "Concealed" means hidden from ordinary observation so as to prevent disclosure or recognition. A deadly weapon is concealed when it is carried on or about the person in such a manner that another person in the ordinary course of events would not be placed on notice that the deadly weapon was being carried. For purposes of concealed handgun licensees, a licensee is considered to be carrying on or about his or her person while in or on a motor vehicle if the firearm is located in a storage area in or on the motor vehicle.

(d) "Control led substance" has the same meaning as is ascribed to that term in West Virginia Code 60A-1- l0l(e).

(e) "Deadly weapon" means an instrument which is designed to be used to produce serious bodily injury or death or is readily adaptable to such use. The term "deadly weapon" includes, but is not limited to, the instruments defined in subsections (a) through (h) hereof, inclusive, of this section or other deadly weapons of like kind or character which may be easily concealed on or about the person. For the purposes of West Virginia Code 18A-5-1a and 61-7-11a, in addition to the definition of "knife" set forth in subsection (i) hereof, the term "deadly weapon" also includes any instrument included within the definition of "knife" with a blade of three and one-half inches or less in length. Additionally, for the purposes of West Virginia Code 18A-5-1a and 61-7-11a, the term "deadly weapon" includes explosive, chemical, biological and radiological materials. Notwithstanding any other provision of this section, the term "deadly weapon" does not include any item or material owned by the school or county board, intended for curricular use, and used by the student at the time of the alleged offense solely for curricular purposes. The term "deadly weapon" does not include pepper spray as defined in subsection (l) hereof when used by any person solely for self-defense purposes.

(f) "Drug" has the same meaning as is ascribed to that term in West Virginia 60A-1-101(m).

(g) "Firearm" means any weapon which will expel a projectile by action of an explosion: provided, that it does not mean an antique firearm as defined in subsection (a) hereof; except for the purposes of West Virginia Code 48-27-502.

(h) "Gravity knife" means any knife that has a blade released from the handle by the force of gravity or the application of centrifugal force, and when released is locked in place by means of a button, spring, lever or other locking or catching device.

(i) "Knife" means an instrument, intended to be used or readily adaptable to be used as a weapon, consisting of a sharp-edged or sharp-pointed blade, usually made of steel, attached to a handle, which is capable of inflicting cutting, stabbing or tearing wounds. The term "knife" includes, but is not limited to, any dagger, dirk, poniard or stiletto with a blade over three and one-half inches in length, any switchblade knife or gravity knife, and any other instrument capable of inflicting cutting, stabbing or tearing wounds. A pocket knife with a blade three and one-half inches or less in length, a hunting or fishing knife carried for hunting, fishing, sports or other recreational uses, or a knife designed for use as a tool or household implement shall not be included within the term "knife" as defined herein, unless the knife is knowingly used or intended to be used to produce serious bodily injury or death.

(j) "Metallic or false knuckles" means a set of finger rings attached to a transverse piece to be worn over the front of the hand for use as a weapon and constructed in such a manner that, when striking another person with the fist or closed hand, considerable physical damage may be inflicted upon the person who was struck. The terms "metallic or false knuckles" includes any such instrument without reference to the metal or other substance or substances from which the metallic or

false knuckles are made.

(k) "Nunchaku" means a flailing instrument consisting of two or more rigid parts, connected by a chain, cable, rope, or other nonrigid, flexible, or springy material, constructed in a manner that allows the rigid parts to swing freely so that one rigid part may be used as a handle and the other rigid part may be used as the striking end.

(l) "Pepper spray" means a temporarily disabling aerosol that is composed partly of capsicum oleoresin and causes irritation, blinding of the eyes, and inflammation of the nose, throat, and skin that is intended for self-defense use.

(m) "Pistol" means a short firearm having a chamber which is integral with the barrel, designed to be aimed and fired by the use of a single hand.

(n) "Revolver" means a short firearm having a cylinder of several chambers that are brought successively into line with the barrel to be discharged, designed to be aimed and fired by the use of a single hand.

(o) "Switchblade knife" means any knife having a spring-operated blade which opens automatically upon pressure being applied to a button, catch, or other releasing device in its handle. (WVaC 61-7-2; Ord. 2022-008. Passed 11-7-22.)

545.02 CARRYING A DEADLY WEAPON WITHOUT PROVISIONAL LICENSE OR OTHER AUTHORIZATION BY PERSONS UNDER TWENTY-ONE YEARS OF AGE.

(a) No person under twenty-one years of age and not otherwise prohibited from possessing firearms under Section 545.03 shall carry a concealed deadly weapon, without a State license or other lawful authorization established under the provisions of the West Virginia Code.

(b) Whoever violates this section shall, for a first offense, be guilty of a misdemeanor.

(WVaC 61-7-3; Ord. 2022-008. Passed 11-7-22.)

545.03 EXCEPTIONS AS TO PROHIBITIONS AGAINST CARRYING CONCEALED HANDGUNS FOR PERSONS AT LEAST EIGHTEEN YEARS OF AGE AND FEWER THAN TWENTY-ONE YEARS OF AGE.

(a) The provisions in Section 545.02 do not apply to any person at least eighteen years of age and fewer than twenty-one years of age who is:

(1) Carrying a deadly weapon upon his or her own premises;

(2) Carrying a firearm, unloaded, from the place of purchase to his or her home, residence or place of business or to a place of repair and back to his or her home, residence or place of business; or

(3) Possessing a firearm while hunting in a lawful manner or while traveling from his or her home, residence or place of business to a hunting site and returning to his or her home, residence or place of business;

(4) A member of a properly organized target-shooting club authorized by law to obtain firearms by purchase or requisition from this State or from the United States for the purpose of target practice from carrying any pistol, as defined in this article, unloaded, from his or her home, residence or place of business to a place of target practice and from any place of target practice back to his or her home, residence or place of business, for using any such weapon at a place of target practice in training and improving his or her skill in the use of the weapons;

(5) A law-enforcement officer or law-enforcement official or chief executive as defined in West Virginia Code 30-29-1;

(6) An employee of the West Virginia Division of Corrections duly appointed pursuant to West Virginia Code 25-1-11c, while the employee is on duty;

(7) A member of the United States Armed Forces, Reserve or National Guard;

(8) A resident of another state who holds a valid permit or license to possess or carry a handgun issued by a state or a political subdivision subject to the provisions and limitations set forth in West Virginia Code 61-7-6a;

(9) A federal law-enforcement officer or federal police officer authorized to carry a weapon in the performance of the officer's duty; and

(10) A parole officer appointed pursuant to West Virginia Code 62-12-14 in the performance of his or her duties.

(b) The following judicial officers and prosecutors and staff are exempt from paying any application fees or licensure fees required under the West Virginia Code. However, they shall make application and satisfy all licensure and handgun safety and training requirements to obtain a license as set forth in West Virginia Code 61- 7-4:

(1) Any justice of the Supreme Court of Appeals of West Virginia;

(2) Any circuit judge;

(3) Any retired justice or retired circuit judge designated senior status by the Supreme Court of Appeals of West Virginia;

(4) Any family court judge;

(5) Any magistrate;

(6) Any prosecuting attorney;

(7) Any assistant prosecuting attorney; or

(8) Any duly appointed investigator employed by a prosecuting attorney. (WVaC 61-7-6; Ord. 2022-008. Passed 11-7-22.)

545.04 PERSONS PROHIBITED FROM POSSESSION OF FIREARMS.

(a) Except as provided in this section, no person shall possess a firearm, as such is defined in Section 545.01, who:

(1) Has been convicted in any court of a crime punishable by imprisonment for a term exceeding one year;

(2) Is habitually addicted to alcohol;

(3) Is an unlawful user of or habitually addicted to any controlled substance;

(4) Has been adjudicated to be mentally incompetent or who has been involuntarily committed to a mental institution pursuant to the provisions of West Virginia Code Chapter twenty-seven or in similar law of another jurisdiction: provided, that once an individual has been adjudicated as a mental defective or involuntarily committed to a mental institution, he or she shall be duly notified that they are to immediately surrender any firearms in their ownership or possession; provided, however, that the Mental Hygiene Commissioner or Circuit Judge shall first make a determination of the appropriate public or private individual or entity to act as conservator for the surrendered property;

(5) Is an alien illegally or unlawfully in the United States;

(6) Has been discharged from the armed forces under dishonorable conditions;

(7) Is subject to a domestic violence protective order that:

A. Was issued after a hearing of which such person received actual notice and at which such person had an opportunity to participate;

B. Restrains such person from harassing, stalking or threatening an intimate partner of such person or child of such intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child; and

C. 1. Includes a finding that such person represents a credible threat to the physical safety of such intimate partner or child; or

2. By its terms explicitly prohibits the use, attempted use or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury; or

(8) Has been convicted of a misdemeanor offense of assault or battery either under the provisions of West Virginia Code 61-2-28, or the provisions of West Virginia Code 61-2-9(a) or (b), or a federal or state statute with the same essential elements in which the victim was a current or former spouse, current or former sexual or intimate partner, person with

whom the defendant has a child in common, person with whom the defendant cohabits or has cohabited, a parent or guardian, the defendant's child or ward or a member of the defendant's household at the time of the offense or has been convicted in any court of any jurisdiction of a comparable misdemeanor crime of domestic violence.

(b) Any person prohibited from possessing a firearm by the provisions of subsection (a) of this section may petition the circuit court of the county in which he or she resides to regain the ability to possess a firearm and if the court finds by clear and convincing evidence that the person is competent and capable of exercising the responsibility concomitant with the possession of a firearm, the court may enter an order allowing the person to possess a firearm if such possession would not violate any federal law: provided, that a person prohibited from possessing a firearm by the provisions of subsection (a)(4) of this section may petition to regain the ability to possess a firearm in accordance with West Virginia Code 61-7A-5.

(c) Any person may carry a concealed deadly weapon without a license therefor who is:

(1) At least twenty-one years of age;

(2) A United States citizen or legal resident thereof;

(3) Not prohibited from possessing a firearm under the provisions of this section; and

(4) Not prohibited from possessing a firearm under the provisions of 18 U.S.C. §922(g) or (n).

(d) Any person who has been convicted of an offense which disqualifies him or her from possessing a firearm by virtue of a criminal conviction whose conviction was expunged or set aside or who subsequent thereto receives an unconditional pardon for said offense shall not be prohibited from possessing a firearm by the provisions of the section.
(WVAC 61-7-7; Ord. 2022-008. Passed 11-7-22.)

545.05 POSSESSION OF DEADLY WEAPONS BY MINORS PROHIBITED.

(a) Notwithstanding any other provision of this article to the contrary, a person under the age of eighteen years who is not married or otherwise emancipated shall not possess or carry concealed or openly any deadly weapon: provided, that a minor may possess a firearm upon premises owned by such minor or his family or on the premises of another with the permission of his or her parent or guardian and in the case of property other than his or her own or that of his family, with the permission of the owner or lessee of such property. Nothing in this section shall prohibit a minor from possessing a firearm while hunting in a lawful manner or while traveling from a place where he or she may lawfully possess a deadly weapon, to a hunting site, and returning to a place where he or she may lawfully possess such weapon.

(b) A violation of this section by a person under the age of eighteen years shall subject the child to the jurisdiction of the circuit court under the provisions of West Virginia Code 49-4- 701 et seq., and such minor may be proceeded against in the same manner as if he or she had committed an act which if committed by an adult would be a crime, and may be adjudicated delinquent. (WVaC 61-7-8; Ord. 2022-008. Passed 11-7-22.)

545.06 POSSESSION OF MACHINE GUNS.

No person shall carry, transport or have in his possession, any machine gun, submachine gun or any other fully automatic weapon unless he or she has fully complied with applicable Federal statutes and all applicable rules and regulations of the Secretary of the Treasury of the United States relating to such firearms. (WVaC 61-7-9; Ord. 2022-008. Passed 11-7-22.)

545.07 DISPLAY OR SALE OF DEADLY WEAPONS.

No person shall publicly display and offer for rent or sale, or, where the person is other than a natural person, knowingly permit an employee thereof to publicly display and offer for rent or sale, to any passersby on any street, road or alley, any deadly weapon, machine gun, submachine gun or other fully automatic weapon, any rifle, shotgun or ammunition for same.
(WVaC 61-7-10; Ord. 2022-008. Passed 11-7-22.)

545.08 BRANDISHING DEADLY WEAPONS.

No person armed with a firearm or other deadly weapon, whether licensed to carry the same or not, shall carry, brandish or use such weapon in a way or manner to cause, or threaten, a breach of the peace. (WVaC 61-7-11; Ord. 2022-008. Passed 11-7-22.)

545.09 POSSESSING DEADLY WEAPONS ON PREMISES OF EDUCATIONAL FACILITIES.

(EDITOR'S NOTE: Former Section 545.09 which was derived from West Virginia Code 61-7- lla is no longer included in the Codified Ordinances. By Acts 1995 Chapter 90, the West Virginia Legislature reclassified such offense as a felony. Charges for possessing deadly weapons on premises of educational facilities should now be filed under state law.)

545.10 FIREWORKS SALE, POSSESSION AND DISCHARGE.

(a) Definitions: As used in this section, the following terms shall be defined as follows:

(1) "APA Standard 87-1" means the APA Standard 87-1 published by the American Pyrotechnics Association, as amended, and incorporated by reference into Title 49 of the Code of Federal Regulations;

(2) "Consumer fireworks" means small fireworks devices that are designed to produce visible effects by combustion that are required to comply with the construction, chemical composition and labeling regulations promulgated by the United States Consumer Product Safety Commission under 16 C.F.R. Parts 1500 and 1507 (2014), and that are listed in APA Standard 87-1. Consumer fireworks do not include sparkling devices, novelties, toy caps or model rockets;

(3) "Firework" or "fireworks" means any composition or device designed for the purpose of producing a visible or audible effect by combustion, deflagration or detonation. Fireworks include consumer fireworks, display fireworks and special effects. Fireworks does not include sparkling devices, novelties, toy caps or model rockets;

(4) "Minor" means an individual who is less than 18 years of age;

(5) "Sparkling devices" means "ground or handheld sparkling devices" as that phrase is defined under APA 87-1, sections 3.1.1 and 3.5;

(b) Ignition. Discharge. and Use of Consumer Fireworks. A person shall not ignite, discharge, or use consumer fireworks within the Charles Town City limits.

(c) Exemptions. Exemption requests to subsection (b) shall be submitted in writing to the City Council; the City Council will render its decision after appropriate consultation with the Fire and Police Chiefs.

(d) Manufacture, Transportation. Distribution, or Sale of Consumer Fireworks. Pursuant to West Virginia Code 529-3E, it is unlawful for a person to manufacture, wholesale, distribute, import, sell or store for the purpose of resale, consumer fireworks, sparkling devices, novelties or toy caps without a license, registration, certificate or permit from the State Fire Marshal.

(e) Responsibility. Any damage to property or persons resulting from the ignition, discharge, or use of consumer fireworks, whether or not intentional, is the responsibility of the person igniting, discharging, or using the consumer firework(s) that is determined by competent
authority to have caused the damage.

(f) Violations of this article.

(1) A person may not intentionally ignite or discharge any consumer fireworks or sparkling devices within or throw the same from a motor vehicle or building.

(2) A person may not intentionally ignite or discharge any consumer fireworks or sparkling devices into or at a motor vehicle or building, or at any person or group of people.
(3) A person may not intentionally ignite or discharge any consumer fireworks or sparkling device while the person:
A. Is under the influence of alcohol;
B. Is under the influence of any controlled substance;
C. Is under the influence of any other drug; or
D. Is under the combined influence of alcohol and any controlled substance or any other drug.
(4) A person who is less than eighteen years of age may not possess consumer fireworks.

(g) Determination of Violation; Seizure. If a police officer determines that a violation of this section has occurred, then the officer may seize the consumer fireworks as evidence of the violation.
(h) Penalty.
(1) A person in violation of this section is subject to a fine up to $500.00, plus the costs of prosecution.
(2) Following final disposition of a finding of responsibility for a violation of this section, the city may dispose of or destroy any consumer fireworks retained as evidence in that prosecution.
(3) In addition to any other penalty, a person that is found responsible for a violation of this section is subject to reimbursing the city for the costs of storing, disposing of, or destroying consumer fireworks that were confiscated for a violation of this section.
(i) Severability. The provisions of this section shall be liberally construed to accomplish its objective and purposes. If any provision of this section is held to be invalid or unconstitutional by any court of competent jurisdiction, such invalidity or unconstitutionality shall not otherwise affect or invalidate the other provisions hereto, all of which are hereby declared, and shall be construed, to be separate and severable.
(Ord. 2022-008. Passed 11-7-22.)

545.11 DISCHARGING FIREARMS.

(a) No person shall discharge any air gun, rifle, shotgun, revolver, pistol or other firearm within the corporate limits of the Municipality.
(b) This section does not apply when firearms are used in self defense, in the discharge of official duty or when otherwise lawfully authorized.
(Ord. 2022-008. Passed 11-7-22.)

545.12 THROWING OR SHOOTING MISSILES.

No person shall throw, shoot or propel an arrow, missile, pellet, stone, metal or other similar substance capable of causing physical harm to persons or property, in or on any public place, in or on the property of another, or from any private property into or onto any public place or the property of another. This section does not apply to supervised archery ranges or instruction nor when otherwise lawfully authorized.
(Ord. 2022-008. Passed 11-7-22.)

545.99 PENALTY.

(EDITOR'S NOTE: See Section 501.99(a) for general Code penalty if no specific penalty is provided.)
(a) Whoever violates Section 545.04 shall be fined not more than one thousand dollars ($1,000) or imprisoned not more than thirty days, or both.
(b) Notwithstanding the provisions of subsection (a) of this section, any person:
(1) Who has been convicted in this State or any other jurisdiction of a felony crime of violence against the person of another or of a felony sexual offense; or
(2) Who has been convicted in this State or any other jurisdiction of a felony controlled substance offense involving a Schedule I controlled substance other than marijuana, a Schedule II or a Schedule III controlled substance as such are defined in West Virginia Code 60A-2-204, 60A-2-205 and 60A- 2-206, and who possesses a firearm as such is defined in Section 545.01 shall be guilty of a felony and shall be prosecuted under appropriate State law. The provisions of Section 545.04(b) shall not apply to persons convicted of offenses referred to in this subsection or to persons convicted of a violation of this subsection.
(WVaC 61-7-7; Ord. 2022-008. Passed 11-7-22.)

City Council
101 East Washington Street
Charles Town, WV 25414

Meeting: 05/06/24
Department: City Council
Category: Ordinance
Initiator:

SCHEDULED

AGENDA ITEM (ID #)

2024-483: Ordinance to Approve the December 2023 Replacement Pages to the Codified Ordinances

ATTACHMENTS:

- Ordinance Approving December 2023 Replacement Pages.pdf

CITY OF CHARLES TOWN

AN ORDINANCE TO APPROVE THE DECEMBER 2023 REPLACEMENT PAGES TO THE CODIFIED ORDINANCES.

WHEREAS, certain provisions within the Codified Ordinances should be amended to conform with current State law; and

WHEREAS, various ordinances of a general and permanent nature have been passed by Council which should be included in the Codified Ordinances; and

WHEREAS, Council has heretofore entered into a contract with the Walter H. Drane Company to prepare and publish such revision; and

WHEREAS, the codification of such ordinances, together with the new matter to be adopted, the matters to be amended and those to be repealed are before the Council;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CHARLES TOWN, WEST VIRGINIA:

Section 1. That the ordinances of the City of Charles Town, West Virginia, of a general and permanent nature, as revised, recodified, rearranged and consolidated into component codes, chapters, articles and sections within the December 2023 Replacement Pages to the Codified Ordinances are hereby approved and adopted.

Section 2. That the following sections and articles are hereby added, amended or repealed as respectively indicated in order to comply with current State law:

Part One - Administrative Code

101.02	General Definitions. (Amended)

Part Three - Traffic Code

301.02	Authorized Emergency Vehicle. (Amended)
301.083	Electric Bicycles. (Amended)
361.07	Accessible Parking. (Added)
373.11	Electric Bicycles. (Amended)

Part Five - General Offenses Code

521.01	Liquor Control Definitions. (Amended)
521.09	Acts Prohibited by Private Club Licensee. (Amended)
545.01	Weapons and Explosives Definitions. (Amended)

Section 3. This Ordinance shall become effective from the date of its adoption.

First Reading: _____, 2024

Passed on Second Reading: _____, 2024

Enacted this _____ day of _____, 2024

City of Charles Town

_____

Robert Trainor
Mayor

Attest:

_____

John Nissel
City Manager/Clerk

City Council
101 East Washington Street
Charles Town, WV 25414

Meeting: 05/06/24
Department: City Council
Category: Appointment
Initiator:

SCHEDULED

AGENDA ITEM (ID #)

2024-437: Letter to the Members of the Council Select Committe to Further Research Private Outdoor Dining Area (PODA) in Downtown Charles Town

ATTACHMENTS:

- Council Select Committee on PODA.pdf

City of Charles Town

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

May 2, 2024

Re: Council Select Committee on PODA (Private Outdoor Dining Area)

Dear Council Members,

Please be advised that a Council Select Committee on PODA Private Outdoor Dining Area has been established to perform the following:

- Anticipated PODA impacts to the Charles Town operating budget, staff, and Police Department.
- Possible PODA impacts to the quality of life, safety and welfare of Charles Town Residents.
- Prospective PODA economic opportunities for Charles Town and city businesses.
- Recommendations PODA days and hours of operation as well as PODA boundaries.
- Experience from other cities who have adopted PODA or similar initiatives.
- Overall Pros and Cons to adopting PODA for Charles Town.
- The Council Select Committee on PODA will report back to the City Council at the October 7, 2024, Council Meeting.

The following personnel and business owners are hereby appointed to the Council Select Committee on PODA;

- Council Member Jeff Hynes
- Council Member Julie Philabaum
- Police Chief Chris Kutcher
- City Manager John Nissel
- City Staff Designee
- Mr. Josh Vance
- Ms. Leah Brooks

All Select Committee meeting will conform with applicable ordinances, rules and regulations.

Sincerely,

John Nissel
City Manager

cc: Mr. Josh Vance
Ms. Leah Brooks
Police Chief Chris Kutcher

MAYOR
Robert M. Trainor

CITY COUNCIL
James Kratovil
Elizabeth Ricketts
Jeff Hynes
Kevin Tester
Julie Philabaum
Priscilla Rodd
Micheal George
Rikki Twyford

CITY MANAGER
John Nissel

City Council
101 East Washington Street
Charles Town, WV 25414

Meeting: 05/06/24
Department: City Council
Category: Ordinance
Initiator:

SCHEDULED

AGENDA ITEM (ID #)

2024-484: First Reading and Consideration of an Amendment to the Codified Ordinances of the City of Charles Town, West Virginia with Regard to Part 7 Business Regulation and Taxation Code Article 745 Business and Occupation Tax

The agenda item needs to be removed from the table.

ATTACHMENTS:

- Article 745 Business and Occupation Tax.pdf

ARTICLE 745
Business and Occupation Tax

745.01 Short title.

745.02 Purpose and intent.

745.03 Definitions.

745.04 Imposition of tax.

745.05 Natural resource production.

745.06 Manufacturing.

745.07 Selling tangible property.

745.08 Public service or utility business.

745.09 Contracting.

745.10 Amusements.

745.11 Service business or calling not otherwise classified.

745.12 Rentals and royalties.

745.13 Banking and other financial businesses.

745.14 Health maintenance organizations.

745.15 Person taxable on multiple activities; credits.

745.16 Exempt activities.

745.16A Optional Exempt Activities.

745.17 Tax cumulative.

745.18 Administration generally.

745.19 Returns; computation and payment of tax.

745.20 Taxpayer records.

745.21 Tax return information confidentiality.

745.22 Erroneous computation of tax.

745.23 Investigations.

745.24 Assessments.

745.25 Notice of assessment; petition for reassessment.

745.26 Hearing procedure; decision; review.

745.27 Injunction.

745.28 Unpaid tax a lien; delinquency notice filing and release.

745.29 Successor liability.

745.30 Revocation, nonrenewal of licenses and permits.

745.31 Settlement agreements and compromises.

745.32 Additional administrative provisions concerning contracting.

745.33 Claims for refunds or credit.

745.34 Interest and penalty; criminal liability.

745.35 Severability.

745.36 Repeal of the business franchise tax.

745.37 Effective date.

CROSS REFERENCES

Authority to tax - see W.Va. Code 8-13-5

Business and occupation tax - see W.Va. Code Art. 11-13

Collection of taxes - see W.Va. Code 8-13-15 et seq.

745.01 SHORT TITLE.

This article shall be known as the "City of Charles Town Municipal Business and Occupation Tax Ordinance."

(Passed 7-19-10.)

745.02 PURPOSE AND INTENT.

The purpose of this article is to impose a municipal business and occupation tax pursuant to West Virginia Code § 8-13-5 to the fullest extent allowable under the operative laws of the State of West Virginia and the United States unless a more restrictive application is required by an express limitation set forth in this article.

(Passed 7-19-10.)

745.03 DEFINITIONS.

For purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section unless a different meaning is clearly required by the context in which the term is used:

(a) Banking business. The term "banking business or financial organization" means any bank, banking association, trust company, industrial loan company, small loan company, or licensee, building and loan association, savings and loan association, credit union, finance company, investment company, investment broker or dealer, and any other similar business organization at least ninety percent (90%) of the assets of which consists of intangible personal property and at least ninety percent (90%) of the gross receipts of which consists of dividends, interest and other charges derived from the use of money or credit.

(b) Business. The term "business" means all activities engaged in or caused to be engaged in with the object of gain or economic benefit, either direct or indirect. The production of raw materials or manufactured products which are used or consumed in the main business shall be deemed a business engaged in taxable in the class for which it falls.

(c) Contracting. The term "contracting" means the furnishing of work, or both materials and work, in the fulfillment of a contract for the construction, alteration, repair, decoration or improvement of a new or existing building or structure, or any part thereof, or for the alteration, improvement or development of real property.

(d) Gross Income. The term "gross income" generally means the gross receipts of the taxpayer, other than a banking or financial business, received as compensation for personal services and the gross receipts of the taxpayer derived from trade, business, commerce or sales and the value proceeding or accruing from the sale of tangible property, real or personal, or service, or both, and all receipts by reason of the investment of the capital of the business engaged in, including interest, discount, rentals, royalties, fees, reimbursed costs or expenses or other emoluments however designated and without any deductions on account of the cost of property sold, the cost of materials used, labor costs, taxes, royalties, interest and discount paid, or sums paid to independent contractors, subcontractors or persons furnishing services or property used in the operation of any business to produce gross income, or any other expense whatsoever. "Gross income" of a banking or financial business is specified in Section 745.13 of this article.

(e) Gross proceeds of sales. The term "gross proceeds of sales" means the value actually proceeding from the sale of tangible property without any deduction on account of the cost of property sold or expenses of any kind. The words "gross income" and "gross proceeds of sales" shall not be construed to include cash discounts allowed and taken on sales; the proceeds of sale of goods, wares or merchandise returned by customers when the sale price is refunded either in cash or by credit; or the sale price of any article accepted as part payment on any new article sold, if the full sale price of the new article is included in the" gross income" or "gross proceeds of sales"; excise taxes imposed by the State; money or other property received or held by a professional person for the sole use and benefit of a client or another person or money received by the taxpayer on behalf of a bank or other

financial institution for repayment of a debt of another; and excise taxes imposed by the federal government upon the consumer, not manufacturer, and which are held in trust by the vendor as agent for the federal government.

(f) Municipality. The term "municipality" means the City of Charles Town.

(g) Person. The terms "person" and "company" are used interchangeably in this article and mean and include any individual, firm, copartnership, joint adventure, association, corporation, limited liability company, trust, estate or any other group or combination acting as a unit, and the plural as well as the singular number. The word "it" shall also include the pronouns "he" and "she".

(h) Retail sales. The terms "retail sales" and "selling at retail" mean all sales other than wholesale sales, including but not limited to sales to persons for use in any activity not subject to the tax imposed by this article, all sales of real property, and sales to consumers.

(i) Sale. The terms "sale" and "sales" mean any transfer of the ownership of or title to property, whether for money or in exchange for other property.

(j) Services. The term "service business or calling" includes all activities engaged in for other persons for a consideration, which involve the rendering of a service as distinguished from the production or sale of tangible property, but shall not include the services rendered by an employee to his employer.

(k) Tax year. The terms "tax year" and "taxable year" mean as the period commencing July 1 and ending June 30. For the purpose of this article the taxable year shall be divided into two semi-annual periods. The first period shall be from July 1st through December 31st. The second period shall be from January 1st through June 30th.

(l) Taxpayer. The term "taxpayer" means any person liable for any tax hereunder.

(m) Treasurer. The term "treasurer" means the municipality's treasurer and his or her agents, delegates or representatives.

(n) Wholesale sales. The terms "selling at wholesale" and "wholesale sales" mean only:

(1) Sales of tangible personal property for the purpose of resale in the form of tangible personal property,

(2) Sales of machinery, supplies or materials which are to be directly consumed by the purchaser in the conduct of any business or activity which is subject to the tax imposed by this article, or

(3) Sales of tangible personal property to the United States of America, its agencies and instrumentalities, or to the State of West Virginia, its institutions and political subdivisions.

(Passed 7-19-10.)

745.04 IMPOSITION OF TAX.

(a) There are hereby levied and imposed and shall be collected annual privilege taxes, against the persons, on account of the business and other activities and in the amounts to be determined by the application of rates against values or gross income or gross proceeds as set forth in Sections 745.05 through 745.14 of this article, inclusive.

(b) If any person liable for any tax under Section 745.05 or 745.06 of this article shall ship or transport its products, or any part thereof, out of the municipality without making sale of such products, the value of the products in the condition or form in which they exist immediately before transportation out of the municipality shall be the basis for the assessment of the tax imposed in those sections. Gross income included in the measure of the tax under Section 745.05 or 745.06 of this article, shall neither be added nor deducted in computing the tax levied under the other sections of this article. In determining value, however, as regards sales from one to another of affiliated companies or persons, or under other circumstances where the relation between the buyer and the seller is such that the gross proceeds from the sale are not indicative of the true value of the subject matter of the sale, the value upon which such privilege tax shall be levied shall correspond as nearly as possible to the gross proceeds from the sale of similar products of like quality or character where no common interest exists between the buyer and the seller but where the circumstances or conditions are otherwise similar.

(c) The municipal business and occupation tax is imposed on each person engaged in privileges taxable under this article if such person is engaged in purposive revenue generating activities within the municipality's limits and such person has sufficient contacts to sustain the municipality's taxing jurisdiction. By way of example (but not limitation), if a person's activities within the municipality contributes to the establishment and maintenance of a market, such contacts are considered to be sufficient to sustain the municipality's taxing jurisdiction assuming federal constitutional nexus standards are satisfied.

(Passed 7-19-10.)

745.05 NATURAL RESOURCE PRODUCTION.

(a) Upon every person engaging or continuing within the municipality in the business of severing, extracting, mining, quarrying, reducing to possession and/or producing for sale, profit or commercial use any natural resource products, the amount of such tax shall be equal of the value of the articles produced as shown by the gross proceeds derived from the sale thereof by the producer, except as hereinafter provided, multiplied by the respective rates as follows: Coal, one percent (1.00%); limestone or sandstone quarried or mined, one and one-half percent (1.50%); oil or blast furnace slag, three percent (3.00%); natural gas in excess of the value of five thousand dollars ($5,000.00), six percent (6.00%); sand, gravel or other mineral products, not quarried or mined, three percent (3.00%); timber one and one-half percent (1.50%), and other natural resource products, two percent (2.00%).

(b) The measure of this tax is the value of the entire production in the municipality, regardless of the place of sale or the fact that delivery may be made to points outside the municipality.

(c) A person exercising privileges taxable under this section and using or consuming the natural resources so produced in his business or transferring or delivering the natural resources as any royalty paid, in kind, or the like, shall be deemed to be engaged in the business of producing natural resources and shall be required to make returns on account of the production of the business, showing the gross proceeds or equivalent in accordance with uniform and equitable rules for determining the value upon which privilege taxes shall be levied, corresponding as nearly as possible to the gross proceeds from the sale of similar products of like quality or character by other taxpayers.

(d) Persons who produce natural resources outside the municipality and who make sale of those products within the municipality shall not pay the tax imposed by this section but shall pay the tax imposed by Section 745.07 of this article for the privilege of selling such products within the municipality.

(e) A person exercising any privilege taxable under this section and engaging in the business of selling its natural resource products in the municipality shall be required to make returns of the gross proceeds of such sales and pay the tax imposed in Section 745.07 of this article for the privilege of engaging in the business of selling such natural resource products in the municipality. (Passed 7-19-10.)

745.06 MANUFACTURING.

(a) Upon every person engaging or continuing within the municipality in the business of manufacturing, compounding or preparing for sale, profit or commercial use, either directly or through the activity of others, in whole or part, any article or articles, substance or substances, commodity or commodities, or newspaper publishing (including all gross income or proceeds of sale from circulation and advertising), the amount of the tax shall be equal to the value of the article, substance, commodity or newspaper manufactured, compounded or prepared for sale, as shown by the gross proceeds derived from the sale thereof by the manufacturer or person compounding or preparing the same, except as otherwise provided, multiplied by a rate of eighteen one-hundredths percent (0.18%).

(b) The measure of the tax in this section is the value of the entire product manufactured, compounded or prepared in the municipality for sale, profit or commercial use, regardless of the place of sale or the fact that deliveries may be made to points outside the municipality. It is further provided, however, that in those instances in which the same person partially manufactures, compounds or prepares products within the municipality and partially manufactures, compounds or prepares such products outside the municipality, the measure of tax under this section shall be that proportion of the sales price of the product that the payroll costs of manufacturing within the municipality bears to the entire payroll costs of manufacturing the product.

(c) If any person shall ship or transport its products or any part thereof out of the State without making sale of such products, the value of the products in the condition or form in which they exist immediately before transportation out of the State shall be the basis for the assessment of the tax imposed. The treasurer may prescribe equitable and uniform rules of ascertaining such value; provided that, in the absence of such rules, the person manufacturing

the products within the municipality shall report the value in a consistent and reasonable manner.

(d) The dressing and processing of food intended for human consumption by a person, or the cooking and serving of food by a restaurant which food is to be sold in the municipality by such person, shall not be considered manufacturing or compounding or preparing for sale, but the sale of these products shall be reported under Section 745.07 of this article either as wholesale or retail sale, as the case may be.

(e) Persons who manufacture, compound or prepare products outside the municipality and who make sale of such product within the municipality shall not pay the tax imposed by this section but shall pay tax imposed by Section 745.07 of this article for the privilege of selling such product within the municipality.

(f) A person exercising any privilege taxable under this section and engaging in the business of selling its product in the municipality shall be required to make returns of the gross proceeds of such sales and pay the tax imposed by this section at the rate set forth in Section 745.07 of this article for the privilege of engaging in the business of selling such manufactured goods in the municipality. (Passed 7-19-10.)

745.07 SELLING TANGIBLE PROPERTY.

(a) Upon every person engaging or continuing within the municipality in the business of selling any tangible property whatsoever, real or personal, including the sale of food in hotels, restaurants, cafeterias, confectioneries and other public eating houses and wholesale sales from a rolling stockpile, except sales of any person engaging or continuing in the business of horticulture, agriculture or grazing, or selling stocks, bonds, or other evidence of indebtedness, there is hereby levied, and shall be collected, a tax equal to five one-hundredths percent (0.05%) of the gross income of the business; except, therein the case of selling at wholesale, the tax shall be equal to five one-hundredths percent (0.05%) of the gross income of the business.

(Passed 1-20-15.)

(b) Gross income or gross proceeds of sales derived from sales within West Virginia that is not taxed or taxable by any other municipality are included in the measure of municipal business and occupation tax if the sales are either directed from a location within the municipality or the taxpayer's principal West Virginia office is located in the municipality. Without limiting the generality of the foregoing, when the taxpayer has only one (1) office location and this office is located within the municipality and its activities elsewhere in

West Virginia are neither taxed nor taxable by another municipality, the gross income or gross proceeds from those activities are taxable by this municipality.

(c) Persons domiciled outside the municipality who solicit sales within the municipality and sell tangible personal property within the municipality are doing business in the municipality, irrespective of the domicile of such persons and irrespective of whether or not such persons maintain a permanent place of business in the municipality and irrespective of how a sales order is transmitted or processed. If an order is placed in connection with

solicitation by a representative (regardless whether there is an employment or agency relationship or whether acting as an independent contractor) who solicits orders within the municipality, and the tangible personal property is to be delivered in the municipality, then the gross proceeds of such sales are included in the measure of the tax imposed by this article.

(Passed 7-19-10.)

745.08 PUBLIC SERVICE OR UTILITY BUSINESS.

Upon every person engaging or continuing within the municipality in any public service or utility business, except railroad, railroad car, express, pipeline, telephone and telegraph companies, water carriers by steamboat or steamship and motor carriers, there is levied, and shall be collected, taxes on account of the business engaged in equal to the gross income of the business multiplied by the respective rates as follows: electric light and power companies, four percent (4.00%) on sales and demand charges for domestic and commercial lighting and three percent (3.00%) on sales and demand charges for all other purposes; natural gas companies, three percent (3.00%); and upon all other public service or utility business, two percent (2.00%). The measure of this tax shall not include gross income derived from commerce between the State and other states of the United States.

The measure of the tax under this section shall include only gross income received from the supplying of public service. The gross income of the taxpayer from any other activity shall be included in the measure of the tax imposed upon such other activity by the appropriate section of this article.

(Passed 7-19-10.)

745.09 CONTRACTING.

Upon every person engaging or continuing within the Municipality in the business of contracting, the tax shall be equal to two percent (2.00%) of the gross income of the business.

(Passed 4-21-15.)

745.10 AMUSEMENTS.

Upon every person engaging or continuing within the municipality in the business of operating a theater, opera house, moving picture show, vaudeville, amusement park, carnival, circus, dance hall skating rink, racetrack, radio broadcasting station or any other place at which amusements are offered to the public, the tax shall be equal to fourteen one- hundredths percent (0.14%) of the gross income of the business.

(Passed 7-19-10.)

745.11 SERVICE BUSINESS OR CALLING NOT OTHERWISE CLASSIFIED.

(a) Upon every person engaging or continuing within the municipality in any service business or calling not otherwise specifically taxed under this article, there is hereby levied,

and shall be collected, a tax equal to twenty-three one-hundredths percent (0.23%) of the gross income of any such business.

(b) Gross income or gross proceeds of sales derived from services within West Virginia that is not taxed or taxable by any other municipality are included in the measure of tax under this article if the services are either directed from a location in the municipality or the taxpayer's principal West Virginia office is located in the municipality. Without limiting the generality of the foregoing, when a taxpayer has only one (1) office location and this office is located within the municipality and its activities elsewhere in West Virginia are neither taxed nor taxable by another municipality, the gross income or gross proceeds from those activities are taxable by this municipality. (Passed 7-19-10.)

745.12 RENTALS AND ROYALTIES.

Upon every person engaging or continuing within the municipality in the business of furnishing any real or tangible personal property which has a tax situs in the municipality, or any interest therein, for hire, loan, lease or otherwise, whether the return is in the form of rentals, royalties, fees or otherwise, the tax shall be thirty one-hundredths percent (0.30%) of the gross income of any such activity. The term "tangible personal property", as used herein, shall not include money or public securities.

(Passed 7-19-10.)

745.13 BANKING AND OTHER FINANCIAL BUSINESSES.

Upon every person engaging or continuing within the municipality in the business of banking or financial business, the tax shall be equal to twenty-three one-hundredths percent (0.23%) of the gross income received from interest, premiums, discounts, dividends, service fees or charges, commissions, fines, rents from real or tangible personal property, however denominated, royalties; charges for bookkeeping or data processing, receipts from check sales, charges or fees, and receipts from the sale of tangible personal property; provided, that gross income shall not include (a) interest received on the

obligations of the United States, its agencies and instrumentalities; (b) interest received on the obligations of this or any other state, territory or possession of the United States, or any political subdivision of any of the foregoing or of the District of Columbia; or (c) interest received on investments or loans primarily secured by first mortgages or deeds of trust on residential property occupied by nontransients; provided further, that all interest derived on activities exempt under (c) above shall be reported, as to amounts, on the return of a person taxable under the provision of this section.

(Passed 7-19-10.)

745.14 HEALTH MAINTENANCE ORGANIZATIONS.

The rate of tax on the activity of a health maintenance organization holding a certificate of authority under the provisions of West Virginia Code §§ 33-25A-1 et seq. shall not exceed one half of one percent (0.50%) to be applied solely to that portion of gross income received from

the Medicaid program pursuant to Title XIX of the Social Security Act, the State employee programs administered by the public employee insurance agency pursuant to West Virginia Code §§ 5-16-1 et seq., and other federal programs, for health care items or services provided directly or indirectly by the health maintenance organization that is expended for administrative expenses; and shall not exceed one-half of one percent (0.50%) to be applied to the gross income received from enrollees, or from employers on behalf of enrollees, from sources other than Medicaid, State employee programs administered by the public employees insurance agency and other federal programs for health care items or services provided directly or indirectly by the health maintenance organization: Provided, That this tax rate limitation shall not extend to that part of the gross income of health maintenance organizations which is received from the use of real property other than property in which any such company maintains its office or offices in the municipality, whether such income is in the form of rentals or royalties.

(Passed 7-19-10.)

745.15 PERSONS TAXABLE ON MULTIPLE ACTIVITIES; CREDITS.

(a) A person taxable under Section 745.07 of this article with respect to selling products at wholesale in this municipality shall be allowed a non-refundable credit against the tax imposed on such wholesale sales pursuant to Section 745.07 for any (i) manufacturing taxes paid by such person with respect to the manufacturing of products so sold at wholesale in this municipality, and/or (ii) extracting taxes paid by such person with respect to the extracting of products so sold in this municipality or ingredients of products so sold at wholesale in this municipality.

(b) For purposes of this section:

(1) “Manufacturing tax” means a gross receipts tax imposed by a municipality or other local government unit on the act or privilege of engaging in the business as a manufacturer and includes (i) the tax imposed in Section 745.06 of this article and (ii) similar gross receipts taxes paid to other municipalities or other local government units (other than State governments) within the United States.

(2) "Extracting tax" means a gross receipts tax imposed by a municipality or other local government unit on the act or privilege of engaging in the business as a producer of natural resource products and includes (i) the tax imposed in Section 745.05 of this article and (ii) similar gross receipts taxes paid to other municipalities or other local government units within the United States (other than State governments) within the United States.

(3) "Gross receipts tax" means a tax which (i) is imposed on or measured by the gross volume of business in terms of gross receipts or in other terms and in the determination of which deductions allowed would not constitute the tax an income tax or value added tax and (ii) which is not, pursuant to law or custom, separately stated from the sales price.

(c) If imposition of the municipality's tax would place an undue burden upon interstate commerce or violate constitutional requirements, a taxpayer shall be allowed a credit to the extent necessary to preserve the validity of the tax under this article, and still apply the tax to

as much of the taxpayer's activities as may be subject to the municipality's taxing authority.

(Passed 7-19-10.)

745.16 EXEMPT ACTIVITIES.

The provisions of this article shall not apply to:

(a) Insurance companies which pay the State of West Virginia a tax upon premiums; provided, that such exemption shall not extend to that part of gross income of insurance companies which is received for the use of real property, other than property in which any such company maintains its office or offices, in the municipality, whether such income is in the form of rentals or royalties; ‘

(b) Nonprofit cemetery companies organized and operated for the exclusive benefit of their members;

(c) Fraternal societies, organizations and associations organized and operated for the exclusive benefit of their members and not for profit; provided, that this exemption shall not extend to that part of gross income arising from the sale of alcoholic liquor, food and related services of such fraternal societies, organizations and associations which are licensed as private clubs under the provisions of West Virginia Code §§ 60-7-1 et seq.;

(d) Corporations, associations and societies organized and operated exclusively for religious or charitable purposes;

(e) Production credit associations, organized under the provisions of the federal Farm Credit Act of 1933; provided, that the exemption of this section shall not apply to

corporations or cooperative associations organized under the provisions of West Virginia Code §§ 19-4-1 et seq.;

(f) Any credit union organized under the West Virginia Code; provided, that the exemptions of this section shall not apply to corporations or cooperative associations organized under the provisions of West Virginia Code §§ 19-4-1 et seq.; and

(g) Gross income derived from advertising service rendered in the business of radio and television broadcasting.

(Passed 7-19-10.)

745.16A OPTIONAL EXEMPT ACTIVITIES.

The City Council, by vote of 2/3 majority of the Council, reserves the right to apply, reduce, or eliminate for a specified time period and/or for a specific project, the Business and Occupation tax per the following provision(s): Any activity associated with a municipality-initiated/taxpayer-funded project that directly benefits Charles Town’s residents, and in which the taxes rendered under this article could result in higher rates to those residents for existing services and/or higher project costs for the municipality.

(Passed 9-5-2023)

745.17 TAX CUMULATIVE.

The tax, interest and penalty imposed by this article shall be in addition to all other licenses, taxes and other revenue measures levied or collected by the municipality as a condition precedent to the right of any person to engage or continue in any business, profession, trade, calling or other activity within this municipality. A person exercising a privilege taxable under this article, subject to the payment of all licenses and charges which are conditions precedent to exercising the privileges taxed, may exercise the privilege in this municipality for the tax year upon the condition that he shall pay the tax, interest and penalty imposed by this article.

(Passed 7-19-10.)

745.18 ADMINISTRATION GENERALLY.

The administration of this article is vested in and shall be exercised by the treasurer who shall prescribe forms and may promulgate from time to time reasonable rules, publications and instructions for the making of returns, and for ascertaining, assessment, collection and administration of tax, interest and penalty imposed hereunder.

(Passed 7-19-10.)

745.19 RETURNS; COMPUTATION AND PAYMENT OF TAX.

(a) The tax levied by this article shall be due and payable in semi-annual installments on or before the expiration of one month from the end of each semi-annual period in which they accrue. The taxpayer shall, within one month from the expiration of each semi-annual period, make a return reporting the computation of tax for which it is liable for each semi-annual period; sign and mail the completed return, together with any remittance due, to the location specified by the treasurer. The treasurer may allow return and payment under this section for periods other than semi-annual periods.

(b) On or before thirty-one (31) days after the end of the tax year, each person liable for the payment of tax under this article shall make a second semi-annual return, showing the gross proceeds of sale or gross income of business, trade, calling or activity, computing the amount of tax, interest and penalty chargeable against the person in accordance with the provisions of this article and transmit with the return a remittance in the sum required by this article, covering the remainder of the tax, interest and penalty chargeable against the person for the tax year, to such location or locations specified by the treasurer. Such returns shall be verified by the oath of the taxpayer, if made by an individual, or by the individual designated by a taxpayer that is an entity to take the oath on behalf of the taxpayer.

(c) All remittances and payments of tax, interest and penalty imposed by this article shall be made to the treasurer, in lawful money of the United States or by bank draft, certified check, cashier's check, or other commercially acceptable means specified by the treasurer, to be kept, deposited and accounted for as provided by law.

(Passed 7-19-10.)

745.20 TAXPAYER RECORDS.

Each person subject to this article shall maintain sufficient records for review by the treasurer as long as the contents of such records may be material in the administration of tax imposed by this article.

(Passed 7-19-10.)

745.21 TAX RETURN INFORMATION CONFIDENTIALITY.

(a) Except when required in an investigation or proceeding to ascertain or collect amount of tax, interest, penalty, refund or credit due, or pursuant to an exemption in W. Va. Code § 11-10-5d, it shall be unlawful for any officer, employee or agent of the municipality to divulge or make known in any manner the tax return, or any part thereof, of any person, or disclose information concerning the personal affairs of any individual or the business of any person, or disclose the amount of income or any particulars set forth or disclosed in any report, declaration or return required to be filed with the treasurer or otherwise obtained by the municipality in an investigation undertaken by the treasurer concerning the tax imposed by this article. Any person protected by the provisions of this article may, in writing, waive the confidentiality provisions of this section for such purpose and such period as he shall therein state. This section shall not be construed to prohibit the

publication or release of statistics so classified as to prevent the identification of particular reports and the items thereof. Notwithstanding the foregoing, the treasurer may permit the proper officer, or his authorized representative or agent, of the United States or the State, or any political subdivision of the State, to inspect return information to or may furnish to such officer or representative a copy of any such return or any other tax return information, provided, that such other jurisdiction grants similar privileges to this municipality or if the other jurisdiction is a party of an intergovernmental agreement authorizing the exchange of such information.

(b) Any officer, employee or agent of the municipality or any former officer, employee or agent of the municipality who shall divulge facts or information obtained from returns or tax statements other than for the purpose of administering such tax shall be guilty of a misdemeanor and, upon conviction thereof, shall be subject to a fine of not more than one thousand dollars ($1,000) or imprisonment for not more than one year, or both, together with costs of prosecution.

(c) Any officer, employee or agent of the municipality or any former officer, employee or agent of the municipality who shall make unauthorized disclosure of information received from the State Tax Commissioner under authority of this section shall be guilty of a misdemeanor and, upon conviction thereof, shall be subject to a fine of not more than one thousand dollars ($1,000) or imprisonment for not more than one year, or both, together with costs of prosecution.

(d) For purposes of this article, "unauthorized disclosure" means the release to any person of any tax information obtained by the municipality from the State Tax Commissioner unless the person receiving the information is the authorized counsel of the municipality and shall be

using the information only for the purpose of administering the tax imposed by this article, Sales Tax from single location businesses, or Liquor Sales Tax; or the person who filed the return has authorized, in writing, its release, thereby waiving his right to secrecy.

(Passed 7-19-10.)

745.22 ERRONEOUS COMPUTATION OF TAX.

If any taxpayer shall make any error in computing the tax, interest and penalty under this article, the treasurer shall correct such error or reassess the proper amount of tax, interest and penalty, and notify the taxpayer of his or her action by mailing the taxpayer promptly a copy of the corrected assessment, and any additional tax, interest and penalty for which such taxpayer may be liable shall be paid within fifteen (15) days after the receipt of such statement. If the amount already paid exceeds that which should have been paid on the basis of the tax so recomputed, the excess so paid shall be immediately refunded to the taxpayer upon the request of the treasurer and shall be payable out of any funds available for the purpose. The taxpayer may, at its election, apply an overpayment as credit upon tax subsequently accruing hereunder.

(Passed 7-19-10.)

745.23 INVESTIGATIONS.

(a) For the purpose of ascertaining the correctness of a tax return, claim or assessment or for the purpose of making an estimate of any taxpayer's liability for the tax administered under this article, the treasurer shall have the power to examine or cause to be examined any books, papers, records, memoranda and other documents or data bearing upon the matters required to be included in the return and may require the attendance of the person rendering the return or the attendance of any other person having knowledge of relevant matters. In connection therewith, the treasurer may take testimony and shall have the power to administer oaths.

(b) The treasurer has the power to issue subpoenas and subpoenas duces tecum to compel the attendance of witnesses and production of documents for the purpose of ascertaining the correctness of a return or claim or for performing an assessment or for any hearing held by the treasurer. In case of the failure or refusal of a witness to appear and testify or to produce evidence, the treasurer may invoke the aid of the circuit court of Jefferson County. Upon proper showing, the treasurer may apply for an order requiring the witness to appear and give testimony and produce evidence concerning the matter in question.

(Passed 7-19-10.)

745.24 ASSESSMENTS.

(a) If any person who is required by this article to do so shall fail or refuse to make a return, either in whole or part, or if the treasurer believes the tax imposed by this article has been insufficiently returned by any taxpayer, the treasurer may proceed to assess the tax and shall notify the person assessed of the amount of the tax, additional tax, interest and penalties so assessed.

(b) The treasurer may, at any time before the assessment becomes final, amend, in whole or in part, any assessment whenever the treasurer ascertains that such assessment is improper or incomplete in any material respect. The treasurer may, at any time within the period prescribed for assessment, make a supplemental assessment whenever the treasurer ascertains that any assessment is incorrect in any material respect.

(c) The amount of tax, interest and penalties imposed by this article shall be assessed within three (3) years after the date the second semi-annual return for the year in which such tax arose is filed by the taxpayer; provided, that in the case of a false or fraudulent return filed with the intent to evade the tax or in case no return is filed, an assessment may be made at any time. (Passed 7-19-10.)

745.25 NOTICE OF ASSESSMENT; PETITION FOR REASSESSMENT.

The treasurer shall give the taxpayer written notice of any assessment made pursuant to this article. Unless the taxpayer to whom the notice of assessment is given shall within thirty (30) days after service thereof file with the treasurer a petition for reassessment, the assessment shall become final and not subject to administrative or judicial review. A petition for reassessment must be in writing verified under oath by the taxpayer or his duly authorized agent having knowledge of the facts, setting forth with particularity the items of the assessment objected to, together with the reasons for the objections. The total amount of an assessment shall be due and payable on the day following the date upon which the assessment becomes final.

(Passed 7-19-10.)

745.26 HEARING PROCEDURE; DECISION; REVIEW.

(a) When a petition for reassessment or a petition for refund or credit is properly filed pursuant to this article within the time prescribed for such filing, the treasurer shall assign a time and a place for a hearing thereon and shall notify the petitioner of such hearing by written notice at least twenty (20) days in advance thereof. Such hearing shall be held within ninety (90) days from the date of filing the petition, unless continued by agreement of the parties or by the treasurer for sufficient cause.

(b) The hearing shall be informal and shall be conducted in an impartial manner by the Finance Committee of the municipality. The burden of proof shall be upon the taxpayer to show that the assessment or denial refund or credit is incorrect and contrary to law, in whole or in part.

(c) After such hearing, the Finance Committee of the municipality shall, within a reasonable time, give notice in writing to the taxpayer of their decision. An appeal may be taken by the taxpayer of the Finance Committee's decision to the council of the municipality.

(d) An appeal may be taken by the taxpayer to the Circuit Court of Jefferson County within thirty (30) days after service of the council's administrative decision issued pursuant to this section.

(Passed 7-19-10.)

745.27 INJUNCTION.

After any delinquency shall have continued sixty (60) days, the treasurer may proceed in the Circuit Court of Jefferson County to obtain an injunction restraining the further exercise of the privilege until full payment shall have been made of all tax, interest and penalty due under this article. In any proceeding under this section, upon judgment or decree for the municipality, the municipality shall be awarded its costs.

(Passed 7-19-10.)

745.28 UNPAID TAX A LIEN; DELINQUENCY NOTICE FILING AND RELEASE.

Any tax, interest and penalties due and payable under this article shall be a debt due the municipality and shall constitute a lien on the real and personal property of the taxpayer. The treasurer, for the more effective collection of the tax, interest and penalty imposed by this article, may file with the Clerk of the Jefferson County Commission a certified notice of lien for delinquent taxes, interest and penalty under this article for recordation. If a lien has been recorded respecting a delinquency, upon full payment of all delinquent tax, interest and penalty, the treasurer shall attest to the fact and amount of payment, and shall forward a certificate of release to the taxpayer. Upon presentment and payment of the recording fee by the taxpayer, the Clerk of the Jefferson County Commission shall record such certificate in the book in which releases are recorded.

(Passed 7-19-10.)

745.29 SUCCESSOR LIABILITY.

The tax, interest and penalty imposed by this article shall be a continuing lien upon the property of any person subject to the provisions hereof who shall sell out its business or stock of goods, or shall quit business, and such person shall be required to make the return provided for in this article within thirty (30) days after the date it sold out its business or stock of goods, or quit business, and its successor in business shall be required to withhold a sufficient amount of the purchase money to cover the amount of such tax, interest and penalty due and unpaid until such time as the former owner shall produce a receipt from the treasurer showing that all tax, interest and penalty has been paid. If the purchaser of a business or stock of goods fails to withhold purchase money as hereby provided, and the tax, interest and penalty shall be due and unpaid after the thirty-day period allowed, the successor shall be personally liable for the payment of the tax, interest and penalty accrued and unpaid on account of the operation of the business by the former owner. (Passed 7-19- 10.)

745.30 REVOCATION, NON-RENEWAL OF LICENSES AND PERMITS.

(a) The treasurer has the authority to revoke, deny and prevent any and all licenses and permits issued by the municipality in the event a licensee or permittee fails or refuses to file any return required hereby or fails or refuses to pay any delinquent tax, interest or penalty due and owing to the municipality.

(b) In the event of such a revocation or denial, the treasurer will provide written notice to

the affected person at least five (5) days prior to the contemplated revocation or denial and such notice shall be served by certified mail. The notice shall indicate the time and the place of a revocation/denial review meeting, the general grounds of said contemplated

action, and shall advise the affected person of its rights to appear at said hearing in person and represented by legal counsel, and to be heard orally upon the merits of the person's defense. The treasurer may request legal advice from the City Attorney, and adopt such procedures for its decorum and the dispatch of business at such hearings as the treasurer may regard advisable. The revocation decision of the treasurer will be final.

(c) Each license or permit that has been revoked or denied pursuant to this section may be issued or re-issued upon payment of all delinquent tax, interest or penalty due and owing to the municipality and satisfaction of all relevant licensing conditions otherwise imposed by the municipality. (Passed 7-19-10.)

745.31 SETTLEMENT AGREEMENTS AND COMPROMISES.

The treasurer, with approval of the City Manager, is authorized to enter into an agreement in writing with any person relating to the liability of such person in respect of the tax, interest and penalty imposed by this article for any taxable period. If such a closing agreement is duly made and entered into, such agreement shall be final and conclusive for the periods covered except upon a showing of fraud, malfeasance or misrepresentation of a material fact. The treasurer, with approval of the City Manager, may compromise all or part of any administrative determination or civil case concerning tax, interest and penalty or otherwise arising under the provisions of this article. (Passed 7-19-10.)

745.32 ADDITIONAL ADMINISTRATIVE PROVISIONS CONCERNING CONTRACTING.

(a) Without limiting the generality of the administrative and collection powers granted to the treasurer in this article, the treasurer is also empowered to require any person engaging or continuing within the municipality in the business of contracting to furnish a list of the names, addresses and amounts paid by them to any subcontractors employed and suppliers of materials used upon any job or to do any work within the municipality. The treasurer may also require every person engaging or continuing within the municipality in the business of contracting who is a nonresident of the State to pay or guarantee the payment of the amount of the tax imposed by this article for the privilege of engaging in the business of contracting within the municipality, such payment of such tax to be based upon the amount of the building permit issued by the municipality for the work to be performed by such person, as a condition precedent to the issuance of such building permit. In lieu of such prior payment in cash of such tax any such nonresident may guarantee the payment of such privilege tax provided for herein by delivering to the municipality a bond, with good and adequate surety, payable to the municipality, and conditioned to pay such tax on or before the estimated date of the completion of the work to be performed by such person within the municipality.

(b) Any person engaging a contractor or subcontractor within this municipality shall withhold payment in sufficient amount to cover taxes assessed by this article in the final settlement of such contracts until the receipt of a certificate from the treasurer to the effect

that all taxes levied and accrued under this article against the contractor have been paid. If any person fails to withhold as provided herein and the contractor or subcontractor fails to timely pay such tax, such person shall be personally liable for the payment of such taxes, and the same shall be recoverable by the treasurer by appropriate legal proceedings.

(Passed 7-19-10.)

745.33 CLAIMS FOR REFUND OR CREDIT.

(a) Any taxpayer claiming to have overpaid any tax, interest or penalty imposed by this article shall file its claim with the treasurer within three (3) years after the due date of the return in respect of which the tax was imposed, and not thereafter.

(b) If, as a result of the claim, the treasurer shall be of the opinion that the tax, interest or penalty, or any part thereof, was overpaid, the treasurer shall refund the same to the taxpayer. If the treasurer denies the claim, the taxpayer may within thirty (30) days after notice of denial file with the treasurer a petition for refund or credit, which shall be heard in accordance with Section 745.27 of this article. A taxpayer's failure to abide by express procedures contained in this section precludes taxpayer's right to any refund or credit of tax, interest and penalties paid or collected under this article. (Passed 7-19-10.)

745.34 INTEREST AND PENALTY; CRIMINAL LIABILITY.

(a) If any person fails to make the return or any semi-annual installment required by this article, or makes its return but fails to remit, in whole or in part, the proper amount of tax, there shall be added to the amount of tax unpaid, from the date such tax should have been paid, a penalty in the amount of twenty-five (25.00%) percent of the tax due for the period of such failure or delinquency. Such tax and penalty shall bear interest at the rate of twelve percent (12.00%) per annum from the due date of the payment until paid. Additionally, whoever engages in any activity contrary to the provisions of this article shall, in addition to paying the tax imposed by this article, penalty and interest, be subject to an additional penalty of fifty dollars ($50.00) for each month or fraction thereof during which he has been in default of said tax. It shall be the duty of the treasurer to collect the full amount of the tax, penalty and interest imposed. Upon the recommendation of the municipality's Finance Committee, for good cause shown, and upon the request by the person, the municipality may abate and forgive the penalty and interest, or both, in whole or in part.

(b) Interest and penalties may be collected in the same manner as the tax imposed by this article.

(c) Any person who shall willfully, and with intent to evade, refuse to pay all or any part of the tax imposed by this article shall be guilty of a misdemeanor. If the amount of the unpaid tax shall be less than one thousand dollars ($1,000), such person shall, in addition to such tax, penalties and interest as is owed, be fined not less than one hundred dollars ($100.00) nor more than five hundred dollars ($500.00), and if the amount of the unpaid

tax shall be one thousand dollars ($1,000) or more, such person shall, in addition to such tax, penalties and interest as is owed, be fined not less than one hundred dollars ($100.00) nor

more than one thousand dollars ($1,000), or imprisoned not more than thirty days, or be both fined and imprisoned as herein provided. Each day or part thereof that any violation continues shall be deemed to constitute a distinct and separate offense and be punishable accordingly.

(d) Whoever knowingly makes a false statement in any tax form or application shall be fined not less than two hundred dollars ($200.00) nor more than one thousand dollars ($1,000). Each false statement, whether made with or without other false statements on any one or more applications shall constitute a separate offense. And, whoever shall knowingly make a false statement in two separate "tax filings", whether or not said applications shall have been filed consecutively, and whether or not said person shall have been previously convicted thereof, shall be fined not less than five hundred dollars ($500.00) nor more than one thousand dollars ($1,000) and imprisoned not more than six months, or both.

(Passed 7-19-10.)

745.35 SEVERABILITY.

If any provision of this article is held unconstitutional or invalid, on its face or as applied, the remaining provisions of this article shall remain in full force and effect; and to this end, the provisions of this article are declared to be severable.

(Passed 7-19-10.)

745.36 REPEAL OF THE BUSINESS FRANCHISE TAX.

The Business Franchise Tax heretofore enacted by the City of Charles Town in 1970 remains repealed. (Passed 7-19-10.)

745.37 EFFECTIVE DATE.

The effective date of this article shall be July, 2010. (Passed 7-19-10.)

City Council
101 East Washington Street
Charles Town, WV 25414

Meeting: 05/06/24
Department: City Council
Category: Report
Initiator:

SCHEDULED

AGENDA ITEM (ID #)

2024-471: *TXA2024-01*: Authorization to Update the City's Bond Unit Cost List

ATTACHMENTS:

- 1. Report.pdf
- 2. Estimate Comparison.pdf

Kimley»Horn

Memorandum

To: James Newman
City of Charles Town
101 E Washington Street
Charles Town, WV 25414

From: Mark Phillips, P.E.
Santiago Zegarra

Date: January 15, 2024

Subject: City of Charles Town Bond Estimate Worksheet - Unit Cost Update

The City of Charles Town tasked Kimley-Horn with reviewing the 2019 Public Improvement Bond Unit Cost List and Bond Reduction Form and updating the unit costs to better align with recent inflation and process since the last update in 2019. The purpose of this memorandum is to summarize the process undertaken to estimate the new set of recommended bond unit costs. The identification of unit cost comparisons was established by reviewing bond unit costs from adjacent jurisdictions including Loudoun County, VA, Jefferson County, WV, and Fairfax County, VA. It should be noted that the current 2019 version of the Unit Cost List is based upon previous Loudoun County Bid Unit Cost items which have since been revised for inflation purposes. The following memorandum summarizes the data collected and methodology for applying the adjacent jurisdiction unit cost data.

In undertaking this task, Kimley-Horn first identified adjacent towns and counties proximate to the City of Charles Town, recognizing that some had outdated data. Ultimately, Fairfax County and Loudoun County emerged as the most relevant sources. It was also noted that Loudoun County was the primary data source for most jurisdictions in the eastern pan handle of West Virginia and western north Virginia.

The subsequent data evaluation process consisted of analyzing the pricing and item data from these counties, addressing discrepancies, and ensuring alignment with the provided list. This thorough examination also involved a comprehensive analysis of pricing data, with the average values from Fairfax County and Loudoun County forming the basis for the new unit cost recommendations. In instances where relevant data was absent, a careful examination of old and new prices facilitated the calculation of updated values.

For instance, to calculate updated values for round concrete pipe (RCP) and high-density polyethylene (HDPE) pipe installations, we adopted a methodical approach. Initially, the City's original unit items account for the size of pipe and depth of pipe whereas Loudoun County only applies the size of the pipe diameter. We set Loudoun County's initial unit price as a starting point for the initial minimum depth pipe installation from the City of Charles Town and applied a percentage increase based on factors such as the type of cut or size of the pipe. This increase was determined by examining the price escalation per item from the current City of Charles Town cost, ensuring a consistent adjustment in the new recommended unit costs.

In situations where relevant data was absent, such as in the case of curb drop inlets with various specifications, a thorough strategy was employed. Despite lacking previous data for these specific items, we leveraged the available data and compared it to the current City costs. We took the total average increase in price from the Loudoun County updated unit price bid tabulations as compared to the overall

average price in the current City of Charles Town bid tabulations and developed an overall inflation factor, which was then utilized to calculate price increases for items which did not have a match from a neighboring jurisdiction. Subsequently, we aligned these values with the previously mentioned percentage increase methodology.

Lastly, certain scenarios, like retaining wall prices, presented unique challenges. In instances where the current City of Charles Town costs exceeded the updated Loudoun and Fairfax costs, a decision was made to retain the existing costs. This determination was based on the acknowledgment that the current costs, being higher, were deemed more appropriate for these specific cases.

The recommended set of bond cost estimate prices reflects this meticulous approach, providing transparency and documentation of the methodology employed in arriving at the new estimates.

KIMLEY-HORN & ASSOCIATES, INC.

Mark Phillips, P.E.
Project Manager
Associate

BOND ESTIMATE								BOND REDUCTION			City Use Only
ITEM	UNIT	RECOMMENDED NEW UNIT COST	Current City of Charles Town Costs	Loudoun County Costs	Fairfax County Costs	QUANTITY	EXTENSION	QUANTITY	EXTENSION	%COMPLETE	%APPROVED
MOBILIZATION GENERAL											
Mobilization	LS	$12,440.00	$6,250.00	$12,440.00							
Field Office	EA	$3,490.00	$3,000.00	$3,490.00							
Job Sign	EA	$1,340.00	$1,150.00	$1,340.00							
SURVEYING											
Steel Pipe Property Corner Marker Incl. Survey	EA	$320.38	$275.00								
R.O.W MONUMENTS SURVEYED IN PLACE											
RM--1		$825.00	$825.00	$740.00	$788.00						
RM--2		$764.00	$575.00	$740.00	$788.00						
EARTHWORK EXCAVATION											
Regular Bulk used as Fill	CY	$4.50	$3.86	$4.50							
Rock, Rip	CY	$51.50	$17.30	$55.00	$48.00						
Rock, Blast	CY	$55.00	$38.48	$55.00							
BORROW MATERIAL											
Buy, Load, Haul 10 Mi. Select Material	CY	$42.00	$28.90	$40.00	$44.00						
Fill and Compaction of On-site Borrow	CY	$44.00	$5.95	$40.00	$48.00						
UNSUITABLE MATERIAL											
Load and Haul, 20 mi R/T	CY	$36.56	$21.95								
Dump Charge	CY	$62.50	$37.50								
Site Grading	SY	$1.25	$0.75	$1.25							
CLEAR & GRUB											
Light	AC	$14,548.50	$6,675.00	$13,600.00	$15,497.00						
Heavy	AC	$26,699.49	$12,250.00								
LANDSCAPING											
Seeding	SY	$3.00	$0.77	$3.00							
Sodding	SY	$8.50	$3.64	$8.50							
PLANTING SHRUBS											
18"	EA	$70.00	$40.00	$70.00							
24"	EA	$90.00	$70.00	$90.00							
TREES											
6'-8' (1-2 in. Caliper)	EA	$400.00	$400.00	$300.00							
8'-10' (2.5-3 in. Caliper)	EA	$700.00	$700.00	$580.00							
Tree Protection	LF	$11.13	$9.00	$10.25	$12.00						
MISCELLANEOUS SITE IMPROVEMENTS											
RETAINING WALLS											
Timber Wall (less than 6 ft)	LF	$325.00	$325.00	$310.00							
Dry Rubble RW-1 (H=6')	LF	$450.00	$450.00								
Mortared Rubble RW-1A (H=6')	LF	$535.00	$535.00								
Concrete Gravity RW-2 (H=6')	LF	$589.50	$339.00	$550.00	$629.00						
Concrete Gravity RW-3 (H=6')	LF	$1,037.50	$378.00	$960.00	$1,115.00						
FENCING											
Std. Fence (H=5') FR-5	LF	$56.00	$9.31	$50.00	$62.00						
Farm Fence (H=5') FR-3A	LF	$37.50	$10.90	$35.00	$40.00						
Chain Link Fence (H=6') FR 2-B	LF	$62.00	$14.52		$62.00						
Board Fence (H=6')	LF	$62.00	$19.35		$62.00						
TOTS LOTS											
Tot Lot	EA	$16,495.00	$16,495.00	$14,010.00							

BOND ESTIMATE								BOND REDUCTION			City Use Only
ITEM	UNIT	RECOMMENDED NEW UNIT COST	Current City of Charles Town Costs	Loudoun County Costs	Fairfax County Costs	QUANTITY	EXTENSION	QUANTITY	EXTENSION	%COMPLETE	%APPROVED
STORM DRAINAGE											
STORM SEWER											
NOTE: All pipe unit prices include trench, excavation, bedding, pipe, & backfill											
Rock Excavation for All Pipe Types											
Less than 1,500 CY (Blasting)	CY	$110.00	$110.00	$110.00							
More than 1,500 CY (Blasting)	CY	$90.00	$90.00								
Less than 1,500 CY (Hoe Ram)	CY	$220.00	$135.00	$220.00							
More than 1,500 CY (Hoe Ram)	CY	$180.00	$110.00								
Trench De-Watering											
Trench De-Watering	LF	$4.00	$2.95	$4.00							
RCP CLASS III ROUND T & G W/MASTIC											
12" Pipe (RCP III)											
0'-8' Cut	LF	$100.00	$44.50	$100.00							
8'-14' Cut	LF	$140.00	$62.50								
Add cost for Class IV	LF	$1.90	$0.85								
O-Ring	LF	$12.36	$5.50								
15" Pipe (RCP III)											
0'-10' Cut	LF	$100.00	$49.75	$100.00							
10'-16'	LF	$156.00	$77.50								
Add Cost for Class IV	LF	$1.48	$0.95								
O-Ring	LF	$8.58	$5.50								
18" Pipe (RCP III)											
0'-10' Cut	LF	$100.00	$50.00	$100.00							
10' -16' Cut	LF	$160.00	$80.00								
Add Cost for Class IV	LF	$3.20	$2.00								
O-Ring	LF	$11.20	$7.00								
21" Pipe (RCP III)											
0'-8' Cut	LF	$115.00	$57.50	$100.00							
8'-14' Cut	LF	$174.80	$87.50								
Add cost for Class IV	LF	$4.40	$2.75								
O-Ring	LF	$20.80	$13.00								
24" Pipe (RCP III)											
0'- 10' Cut	LF	$140.00	$67.50	$140.00							
10'-16'	LF	$196.00	$95.00								
Add Cost for Class IV	LF	$5.04	$3.15								
O-Ring	LF	$22.40	$14.00								
27" Pipe (RCP III)											
0'- 10' Cut	LF	$123.20	$60.00	$140.00							
10' -16' Cut	LF	$195.03	$95.00								
Add Cost for Class IV	LF	$6.40	$4.00								
O-Ring	LF	$24.00	$15.00								
30" Pipe (RCP III)											
0'- 8' Cut	LF	$169.40	$82.50	$140.00							
8'-14' Cut	LF	$256.66	$125.00								
Add cost for Class IV	LF	$9.60	$6.00								
O-Ring	LF	$27.60	$17.25								
33" Pipe (RCP III)											
0'- 10' Cut	LF	$240.00	$115.00	$240.00							
10'-16'	LF	$333.00	$160.00								
Add Cost for Class IV	LF	$13.50	$6.50								
O-Ring	LF	$45.80	$21.95								
36" Pipe (RCP III)											
0'-10' Cut	LF	$249.60	$120.00	$240.00							
10' -16' Cut	LF	$363.92	$175.00								

BOND ESTIMATE								BOND REDUCTION			City Use Only
ITEM	UNIT	RECOMMENDED NEW UNIT COST	Current City of Charles Town Costs	Loudoun County Costs	Fairfax County Costs	QUANTITY	EXTENSION	QUANTITY	EXTENSION	%COMPLETE	%APPROVED
Add Cost for Class IV	LF	$12.40	$7.75								
O-Ring	LF	$36.40	$22.75								
42" Pipe (RCP III)											
0'- 8' Cut	LF	$289.54	$140.00	$240.00							
8'-14' Cut	LF	$413.46	$200.00								
Add cost for Class IV	LF	$19.20	$12.00								
O-Ring	LF	$56.72	$35.45								
48" Pipe (RCP III)											
0'-10' Cut	LF	$320.52	$155.00	$240.00							
10'-16'	LF	$442.31	$215.00								
Add Cost for Class IV	LF	$20.00	$12.50								
O-Ring	LF	$69.36	$43.35								
54" Pipe (RCP III)											
0' - 10' Cut	LF	$420.00	$190.00	$420.00							
10' -16' Cut	LF	$541.38	$275.00								
Add Cost for Class IV	LF	$30.00	$18.75								
O-Ring	LF	$70.96	$44.35								
60" Pipe (RCP III)											
0'-10' Cut	LF	$420.00	$225.00	$420.00							
10' -16' Cut	LF	$498.48	$335.00								
Add Cost for Class IV	LF	$36.00	$22.50								
O-Ring	LF	$77.84	$48.65								
ELLIPTICAL PIPE - RCP CLASS III											
23"x14" (18" Equiv- RCP III)											
0'10' Cut	LF	$190.00	$75.00	$190.00							
10'-16' Cut	LF	$278.60	$110.00								
Add cost for Class IV	LF	$41.60	$16.45								
O-Ring	LF	$109.80	$43.35								
30"x19" (24" Equiv- RCP III											
0'10' Cut	LF	$190.00	$90.00	$190.00							
10'-16' Cut	LF	$329.25	$130.00								
Add cost for Class IV	LF	$15.07	$5.95								
O-Ring	LF	$109.79	$43.35								
38"x24" (30" Equiv- RCP III											
0'10' Cut	LF	$190.00	$120.00	$190.00							
10'-16' Cut	LF	$423.78	$167.50								
Add cost for Class IV	LF	$21.38	$8.45								
O-Ring	LF	$129.92	$51.35								
45"x29" (36" Equiv- RCP III)											
0'10' Cut	LF	$370.00	$165.00	$370.00							
10'-16' Cut	LF	$526.88	$235.00								
Add cost for Class IV	LF	$25.45	$11.35								
O-Ring	LF	$119.63	$53.35								
53"x34" (42" Equiv- RCP III)											
0'12' Cut	LF	$370.00	$210.00	$370.00							
10'-18' Cut	LF	$528.36	$300.00								
Add cost for Class IV	LF	$38.87	$15.35								
O-Ring	LF	$149.26	$58.95								
60"x38" (48" Equiv- RCP III)											
0'12' Cut	LF	$370.00	$255.00	$370.00							
10'-18' Cut	LF	$543.90	$375.00								
Add cost for Class IV	LF	$46.46	$18.35								
O-Ring	LF	$177.11	$69.95								
HDPE PIPE											

BOND ESTIMATE								BOND REDUCTION			City Use Only
ITEM	UNIT	RECOMMENDED NEW UNIT COST	Current City of Charles Town Costs	Loudoun County Costs	Fairfax County Costs	QUANTITY	EXTENSION	QUANTITY	EXTENSION	%COMPLETE	%APPROVED
8" Pipe											
0'-8' Cut	LF	$50.00	$28.65	$50.00							
8'-14' Cut	LF	$75.30	$43.15								
12" Pipe											
0'-8' Cut	LF	$67.50	$38.95	$50.00							
8'-14' Cut	LF	$100.04	$57.75								
15" Pipe											
0'-8' Cut	LF	$87.08	$50.25	$120.00							
8'-16' Cut	LF	$129.65	$74.85								
18" Pipe											
0'-8' Cut	LF	$114.33	$66.00	$120.00							
8'-16' Cut	LF	$170.69	$98.55								
24" Pipe											
0'-8' Cut	LF	$132.62	$76.90	$120.00							
8'-16' Cut	LF	$197.61	$115.25								
30" Pipe											
0'-8' Cut	LF	$157.42	$91.33	$120.00							
8'-16' Cut	LF	$236.13	$137.27								
36" Pipe											
0'-8' Cut	LF	$200.00	$101.68	$200.00							
8'-16' Cut	LF	$298.00	$152.33								
42" Pipe											
0'-8' Cut	LF	$224.20	$113.99	$200.00							
8'-16' Cut	LF	$334.06	$171.00								
48" Pipe											
0'-8' Cut	LF	$253.35	$129.55	$200.00							
8'-16' Cut	LF	$377.49	$195.66								
STORM STRUCTURES											
END SECTIONS											
End Sections (ES-1), Concrete Pipe Size											
15"	EA	$1,389.00	$565.00	$1,480.00	$1,298.00						
18"	EA	$1,583.46	$646.00	$1,480.00	$1,298.00						
21"	EA	$1,805.14	$755.00	$1,480.00	$1,298.00						
24"	EA	$2,057.86	$1,065.00	$1,480.00	$1,298.00						
27"	EA	$2,345.97	$1,195.00	$1,480.00	$1,298.00						
30"	EA	$2,674.40	$1,765.00	$1,480.00	$1,298.00						
36"	EA	$3,048.82	$1,795.00	$1,480.00	$1,298.00						
42"	EA	$3,558.50	$2,135.00	$3,410.00	$3,707.00						
48"	EA	$4,056.69	$2,795.00	$3,410.00	$3,707.00						
54"	EA	$4,624.63	$2,795.00	$3,410.00	$3,707.00						
60"	EA	$5,272.07	$3,455.00	$3,410.00	$3,707.00						
ENDWALLS											
EW-1 (Pre-Cast) Round Pipe Size											
15"	EA	$2,433.00	$800.00	$2,540.00	$2,326.00						
18"	EA	$2,724.96	$1,337.00	$2,540.00	$2,326.00						
24"	EA	$3,051.96	$2,021.00	$2,540.00	$2,326.00						
30"	EA	$3,418.19	$2,133.00	$2,540.00	$2,326.00						
36"	EA	$3,828.37	$2,366.00	$2,540.00	$2,326.00						
EW-1 Cast in Place [Round Pipe Size]											
15"	EA	$2,591.15	$852.00	$2,230.00	$2,024.00						
18"	EA	$2,902.08	$1,053.00	$2,230.00	$2,024.00						
24"	EA	$3,250.33	$1,495.00	$2,230.00	$2,024.00						
30"	EA	$3,640.37	$2,144.00	$2,230.00	$2,024.00						
36"	EA	$4,077.22	$2,383.00	$2,230.00	$2,024.00						

BOND ESTIMATE								BOND REDUCTION			City Use Only
ITEM	UNIT	RECOMMENDED NEW UNIT COST	Current City of Charles Town Costs	Loudoun County Costs	Fairfax County Costs	QUANTITY	EXTENSION	QUANTITY	EXTENSION	%COMPLETE	%APPROVED
EW-1A (Pre-Cast) Elliptical Pipe Size											
23" X 14" (18")	EA	$1,335.00	$695.00	$1,470.00	$1,200.00						
30" X 19" (24")	EA	$1,495.20	$969.00	$1,470.00	$1,200.00						
38 X 24" (30")	EA	$1,879.50	$1,165.00	$1,930.00	$1,829.00						
45 X 29" (36")	EA	$2,105.04	$1,445.00	$1,930.00	$1,829.00						
53" X 34" (42")	EA	$2,791.50	$1,840.00	$2,990.00	$2,593.00						
EW-1A (Cast in Place)Elliptical Pipe Size											
23" X 14" (18")	EA	$1,318.50	$667.00	$1,510.00	$1,127.00						
30" X 19" (24")	EA	$1,318.50	$939.00	$1,510.00	$1,127.00						
38 X 24" (30")	EA	$2,257.00	$1,247.00	$2,430.00	$2,084.00						
45 X 29" (36")	EA	$2,257.00	$1,618.00	$2,430.00	$2,084.00						
53" X 34" (42")	EA	$3,217.50	$2,109.00	$3,370.00	$3,065.00						
EW-2 (PreCast) Round Size Pipe Size											
42"	EA	$8,324.00	$5,445.00	$7,500.00	$9,148.00						
48"	EA	$9,322.88	$5,695.00	$7,500.00	$9,148.00						
54"	EA	$10,441.63	$6,660.00	$7,500.00	$9,148.00						
60"	EA	$11,694.62	$7,140.00	$7,500.00	$9,148.00						
72"	EA	$12,675.50	$7,990.00	$12,470.00	$12,881.00						
84"	EA	$14,196.56	$9,490.00	$12,470.00	$12,881.00						
EW-2 (Cast in Place) Round Size Pipe Size											
42"	EA	$9,255.50	$4,723.00	$8,950.00	$9,561.00						
48"	EA	$10,366.16	$6,039.00	$8,950.00	$9,561.00						
54"	EA	$11,610.10	$6,972.00	$8,950.00	$9,561.00						
60"	EA	$13,003.31	$8,179.00	$8,950.00	$9,561.00						
72"	EA	$15,747.00	$10,713.00	$14,470.00	$17,024.00						
84"	EA	$17,636.64	$12,288.00	$14,470.00	$17,024.00						
EW-6PC [Double Pipe] Pipe Size											
2-15"	EA	$2,123.00	$999.00	$2,610.00	$1,636.00						
2-18"	EA	$2,377.76	$1,235.00	$2,610.00	$1,636.00						
2-24"	EA	$2,663.09	$1,510.00	$2,610.00	$1,636.00						
2-30"	EA	$4,096.00	$2,165.00	$4,690.00	$3,502.00						
2-36"	EA	$4,587.52	$2,647.00	$4,690.00	$3,502.00						
MANHOLES											
Standard Brick Manhole Std Frame & Cover (MH-1)											
6' Depth	EA	$6,048.00	$3,750.00	$5,590.00	$6,506.00						
Depth Below 6'	VF	$230.00	$163.00	$230.00	$230.00						
Standard Precast Manhole Std Frame & Cover (MH-2)		$5,337.00	$3,100.00	$5,100.00	$5,574.00						
Additional Cost (Amount in parentheses to be added to the above unit costs)											
Watertight Fr/Cover (Add 110)	EA	$579.00	$579.00								
Heavy Duty Fr/ Cover (Add 82)	VF	$599.00	$599.00								
Drop Inlets											
Cast in Place 48"											
Drop Inlet (DI-1) 12"-24" Pipe0-10 VF	EA	$7,690.00	$3,697.00	$7,690.00							
Drop Inlet (DI-1A) 12"-24" Pipe10-20 VF	EA	$7,690.00	$5,593.00	$7,690.00							
Drop Inlet (DI-2A) 12"-24" Pipe0-10 VF, 10' throat	EA	$9,458.70	$6,911.00								
Drop Inlet (DI-2A) 12"-24" Pipe10-20 VF, 10' throat	EA	$11,634.20	$8,833.00								
Curb Drop Inlets											
Curb Drop Inlet (DI-3A)											

BOND ESTIMATE								BOND REDUCTION			City Use Only
ITEM	UNIT	RECOMMENDED NEW UNIT COST	Current City of Charles Town Costs	Loudoun County Costs	Fairfax County Costs	QUANTITY	EXTENSION	QUANTITY	EXTENSION	%COMPLETE	%APPROVED
12"-30" Pipe (Invert Depth (H) =0'-8') Inlet Length 2'-6"	EA	$7,460.00	$4,088.00	$7,460.00							
Curb Drop Inlet (DI-3AA)											
12"-30" Pipe (Invert Depth (H) =8'-	**EA**	$9,772.60	$5,357.00								
Curb Drop Inlet (DI-3B) 12"-30" Pipe (Invert Depth (H) = 0 '-8') Inlet Length											
4'	EA	$7,758.40	$4,279.00								
6'	EA	$8,534.24	$4,573.00								
8'	EA	$9,387.66	$4,889.00								
10'	EA	$10,326.43	$5,052.00								
12'	EA	$11,359.07	$5,227.00								
16'	EA	$12,494.98	$5,543.00								
20'	EA	$13,744.48	$5,859.00								
Curb Drop Inlet (DI-3BB) 12"-30" Pipe (Invert Depth (H) = 0 '-8') Inlet Length											
4'	EA	$7,680.82	$4,276.00								
6'	EA	$8,448.90	$4,848.00								
8'	EA	$9,293.79	$5,429.00								
10'	EA	$10,223.17	$5,732.00								
12'	EA	$11,245.48	$6,011.00								
16'	EA	$12,370.03	$6,296.00								
20'	EA	$13,607.03	$6,599.00								
Curb Drop Inlet (DI-3C) 12"-30" Pipe (Invert Depth (H) = 0 '-8') Inlet Length											
6'	EA	$7,204.61	$4,013.00								
8'	EA	$7,925.07	$4,588.00								
10'	EA	$8,717.57	$4,893.00								
12'	EA	$9,589.33	$5,178.00								
16'	EA	$10,548.26	$5,766.00								
20'	EA	$11,603.09	$6,339.00								
Curb Drop Inlet (DI-3CC) 12"-30" Pipe (Invert Depth (H) = 0 '-8') Inlet Length											
6'	EA	$8,573.48	$4,746.00								
8'	EA	$9,430.83	$5,293.00								
10'	EA	$10,373.91	$5,627.00								
12'	EA	$11,411.30	$5,988.00								
16'	EA	$12,552.43	$6,772.00								
20'	EA	$13,807.68	$7,465.00								
Curb Drop Inlet (DI-3D)											
12"-30" Pipe (Invert Depth (H) =0'-8') Inlet Length 2'-6"	EA	$6,430.11	$3,633.00								
Curb Drop Inlet (DI-3DD)											
12"-30" Pipe (Invert Depth	**EA**	$7,587.53	$4,367.00								
Curb Drop Inlet (DI-3E) 12"-30" Pipe (Invert Depth (H) = 0 '-8') Inlet Length											
4'	EA	$7,460.00	$4,093.00	$7,460.00							
8'	EA	$7,982.20	$4,756.00	$7,460.00							
10'	EA	$8,540.95	$5,724.00	$7,460.00							
12'	EA	$9,138.82	$5,833.00	$7,460.00							
16'	EA	$9,778.54	$6,072.00	$7,460.00							
20'	EA	$10,463.04	$6,709.00	$7,460.00							
Curb Drop Inlet (DI-3EE) 12"-30" Pipe (Invert Depth (H) = 8'-20') Inlet Length											
6'	EA	$11,509.34	$7,562.00	$7,460.00							
8'	EA	$12,314.99	$7,869.00	$7,460.00							
10'	EA	$13,177.04	$7,999.00	$7,460.00							
12'	EA	$14,099.44	$8,166.00	$7,460.00							
16'	EA	$15,086.40	$8,471.00	$7,460.00							
20'	EA	$16,142.44	$8,767.00	$7,460.00							
Curb Drop Inlet (DI-3F) 12"-30" Pipe (Invert Depth (H) = 0 '-8') Inlet Length											
6'	EA	$6,855.74	$3,765.00	$7,460.00							

BOND ESTIMATE								BOND REDUCTION			City Use Only
ITEM	UNIT	RECOMMENDED NEW UNIT COST	Current City of Charles Town Costs	Loudoun County Costs	Fairfax County Costs	QUANTITY	EXTENSION	QUANTITY	EXTENSION	%COMPLETE	%APPROVED
8'	EA	$7,335.64	$4,419.00	$7,460.00							
10'	EA	$7,849.14	$4,749.00	$7,460.00							
12'	EA	$8,398.58	$5,085.00	$7,460.00							
16'	EA	$8,986.48	$5,742.00	$7,460.00							
20'	EA	$9,615.53	$6,395.00	$7,460.00							
Curb Drop Inlet (DI-3FF) 12"-30" Pipe (Invert Depth (H) = 8'-20') Inlet Length											
6'	EA	$14,671.28	$8,077.00	$7,460.00							
8'	EA	$15,698.27	$8,288.00	$7,460.00							
10'	EA	$16,797.15	$8,480.00	$7,460.00							
12'	EA	$17,972.95	$8,669.00	$7,460.00							
16'	EA	$19,231.06	$9,047.00	$7,460.00							
20'	EA	$20,577.23	$9,446.00	$7,460.00							
Curb Drop Inlet (DI-4A) 36"-48" Pipe (Invert Depth (H) = 8'-20') Inlet Length											
4'	**EA**	$10,020.00	$4,868.00	$10,020.00							
Curb Drop Inlet (DI-4AA) 36"-48" Pipe (Invert Depth (H) = 8'-20') Inlet Length											
4'	**EA**	$10,020.00	$6,817.00	$10,020.00							
Curb Drop Inlet (DI-4B) 36"-48" Pipe (Invert Depth (H) = 0'-8') Inlet Length											
6'	EA	$8,802.77	$5,172.00	$10,020.00							
8'	EA	$9,418.96	$5,400.00	$10,020.00							
10'	EA	$10,078.29	$5,698.00	$10,020.00							
12'	EA	$10,783.77	$5,870.00	$10,020.00							
16'	EA	$11,538.64	$6,221.00	$10,020.00							
20'	EA	$12,346.34	$6,571.00	$10,020.00							
Curb Drop Inlet (DI-4BB) 36"-48" Pipe (Invert Depth (H) = 8'-20') Inlet Length											
6'	EA	$17,429.48	$10,292.00	$10,020.00							
8'	EA	$18,649.55	$10,643.00	$10,020.00							
10'	EA	$19,955.02	$10,810.00	$10,020.00							
12'	EA	$21,351.87	$10,974.00	$10,020.00							
16'	EA	$22,846.50	$11,309.00	$10,020.00							
20'	EA	$24,445.75	$11,669.00	$10,020.00							
Curb Drop Inlet (DI-4C) 36"-48" Pipe (Invert Depth (H) = 0'-8') Inlet Length											
8'	EA	$9,418.96	$5,612.00	$10,020.00							
10'	EA	$10,078.29	$5,794.00	$10,020.00							
12'	EA	$10,783.77	$5,968.00	$10,020.00							
16'	EA	$11,538.64	$6,315.00	$10,020.00							
20'	EA	$12,346.34	$6,657.00	$10,020.00							
Curb Drop Inlet (DI-4CC) 36"-48" Pipe (Invert Depth (H) = 8'-20') Inlet Length											
8'	EA	$22,417.13	$13,371.00	$10,020.00							
10'	EA	$23,986.33	$13,693.00	$10,020.00							
12'	EA	$25,665.38	$14,097.00	$10,020.00							
16'	EA	$27,461.95	$14,712.00	$10,020.00							
20'	EA	$29,384.29	$15,365.00	$10,020.00							
Curb Drop Inlet (DI-4D)											
36"-48" Pipe (Invert Depth (H) =8'16') Inlet Length 4'	EA	$8,279.27	$4,933.00	$10,020.00							
Curb Drop Inlet (DI-4DD)											
36"-48" Pipe (Invert Depth (H)	**EA**	$16,392.95	$9,455.00	$10,020.00							
Curb Drop Inlet (DI-4E) 36"-48" Pipe (Invert Depth (H) = 0'-8') Inlet Length											
6'	EA	$9,016.12	$5,267.00	$10,020.00							
8'	EA	$9,647.25	$5,605.00	$10,020.00							
10'	EA	$10,322.56	$5,896.00	$10,020.00							
12'	EA	$11,045.14	$6,233.00	$10,020.00							
16'	EA	$11,818.30	$6,996.00	$10,020.00							
20'	EA	$12,645.58	$7,695.00	$10,020.00							
Curb Drop Inlet (DI-4EE) 36"-48" Pipe (Invert Depth (H) = 8'-16') Inlet Length											

BOND ESTIMATE								BOND REDUCTION			City Use Only
ITEM	UNIT	RECOMMENDED NEW UNIT COST	Current City of Charles Town Costs	Loudoun County Costs	Fairfax County Costs	QUANTITY	EXTENSION	QUANTITY	EXTENSION	%COMPLETE	%APPROVED
6'	EA	$15,688.06	$9,165.00	$10,020.00							
8'	EA	$16,786.22	$9,495.00	$10,020.00							
10'	EA	$17,961.26	$9,839.00	$10,020.00							
12'	EA	$19,218.54	$10,167.00	$10,020.00							
16'	EA	$20,563.84	$10,838.00	$10,020.00							
20'	EA	$22,003.31	$11,493.00	$10,020.00							
Curb Drop Inlet (DI-4F) 36"-48" Pipe (Invert Depth (H) = 0'-8') Inlet Length											
8'	EA	$10,040.36	$5,877.00	$10,020.00							
10'	EA	$10,743.18	$6,209.00	$10,020.00							
12'	EA	$11,495.20	$6,568.00	$10,020.00							
16'	EA	$12,299.87	$7,259.00	$10,020.00							
20'	EA	$13,160.86	$7,963.00	$10,020.00							
Curb Drop Inlet (DI-4FF) 36"-48" Pipe (Invert Depth (H) = 8'-16') Inlet Length											
8'	EA	$15,140.86	$8,866.00	$10,020.00							
10'	EA	$16,200.72	$9,147.00	$10,020.00							
12'	EA	$17,334.77	$9,435.00	$10,020.00							
16'	EA	$18,548.20	$9,997.00	$10,020.00							
20'	EA	$19,846.57	$10,584.00	$10,020.00							
Median Drop Inlets - CIP											
Median Drop Inlets (DI-6A) 12"-24"Pipe Inlet (H=8')	EA	$6,032.00	$4,205.00	$5,860.00	$6,204.00						
Median Drop Inlets (DI-6B) 12"-24"Pipe Inlet (H=8')	EA	$6,080.00	$4,267.00	$5,860.00	$6,300.00						
Median Drop Inlets (DI-6C) 30"-48"Pipe Inlet (H=10')	EA	$7,737.50	$5,589.00	$7,200.00	$8,275.00						
Median Drop Inlets (DI-6D) 30"-48"Pipe Inlet (H=10')	EA	$7,805.00	$5,692.00	$7,200.00	$8,410.00						
Median Drop Inlets (DI-7) Type III Top 12"-42" Pipe Inlet (H=10')	EA	$8,548.00	$5,748.00	$7,790.00	$9,306.00						
Median Drop Inlets (DI-7A) Type III Top 12"-42" Pipe Inlet (H=10')	EA	$8,548.00	$6,338.00	$7,790.00	$9,306.00						
Median Drop Inlets (DI-7B) Type III Top 12"-42" Pipe Inlet (H=10')	EA	$8,548.00	$6,797.00	$7,790.00	$9,306.00						
MISCELLANEOUS INLETS											
Median Drop Inlets (DI-5) Type III Top 12"-42" Pipe Inlet (H=8')	EA	$6,569.08	$5,226.00								
Standard Yard Inlet (YI-1) 12"-48" Pipe (Invert Depth (H)= 0'-8') Inlet Length 4' (No Aprons)		$5,969.49	$4,749.00								
Add Yard Inlet Apron	THROAT	$320.54	$255.00								
Standard Yard Inlet (YI-1) 12"-48" Pipe (Invert Depth (H)= 0'-8') Inlet Length 4' (No Aprons)	EA	$6,444.64	$5,127.00								
Add Yard Inlet Apron	THROAT	$320.54	$255.00								
Culverts											
Single Box Culvert (BC-1A) Fills to 25'											
4' X 4'	LF	$473.00	$336.00	$450.00	$496.00						
5' X 5'	LF	$563.00	$410.00	$520.00	$606.00						
6' X 6'	LF	$689.00	$498.00	$640.00	$738.00						

BOND ESTIMATE								BOND REDUCTION			City Use Only
ITEM	UNIT	RECOMMENDED NEW UNIT COST	Current City of Charles Town Costs	Loudoun County Costs	Fairfax County Costs	QUANTITY	EXTENSION	QUANTITY	EXTENSION	%COMPLETE	%APPROVED
8' X 8'	LF	$944.00	$699.00	$870.00	$1,018.00						
10' X 10'	LF	$1,159.00	$845.00	$1,070.00	$1,248.00						
Double Box Culvert (BC-2b) Fills to 25'											
4' X 4'	LF	$792.40	$566.00								
5' X 5'	LF	$987.00	$705.00								
6' X 6'	LF	$1,195.60	$854.00								
8' X 8'	LF	$1,607.20	$1,148.00								
10' X 10'	LF	$1,975.40	$1,411.00								
Oversized Single Box Culvert (BBC-1) Fills to 25'											
12' X 6'	LF	$1,488.50	$1,026.00	$1,390.00	$1,587.00						
12' X 8'	LF	$1,488.50	$1,144.00	$1,390.00	$1,587.00						
12' X 10'	LF	$1,771.50	$1,239.00	$1,640.00	$1,903.00						
12' X 12'	LF	$1,771.50	$1,348.00	$1,640.00	$1,903.00						
Triple Box Culvert (BC-3B) Fills to 25'											
4' X 4'	LF	$1,129.55	$779.00								
5' X 5'	LF	$1,399.25	$965.00								
6' X 6'	LF	$1,755.95	$1,211.00								
8' X 8'	LF	$2,367.85	$1,633.00								
10' X 10'	LF	$3,607.60	$2,488.00								
Quadruple Box Culvert (BC-4B) Fills to 25'											
4' X 4'	LF	$1,431.15	$987.00								
5' X 5'	LF	$1,776.25	$1,225.00								
6' X 6'	LF	$2,208.35	$1,523.00								
8' X 8'	LF	$2,170.65	$1,497.00								
10' X 10'	LF	$4,110.75	$2,835.00								
Standard Wing for Box Culvert (1 Side Only) Height of Box											
4'	EA	$926.50	$675.00	$860.00	$993.00						
5'	EA	$1,390.00	$995.00	$1,290.00	$1,490.00						
6'	EA	$1,853.50	$1,337.00	$1,720.00	$1,987.00						
8'	EA	$3,426.50	$2,489.00	$3,170.00	$3,683.00						
10'	EA	$4,558.00	$3,315.00	$4,210.00	$4,906.00						
Standard Wing for Box Culvert (BBC-W) Height of Box											
6'	EA	$1,817.00	$1,351.00	$1,670.00	$1,964.00						
8'	EA	$3,007.50	$2,189.00	$2,780.00	$3,235.00						
10'	EA	$4,497.50	$3,269.00	$4,160.00	$4,835.00						
12'	EA	$6,567.00	$4,763.00	$6,070.00	$7,064.00						
MISCELLANEOUS STORM											
Connection to Existing Structure											
15"-36" Pipe	EA	$1,584.00	$735.00	$2,090.00	$1,078.00						
42"-60" Pipe	EA	$1,584.00	$1,125.00	$2,090.00	$1,078.00						
Casing Pipe, Bore and Jack (3/8" wall)											
22" ID (6"-8" Carrier Pipe)	LF	$885.71	$411.00								
24" ID (10" Carrier Pipe)	LF	$971.91	$451.00								
30" ID (12" Carrier Pipe)	LF	$1,226.20	$569.00								
Plug Pipe											
6"-12" Pipe	EA	$444.50	$142.00	$430.00	$459.00						
15"-36" Pipe	EA	$444.50	$323.00	$430.00	$459.00						
42"-60" Pipe	EA	$574.50	$522.00	$690.00	$459.00						
Pavement Edge Pipe											
Standard Pipe Underdrain	LF	$20.50	$19.00	$20.50							
RipRap											
Dry, Class I, 18"	SY	$82.00	$47.87	$80.00	$84.00						
Dry, Class II, 18"	SY	$82.00	$51.46	$80.00	$84.00						

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Grouted, Class I, 18"	SY	$84.00	$69.97		$84.00						
Filter Fabric											
Class I	SY	$4.13	$3.50	$4.25	$4.00						
Class II	SY	$4.13	$3.00	$4.25	$4.00						
Class III	SY	$4.13	$2.25	$4.25	$4.00						
Gabions (No excavations)											
Mattress	CY	$237.50	$130.00	$220.00	$255.00						
Revetment	CY	$237.50	$164.33	$220.00	$255.00						
Wall	CY	$237.50	$212.25	$220.00	$255.00						
Paved Ditch (4" Thick)											
Concrete (Non-reinforced)	SY	$94.50	$62.00	$95.00	$94.00						
Bituminous Concrete (4")	SY	$43.50	$30.00	$45.00	$42.00						
Sodded Ditch											
Sodded Ditch(Incl Fine Grading)	SY	$15.03	$9.86								
STREET CONSTRUCTION											
ROADS AND PARKING											
Soil Stabilization											
Cement 6%	SY	$20.00	$2.70	$20.00							
Depth (in Inches):	SY										
Lime 6%	SY	$14.00	$1.89								
Depth (in Inches):	SY										
Subbase, Aggregated Material											
Base Type I	SY	$12.95	$1.75								
Depth (in Inches):	SY										
Bituminous Concrete											
Base Course	SY	$7.00	$5.59	$7.00							
Depth (in Inches):	SY										
Intermediate Course	SY	$7.00	$5.49								
Depth (in Inches):	SY										
Top Course	SY	$7.00	$5.49	$7.00							
Depth (in Inches):	SY										
Prime Coat	SY	$1.38	$1.10								
Tack Coat	SY	$1.38	$1.10								
Driveway Restoration											
4” Concrete & 4” Gravel	SY	$75.00	$79.95	$75.00							
2” S-5 & 7 6” Gravel	SY	$29.98	$31.96								
Shoulders, Type I											
Aggregated Base, 4”	SY	$15.00	$11.50	$15.00							
Concrete Curbing											
Curb & Gutter CG6 & CG7	LF	$31.50	$22.50	$30.00	$33.00						
Curb Cut, CG-12 DetectableSurf.	EA	$1,044.00	$569.00	$1,300.00	$788.00						
Entrances/ Driveways											
Commercial Entrance CG-11	SY	$87.00	$52.88	$90.00	$84.00						
Commercial Entrance CG-13	SY	$87.00	$64.67	$90.00	$84.00						
Residential Driveway Apron	SY	$1,252.00	$51.79	$2,420.00	$84.00						
Guardrails											
Std. Blocked-out W beam(GR2)	LF	$53.50	$42.50	$55.00	$52.00						
Std. W beam, Weak Post GR8	LF	$53.50	$28.50	$55.00	$52.00						
Terminal, GR-6 (L=12’-6”)	EA	$3,880.50	$2,929.00	$3,810.00	$3,951.00						
Terminal, GR-7 (L=6’-3”)	EA	$3,880.50	$2,659.00	$3,810.00	$3,951.00						
Type I, GR-8 Terminal (L=25’)	EA	$3,580.50	$1,399.00	$3,210.00	$3,951.00						
Type II, GR-8 Terminal(L=13’-6”)	EA	$1,701.00	$695.00	$1,730.00	$1,672.00						
Terminal, MB-4 (L=37’-6”)	EA	$3,580.50	$3,495.00	$3,210.00	$3,951.00						
Type I, MB-5 Terminal(L=27’-1)	EA	$3,580.50	$2,925.00	$3,210.00	$3,951.00						

BOND ESTIMATE								BOND REDUCTION			City Use Only
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Type II, MB-5 Terminal(L=13'-6)	EA	$1,701.00	$1,675.00	$1,730.00	$1,672.00						
Miscellaneous											
Trash enclosure - Brick 6' high	LF	$7,336.50	$325.00	$6,760.00	$7,913.00						
Reinforced Concrete Pad 6" to 8"	SY	$150.00	$62.00	$150.00							
Striping 4" width (VDOT Type	LF	$2.50	$2.25	$2.50							
B)											
Concrete Wheel Stops	EA	$90.00	$70.00	$90.00							
Parking Lot Striping	EA	$50.00	$50.00	$50.00							
Sign Island	EA	$850.00	$850.00	$850.00							
Traffic Barricade	EA	$133.50	$43.45	$60.00	$207.00						
Street Name Signs	EA	$594.50	$435.00	$560.00	$629.00						
Traffic Control Signs	EA	$512.00	$375.00	$480.00	$544.00						
Street Light (pole, bracket,light)	EA	$5,938.00	$4,285.00	$5,600.00	$6,276.00						
SIDEWALKS AND TRAILS											
Sidewalk											
Concrete 4" w/WWF, No base	SY	$58.50	$45.23	$55.00	$62.00						
Bitum. Conc, 2" w/4" Base	SY	$42.00	$30.00	$40.00	$44.00						
4" Conc, No Reinf., No Base	SY	$58.50	$41.00	$55.00	$62.00						
HANDRAIL											
Handrail 3 Rail 1-1/4" #4 Finish	LF	$143.00	$96.50	$140.00	$146.00						
Wood Chip Trail											
Trails(Incl Excavation &	SY	$77.00	$17.69	$75.00	$79.00						
Grading) Wood chip, 4' wide	SY	$21.00		$20.00	$22.00						
Bituminous Trail											
6' to 10' wide	SY	22	$49.25		$22.00						
CRITICAL SLOPE STABILIZATION											
Paved Flume	SY	$100.00	$67.00		$100.00						
Stmwtr Conc Channel-Excav	SY	$97.00	$775.00		$97.00						
ADD Grass Lined-seeded	SY	$19.00	$5.37		$19.00						
ADD Grass Lined-sodded	SY	$26.00	$10.89		$26.00						
Outlet Protection											
Non-grouted Riprap 18"	SY	$87.00	$52.00		$87.00						
Concrete 4"	SY	$70.00	$53.50		$70.00						
Level Spreader	SY	$5.77	$4.44								
Struc Streambank Protection											
Non-grouted Riprap 18"	SY	$87.00	$58.00		$87.00						
Gabions	CY	$255.00	$147.00		$255.00						
Vegetative Erosion Control											
Sodding incl Fertilizing –Banks	SY	$9.00	$7.77		$9.00						
Sodding incl Fertilizing – Flat	SY	$9.00	$5.36		$9.00						
Seeding incl Fertilizing	SY	$3.00	$2.44		$3.00						
Soding W/Soil Treat &Watering	SY	$9.00	$3.25		$9.00						
Seeding W/Soil Treat &Watering	SY	$3.00	$6.46		$3.00						
Straw Mulch w/Tack	SY	$2.00	$1.40		$2.00						
Jute Mesh	SY	$2.00	$1.77		$2.00						
SPECIAL ITEMS											
FEMA ProcessingLOMR/CLOMR	EA	$10,240.00	$7,500.00	$10,240.00							
As Built (Record Drawings)	EA	$12,967.50	$9,500.00								
SWM/BMP POND	LS										
SIGNALIZATION	LS										
Subtotal											

City Council
101 East Washington Street
Charles Town, WV 25414

Meeting: 05/06/24
Department: City Council
Initiator:

SCHEDULED

AGENDA ITEM (ID #)

2024-479: Charles Town Tennis Program

ATTACHMENTS:

- Summer Tennis Program Proposal 2 2.26.24.pdf
- Email 2-27-2024.pdf

Summer Tennis Program Proposal 2

2/26/24

Competitive Tennis Track

This 8-week program follows the format previously offered for all players, but now focuses on those players who wish to pursue a more competitive level of Tennis. Open to players ages 10-18, players will have 1 week of Tennis Camp, followed by league/ competitive play. With smaller numbers of players in this program compared to years prior, there will be less court time needed for the competitive track. A rough schedule would be:

- June 3- 7- Tennis Camp 10:45am-1pm
- June 10- July 25- Tennis League (meeting only M & Tu week of July 4th)
    - Players ages 10-13 play matches Mondays and Wednesdays from 10:45-1pm
    - Players ages 14-18 play matches Tuesdays and Thursdays from 10:45-1pm
    - Fridays would be available for makeup matches each week as needed
- Week of July 29 – August 2 – Year end tournament.

This program would be open to anyone who wishes to enroll, but would continue to serve the needs of the population seeking a higher level of tennis instruction and play. This group would consist of players who have previous tennis experience and are looking to play in high school or beyond. Young players who possess a skill level much higher than their peers could be invited by Tennis Staff to play against older/more experienced competition.

At the end of year tournament, players are given the opportunity to play multiple matches and be recognized as one of the top players in their age group, allowing for matches to be played in singles, doubles, and mixed doubles competition.

Estimated cost- $100+ per registrant. (At $100 for the season, considering 2.25 hrs/day during camp, and conservatively 1.25 hrs/day of play and instruction during the league season, this would amount to a total of 27.5 hours of play/instruction per child PRE-TOURNAMENT PLAY, at a cost of only $3.64 per hour)

Recreational Tennis Instructional Program

This new offering from CT Parks and Recreation would allow newer or younger players interested in tennis to learn the fundamentals and get their first taste of the sport. Players ages 5-18 can sign up for 2-week long sessions of instructional tennis. In week one, the majority of the time will be spent on drills and technique work to ensure players are learning correct fundamentals. Week two will cement these skills and abilities through more game-like scenarios, while also teaching players the formatting of tennis matches, scorekeeping, etiquette and more.

Players will be divided up into age groups, with greatly reduced staff to student ratios to allow maximum playing time and repetitions for all players. Players may sign up for as many two-week sessions as they would like, and upon invitation from Tennis Staff, could be invited to play in an older age group if their skill level significantly exceeds that of their peers. For a nominal additional fee, players may enter the year-end tournament that is part of the Competitive Tennis Track to test their skills against more competitive players.

Program would meet Monday-Thursday, with Friday available as a makeup day, if needed.

Proposed age groups would be:

- Beginners ages 5-7
- Beginners ages 8-11
- Beginners ages 12-15
- Beginners ages 16-18
- Intermediate ages 12-14
- Intermediate ages 15-18

Proposed schedule:

June 3-14, June 17-28, July 8-19, July 22-August 2

All sessions meet M-Th 9:00-10:30am

Court 1: Beginners 5-7 & Beginners 8-11

Court 2: Beginners 12-15 & Beginners 16-18

Court 3: Intermediate 12-14 & Intermediate 15-18

Limit enrollment to 8 players per age group (max. 16 players per court at once)

Estimated cost- $60 per 2-week session ($3.33/hr of instruction)

Carolyn Vezzosi

From: Anna Ours <annakat4750@gmail.com>
Sent: Tuesday, February 27, 2024 8:25 PM
To: Alissa Meeks
Subject: Re: FW: Proposal 2- Summer Tennis Program

I have looked over what you sent me and there are still things that just don't seem to work for me nor would it fit in a cohesive camp operation. I recommended many many ways I would be willing to compromise but it isn't enough for you guys and that is fine my talents will do better and be more appreciated elsewhere. I've dedicated 8 years of my life to this program and I truly love it, unfortunately with the way things have shifted myself as well as many families in the community will be heartbroken to see it shift into something so unrecognizable. With that being said I will be moving the structure of the old program and partnering with Shepherd for this summer. I will bring all of the equipment by sometime in the following weeks when I have healed more from my surgery and can lift again. Very sad to see that a program Mr. Edwards dedicated his life to for decades was dismantled not even a year after his passing. Good luck with the new format and I'll reach out when I can bring the equipment.

On Tue, Feb 27, 2024 at 8:37 AM Alissa Meeks <AMeeks@charlestownwv.us> wrote:

Anna,

Good Morning. Please see the write-up for this year's summer tennis program. As you can see, this program specifies both the competitive track and the recreational aspect that we discussed yesterday to incorporate the best of both paths. Please review and let me know by close of business Wednesday whether you will be on board with us this summer.

Let me know if you have questions.

Thanks,

Alissa J. Meeks

Director of Community Development

City of Charles Town

101 E. Washington Street, Charles Town, WV 25414

City Council
101 East Washington Street
Charles Town, WV 25414

Meeting: 05/06/24
Department: City Council
Category: Appointment
Initiator:

SCHEDULED

AGENDA ITEM (ID #)

2024-482: City Council Appointment to the Charles Town Utility Board (CTUB) for a term ending December 31, 2027

ATTACHMENTS:

City Council
101 East Washington Street
Charles Town, WV 25414

Meeting: 05/06/24
Department: City Council
Category: Report
Initiator:

SCHEDULED

AGENDA ITEM (ID #)

2024-488: Draft Public Comment Letters to the Hagerstown/Eastern Panhandle Metropolitan Planning Organization (HEPMPO) on their FY25 Unified Planning Work Program (UPWP), FY25-28 Transportation Improvements Plan (TIP), and Safety Action Plan (SAP)

ATTACHMENTS:

City Council
101 East Washington Street
Charles Town, WV 25414

Meeting: 05/06/24
Department: City Council
Category: Report
Initiator:

SCHEDULED

AGENDA ITEM (ID #)

2024-490: Payment of Bills - May 6, 2024

ATTACHMENTS:

- GENERAL FUND COUNCIL REPORT 2024 05 02.pdf
- CAPITAL RESERVE COUNCIL REPORT 2024 05 02.pdf
- PARKS N REC COUNCIL REPORT 2024 05 02.pdf

VENDOR SORT KEY	DATE	DESCRIPTION	FUND	DEPARTMENT	AMOUNT
A SMARTSIGN STORE	5/02/24	FY25 PARKING PASES (210)	GENERAL FUND	PARKING	344.61
				TOTAL:	344.61
ADT SECURITY SERVICES, INC.	5/02/24	ROUSSHALL ALARM 5/1/24-4/3	GENERAL FUND	CITY HALL	703.76
				TOTAL:	703.76
ALI HADAVAND	5/02/24	ESCROW ACCT BALANCE PYMNT	GENERAL FUND	NON-DEPARTMENTAL	786.00
				TOTAL:	786.00
AMERICAN LEGAL PUBLISHING CORP	5/02/24	UPDATE AND EDIT OF SITE	GENERAL FUND	CITY HALL	1,027.95
				TOTAL:	1,027.95
APPLE VALLEY WASTE SERVICE, INC.	5/02/24	TRASH SERVICE MAY 20224	GENERAL FUND	NON-DEPARTMENTAL	456.24
	5/02/24	TRASH SERVICE APRIL 2024	GENERAL FUND	NON-DEPARTMENTAL	525.00
	5/02/24	TRASH SERVICE MAY 20224	GENERAL FUND	STREETS & HIGHWAYS	912.48
	5/02/24	TRASH SERVICE APRIL 2024	GENERAL FUND	STREETS & HIGHWAYS	660.13
				TOTAL:	2,553.85
AUTOZONE, INC.	5/02/24	PROTECTANT/TOWELS/FLUID	GENERAL FUND	POLICE DEPARTMENT	32.04
				TOTAL:	32.04
BOARD OF TRUSTEES OF THE POLICE PENSIO	5/02/24	APRIL 24 POLICE PENSION	GENERAL FUND	POLICE DEPARTMENT	5,020.67
				TOTAL:	5,020.67
BOLAND TRANE SERVICES INC	5/02/24	PD CONTRACTED SERVICES	GENERAL FUND	POLICE DEPARTMENT	608.00
	5/02/24	HVAC REPLACEMENT 661 S GEO	GENERAL FUND	POLICE DEPARTMENT	10,200.00
	5/02/24	JAN24 HVAC 661 S GEORGE	GENERAL FUND	POLICE DEPARTMENT	457.00
	5/02/24	MAY24 HVAC 661 S GEORGE	GENERAL FUND	POLICE DEPARTMENT	457.00
				TOTAL:	11,722.00
CINTAS	5/02/24	LAUNDRY BAGS	GENERAL FUND	STREETS & HIGHWAYS	207.54
	5/02/24	LAUNDRY BAGS	GENERAL FUND	STREETS & HIGHWAYS	207.54
	5/02/24	LAUNDRY BAGS	GENERAL FUND	STREETS & HIGHWAYS	207.54
				TOTAL:	622.62
CITY OF CHARLES TOWN PETTY CASH	5/02/24	CTPD PETTY CASH REPLENISHM	GENERAL FUND	POLICE DEPARTMENT	103.58
	5/02/24	CTPD PETTY CASH REPLENISHM	GENERAL FUND	POLICE DEPARTMENT	128.30
	5/02/24	CTPD PETTY CASH REPLENISHM	GENERAL FUND	POLICE DEPARTMENT	55.40
				TOTAL:	287.28
COMCAST CORPORATION	5/02/24	CITY HALL INTERNET 4/9-5/8	GENERAL FUND	CITY HALL	248.39
	5/02/24	661 XFINITY SER 4/7-5/6	GENERAL FUND	POLICE DEPARTMENT	20.98
				TOTAL:	269.37
COMSTOCK PLUMBING LLC , INC.	5/02/24	CUT ROAD REPLACE CITY TAP	GENERAL FUND	CITY HALL	1,400.00

VENDOR SORT KEY	DATE	DESCRIPTION	FUND	DEPARTMENT	AMOUNT
	5/02/24	MAY 2024 CITY RENTS	GENERAL FUND	POLICE DEPARTMENT	7,840.98
				TOTAL:	27,177.98
CHARLES TOWN UTILITY BOARD	5/02/24	108 N GEORGE ST3/15/24-4/1	GENERAL FUND	CITY HALL	100.67
	5/02/24	105 S GEORGE ST3/15/24-4/1	GENERAL FUND	CITY HALL	114.65
	5/02/24	661 S GEORGE ST3/15/24-4/1	GENERAL FUND	POLICE DEPARTMENT	373.18
	5/02/24	661 WATER DELIVERY 3/29/24	GENERAL FUND	POLICE DEPARTMENT	147.99
	5/02/24	34N WATER ST 3/15/24-4/15/	GENERAL FUND	STREETS & HIGHWAYS	72.85
				TOTAL:	809.34
ENVIRO-TECH PEST SERVICES	5/02/24	661 PEST SERVICE 2/14/24	GENERAL FUND	POLICE DEPARTMENT	83.18
	5/02/24	661 PEST SERVICE 3/11/24	GENERAL FUND	POLICE DEPARTMENT	82.14
	5/02/24	661 PEST SERVICE 4/29/2024	GENERAL FUND	POLICE DEPARTMENT	80.75
				TOTAL:	246.07
EVERBANK	5/02/24	2ND FLOOR PLAT PRINTER	GENERAL FUND	CITY HALL	451.00
				TOTAL:	451.00
EXECUTIVE EMERGENCY LIGHTING LLC	5/02/24	CAR#18 TROUBLE SHOOT REWIR	GENERAL FUND	POLICE DEPARTMENT	127.00
				TOTAL:	127.00
FIRE SAFETY EQUIPMENT SUPPLY	5/02/24	JIM - SERVICE CALL	GENERAL FUND	STREETS & HIGHWAYS	80.00
				TOTAL:	80.00
FIRST-CITIZENS BANK & TRUST CO	5/02/24	CITY HALL 3RD FLOOR COPIER	GENERAL FUND	CITY HALL	345.40
	5/02/24	CITY HAL COPIER RENTAL	GENERAL FUND	CITY HALL	506.12
	5/02/24	CITY HALL COPIER	GENERAL FUND	CITY HALL	239.68
				TOTAL:	1,091.20
FRONTIER, INC.	5/02/24	661 304-725-2381 SERV3/24-	GENERAL FUND	POLICE DEPARTMENT	39.71
	5/02/24	PD FAXLINE 3/7-4/6	GENERAL FUND	POLICE DEPARTMENT	122.91
	5/02/24	661 304-725-2381 SER 4/24-	GENERAL FUND	POLICE DEPARTMENT	138.98
	5/02/24	PD FAXLINE 4/7/24-5/6/24	GENERAL FUND	POLICE DEPARTMENT	124.01
				TOTAL:	425.61
GREENWAY ENGINEERING, INC.	5/02/24	LIBERRTY ST BID& CONSTRUCT	CAPITAL RESERVE	STREETS & TRANSPORTATI	3,940.00
				TOTAL:	3,940.00
GRIFFITH ENERGY SERVICES, INC	5/02/24	CITY HALL OIL 4/17/24	GENERAL FUND	CITY HALL	407.16
				TOTAL:	407.16
GUARDIAN	5/02/24	MAY 24 VISION PREMIUMS	GENERAL FUND	TREASURER'S OFFICE	34.01
	5/02/24	MAY 24 VISION PREMIUMS	GENERAL FUND	CITY CLERK'S OFFICE	24.76
	5/02/24	MAY 24 VISION PREMIUMS	GENERAL FUND	PLANNING & ZONING	46.72
	5/02/24	MAY 24 VISION PREMIUMS	GENERAL FUND	CITY HALL	14.11

VENDOR SORT KEY	DATE	DESCRIPTION	FUND	DEPARTMENT	AMOUNT
JEFFERSON PUBLISHING COMPANY, INC.	5/02/24	4/10 NPH PT17 BLDG CODE	GENERAL FUND	ENFORCEMENT AGENCY	45.22
	5/02/24	4/3 NPH COA 2024-06 MODERN	GENERAL FUND	CITY HALL	40.62
	5/02/24	4/3 LEVY ESTIM FY25	GENERAL FUND	CITY HALL	420.78
	5/02/24	4/10 NPH ZMA 2024-01 UNI H	GENERAL FUND	CITY HALL	27.74
	5/02/24	4/10 NPH PT1 ADMIN CODE/TR	GENERAL FUND	STREETS & HIGHWAYS	64.90
				TOTAL:	599.26
JEFFERSON RENTALS	5/02/24	POT HOLE AUGER	GENERAL FUND	NON-DEPARTMENTAL	122.66
				TOTAL:	122.66
JOHNSON CONTROLS SECURITY SOLUTIONS	5/02/24	108 N GEORGE 5/1-7/31	GENERAL FUND	STREETS & HIGHWAYS	358.77
				TOTAL:	358.77
KENT PARSONS FORD, INC	5/02/24	CAR #7 CHECK ENGINE LIGHT	GENERAL FUND	POLICE DEPARTMENT	159.95
				TOTAL:	159.95
KIMLEY-HORN AND ASSOCIATES, INC.	5/02/24	SERVICES THROUGH MAR 2024	GENERAL FUND	PLANNING & ZONING	3,049.09
	5/02/24	WAYFINDING SERV MAR 2024	CAPITAL RESERVE	CULTURE & RECREATION	700.00
				TOTAL:	3,749.09
MOTOROLA SOLUTIONS, INC.	5/02/24	MOTOROLA REMAINING BALANCE	CAPITAL RESERVE	GENERAL GOVERNMENT	9,632.36
				TOTAL:	9,632.36
PEIA	5/02/24	APR2024 PEIA BILLING	GENERAL FUND	NON-DEPARTMENTAL	2,230.11
	5/02/24	MAY2024 PEIA BILLING	GENERAL FUND	NON-DEPARTMENTAL	3,544.36
	5/02/24	APR2024 PEIA BILLING	GENERAL FUND	ECONOMIC DEVELOPMENT	533.23
	5/02/24	MAY2024 PEIA BILLING	GENERAL FUND	ECONOMIC DEVELOPMENT	533.23
	5/02/24	APR2024 PEIA BILLING	GENERAL FUND	TREASURER'S OFFICE	1,984.02
	5/02/24	MAY2024 PEIA BILLING	GENERAL FUND	TREASURER'S OFFICE	629.56
	5/02/24	APR2024 PEIA BILLING	GENERAL FUND	CITY CLERK'S OFFICE	1,135.89
	5/02/24	MAY2024 PEIA BILLING	GENERAL FUND	CITY CLERK'S OFFICE	1,135.88
	5/02/24	APR2024 PEIA BILLING	GENERAL FUND	PLANNING & ZONING	1,675.05
	5/02/24	MAY2024 PEIA BILLING	GENERAL FUND	PLANNING & ZONING	1,141.82
	5/02/24	APR2024 PEIA BILLING	GENERAL FUND	CITY HALL	1,135.88
	5/02/24	MAY2024 PEIA BILLING	GENERAL FUND	CITY HALL	1,135.88
	5/02/24	APR2024 PEIA BILLING	GENERAL FUND	PARKING	533.23
	5/02/24	MAY2024 PEIA BILLING	GENERAL FUND	PARKING	533.23
	5/02/24	APR2024 PEIA BILLING	GENERAL FUND	POLICE DEPARTMENT	12,503.44
	5/02/24	MAY2024 PEIA BILLING	GENERAL FUND	POLICE DEPARTMENT	11,972.19
	5/02/24	APR2024 PEIA BILLING	GENERAL FUND	STREETS & HIGHWAYS	1,640.77
	5/02/24	MAY2024 PEIA BILLING	GENERAL FUND	STREETS & HIGHWAYS	1,640.77
				TOTAL:	45,638.54
POTOMAC EDISON COMPANY, INC.	5/02/24	661 ELECTRIC SERV 4/2-5/1	GENERAL FUND	POLICE DEPARTMENT	3,286.42
	5/02/24	CROSSWINDS ELEC SERV	GENERAL FUND	STREETS & HIGHWAYS	317.31

VENDOR SORT KEY	DATE	DESCRIPTION	FUND	DEPARTMENT	AMOUNT
STAPLES ADVANTAGE	5/02/24	BATTERIES/POST ITS	GENERAL FUND	CITY HALL	6.93
	5/02/24	BATTERIES/POST ITS	GENERAL FUND	CITY HALL	9.95
	5/02/24	BATTERIES/POST ITS	GENERAL FUND	CITY HALL	5.80
	5/02/24	BATTERIES/POST ITS	GENERAL FUND	CITY HALL	14.55
	5/02/24	HDMI CABLE FOR CHAMBERS	GENERAL FUND	CITY HALL	29.44
	5/02/24	2PLY TISSUE BOX X6	GENERAL FUND	CITY HALL	9.69
				TOTAL:	76.36
STAR CHAPMAN GROUP INC.	5/02/24	ACCOUNTING SERVICES APR202	GENERAL FUND	TREASURER'S OFFICE	11,000.00
				TOTAL:	11,000.00
SUNRISE MEDICAL LABORATORIES	5/02/24	DRUG SCREEN- N. DANIEL	GENERAL FUND	POLICE DEPARTMENT	92.00
				TOTAL:	92.00
T-MOBILE	5/02/24	CALL SERV & 2IPHONE PURCHA	GENERAL FUND	CITY MANAGER'S OFFICE	84.18
	5/02/24	CALL SERV & 2IPHONE PURCHA	GENERAL FUND	TREASURER'S OFFICE	63.98
	5/02/24	CALL SERV & 2IPHONE PURCHA	GENERAL FUND	ENFORCEMENT AGENCY	34.50
	5/02/24	CALL SERV & 2IPHONE PURCHA	GENERAL FUND	ENFORCEMENT AGENCY	792.26
	5/02/24	CALL SERV & 2IPHONE PURCHA	GENERAL FUND	BUILDING INSPECTION	84.18
	5/02/24	CALL SERV & 2IPHONE PURCHA	GENERAL FUND	BUILDING INSPECTION	84.18
	5/02/24	CALL SERV & 2IPHONE PURCHA	GENERAL FUND	BUILDING INSPECTION	792.27
	5/02/24	CALL SERV & 2IPHONE PURCHA	GENERAL FUND	CITY HALL	35.70
	5/02/24	CALL SERV & 2IPHONE PURCHA	GENERAL FUND	POLICE DEPARTMENT	35.70
	5/02/24	CALL SERV & 2IPHONE PURCHA	GENERAL FUND	STREETS & HIGHWAYS	35.70
	5/02/24	CALL SERV & 2IPHONE PURCHA	GENERAL FUND	STREETS & HIGHWAYS	35.70
	5/02/24	CALL SERV & 2IPHONE PURCHA	GENERAL FUND	STREETS & HIGHWAYS	46.48
				TOTAL:	2,124.83
LYLE C TABB & SONS, INC.	5/02/24	BOX RENTAL FEES MARCH 2024	GENERAL FUND	STREETS & HIGHWAYS	450.00
				TOTAL:	450.00
THE GARLAND CO INC	5/02/24	THE GARLAND CO INC	GENERAL FUND	STREETS & HIGHWAYS	260.11
				TOTAL:	260.11
TRAVELERS	5/02/24	CATHY KING WRONGFUL ARREST	GENERAL FUND	POLICE DEPARTMENT	402.50
				TOTAL:	402.50
WASTE MANAGEMENT	5/02/24	34 N WATER ST TRASH SERV	GENERAL FUND	STREETS & HIGHWAYS	365.93
				TOTAL:	365.93
WISE GUYS POLICE TRAINING & SERVICES L	5/02/24	TRAINING & SERVICES	GENERAL FUND	POLICE DEPARTMENT	45.00
	5/02/24	TRAINING & SERVICES	GENERAL FUND	POLICE DEPARTMENT	45.00
	5/02/24	TRAINING & SERVICES	GENERAL FUND	POLICE DEPARTMENT	45.00
	5/02/24	TRAINING & SERVICES	GENERAL FUND	POLICE DEPARTMENT	45.00
	5/02/24	TRAINING & SERVICES	GENERAL FUND	POLICE DEPARTMENT	45.00

VENDOR SORT KEY	DATE	DESCRIPTION	FUND	DEPARTMENT	AMOUNT

========== FUND TOTALS ==========	
001 GENERAL FUND	149,255.37
200 CAPITAL RESERVE	14,272.36
GRAND TOTAL:	163,527.73

TOTAL PAGES: 5

APPROVED BY: _____

APPROVED BY: _____

SELECTION CRITERIA

SELECTION OPTIONS

VENDOR SET: 01-City of Charles Town
VENDOR: All
CLASSIFICATION: All
BANK CODE: All
ITEM DATE: 0/00/0000 THRU 99/99/9999
ITEM AMOUNT: 99,999,999.00CR THRU 99,999,999.00
GL POST DATE: 0/00/0000 THRU 99/99/9999
CHECK DATE: 5/02/2024 THRU 5/02/2024

PAYROLL SELECTION

PAYROLL EXPENSES: NO
EXPENSE TYPE: N/A
CHECK DATE: 0/00/0000 THRU 99/99/9999

PRINT OPTIONS

PRINT DATE: Check Date
SEQUENCE: By Vendor Sort
DESCRIPTION: Item
GL ACCTS: NO
REPORT TITLE: COUNCIL REPORT
SIGNATURE LINES: 2

PACKET OPTIONS

INCLUDE REFUNDS: YES
INCLUDE OPEN ITEM:NO

VENDOR SORT KEY	DATE	DESCRIPTION	FUND	DEPARTMENT	AMOUNT
GREENWAY ENGINEERING, INC.	5/02/24	LIBERRTY ST BID& CONSTRUCT	CAPITAL RESERVE	STREETS & TRANSPORTATI	3,940.00
				TOTAL:	3,940.00
KIMLEY-HORN AND ASSOCIATES, INC.	5/02/24	WAYFINDING SERV MAR 2024	CAPITAL RESERVE	CULTURE & RECREATION	700.00
				TOTAL:	700.00
MOTOROLA SOLUTIONS, INC.	5/02/24	MOTOROLA REMAINING BALANCE	CAPITAL RESERVE	GENERAL GOVERNMENT	9,632.36
				TOTAL:	9,632.36

========== FUND TOTALS ==========

200	CAPITAL RESERVE	14,272.36
	GRAND TOTAL:	14,272.36

TOTAL PAGES: 1

APPROVED BY: _____

APPROVED BY: _____

SELECTION CRITERIA

SELECTION OPTIONS

VENDOR SET: 01-City of Charles Town
VENDOR: All
CLASSIFICATION: All
BANK CODE: Include: CAP1
ITEM DATE: 0/00/0000 THRU 99/99/9999
ITEM AMOUNT: 99,999,999.00CR THRU 99,999,999.00
GL POST DATE: 0/00/0000 THRU 99/99/9999
CHECK DATE: 5/02/2024 THRU 5/02/2024

PAYROLL SELECTION

PAYROLL EXPENSES: NO
EXPENSE TYPE: N/A
CHECK DATE: 0/00/0000 THRU 99/99/9999

PRINT OPTIONS

PRINT DATE: Check Date
SEQUENCE: By Vendor Sort
DESCRIPTION: Item
GL ACCTS: NO
REPORT TITLE: COUNCIL REPORT
SIGNATURE LINES: 2

PACKET OPTIONS

INCLUDE REFUNDS: YES
INCLUDE OPEN ITEM:NO

VENDOR SORT KEY	DATE	DESCRIPTION	FUND	DEPARTMENT		AMOUNT
AARON C AMORE	5/02/24	SKATEPARK SUPPLIES REINBUR	PARKS & REC	PARKS & REC		293.18
					TOTAL:	293.18
AC & T CO., INC	5/02/24	JMP PORTA POTTY SERVICE	PARKS & REC	PARKS & REC		280.00
					TOTAL:	280.00
FRONTIER, INC	5/02/24	JMP PHONE SERV APRIL 2024	PARKS & REC	PARKS & REC		225.76
					TOTAL:	225.76
POTOMAC EDISON COMPANY, INC	5/02/24	JMP ELECTRIC SERV 3/26-4/2	PARKS & REC	PARKS & REC		553.34
	5/02/24	JMP MEMORIAL ELEC SERV	PARKS & REC	PARKS & REC		11.42
					TOTAL:	564.76

========== FUND TOTALS ==========

207	PARKS & REC	1,363.70
	GRAND TOTAL:	1,363.70

TOTAL PAGES: 1

APPROVED BY: _____

APPROVED BY: _____

SELECTION CRITERIA

SELECTION OPTIONS

VENDOR SET: 03-CT BOARD OF P&R
VENDOR: All
CLASSIFICATION: All
BANK CODE: All
ITEM DATE: 0/00/0000 THRU 99/99/9999
ITEM AMOUNT: 99,999,999.00CR THRU 99,999,999.00
GL POST DATE: 0/00/0000 THRU 99/99/9999
CHECK DATE: 5/02/2024 THRU 5/02/2024

PAYROLL SELECTION

PAYROLL EXPENSES: NO
EXPENSE TYPE: N/A
CHECK DATE: 0/00/0000 THRU 99/99/9999

PRINT OPTIONS

PRINT DATE: Check Date
SEQUENCE: By Vendor Sort
DESCRIPTION: Item
GL ACCTS: NO
REPORT TITLE: COUNCIL REPORT
SIGNATURE LINES: 2

PACKET OPTIONS

INCLUDE REFUNDS: YES
INCLUDE OPEN ITEM:NO

City Council
101 East Washington Street
Charles Town, WV 25414

Meeting: 05/06/24
Department: City Council
Category: Resolution
Initiator:

SCHEDULED

AGENDA ITEM (ID #)

2024-453: A Resolution Adopting the Jefferson County Multi-Jurisdictional Hazard Mitigation Plan

ATTACHMENTS:

- 2024-003 - A Resolution to Adopt the Jefferson County 2023 Hazard Mitigation Plan.pdf

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

RESOLUTION – CITY OF CHARLES TOWN

WHEREAS, natural, technological, and man-made hazards can affect the City of Charles Town; and

WHEREAS, significant structural, historical, and economic losses could result from an occurrence of a natural, technological, or man-made hazard events; and

WHEREAS, undertaking mitigation projects during pre-disaster periods could decrease the total losses Charles Town incurs as a result of said hazard occurrences.

AND WHEREAS, the Charles Town City Council has a strong interest in reducing losses from future hazard occurrences; and

WHEREAS, the hazard mitigation plan is a federal and state requirement to maintain eligibility for hazard mitigation funding, and, by that requirement, must be updated a minimum of every five years; and

WHEREAS, a cooperative, joint effort is a proven, efficient way to plan for and reduce hazard susceptibility in all government jurisdictions in Jefferson County, West Virginia.

THEREFORE, the Charles Town City Council has partnered with the county to update the existing *Jefferson County Multi-Jurisdictional Hazard Mitigation Plan* in an effort to further identify, define, and characterize the hazards affecting the city as well as to continue identifying and prioritizing projects that could lessen hazard vulnerability.

NOW BE IT RESOLVED THAT, the Charles Town City Council does hereby adopt the updated *Jefferson County 2023 Multi-Jurisdictional Hazard Mitigation Plan* this 1st day of April, 2024.

Robert M. Trainor
Mayor

Attest:
John Nissel
City Clerk

City Council
101 East Washington Street
Charles Town, WV 25414

Meeting: 05/06/24
Department: City Council
Category: Report
Initiator:

SCHEDULED

AGENDA ITEM (ID #)

2024-476: Planning Commission Meeting Minutes - February 26, 2024

ATTACHMENTS:
- 2.26.24 PC MINUTES_APPROVED.pdf

CITY OF CHARLES TOWN
PLANNING COMMISSION
AGENDA • FEBRUARY 26, 2024

Committee Meeting **CITY HALL** **6:00 PM**

101 E Washington Street, Charles Town, WV 25414

APPROVED

1. CALL TO ORDER SPECIAL WORK SESSION AT 6:00 PM

Present: Ann Paonessa, Chair
Jeff Hynes
Kevin Long
Zakhary Dunning – Arrived at 6:05
Jessica Derr - Absent

James Newman, City Staff: Zoning Administrator
Kim Crosson, City Staff: Permit Tech
Mark Phillips, Kimley-Horn

2. SPECIAL WORK SESSION

2.1: TXA2024-03 - Text Amendment on Residential Improvement

Staff gave presentation.

SUMMARY OF DISCUSSION: Staff clarified this would only apply to residential infill and would remove the responsibility to develop land that developers do not own. Discussion indicated the need to avoid conflict with existing language. Commission asked staff to further revise text to avoid possible future conflicts regarding proposed changes to Table 1333.09 and proposed text changes.

2.2: TXA2024-01 - Update on Bond Estimates by Kimley-Horn

Mark Phillips of Kimley-Horn gave presentation

SUMMARY OF DISCUSSION: Commission sought clarification regarding how often amounts should be updated. Mr. Phillips confirmed every 4 years or depending on the rate of inflation. Commission asked if we can set a benchmark that is tied to inflation. Mr. Phillips was unsure, indicated that he'd research if other localities have done that. Commission stated the need to have a mechanism to keep track of the bonds. Commission is in favor of the possibility of a construction cost increase index.

3. CALL TO ORDER REGULAR MEETING AT 7:00 PM

Present: Ann Paonessa, Chair
Jessica Derr
Zakhary Dunning
Jeff Hynes
Kevin Long

James Newman, City Staff: Zoning Administrator
Kim Crosson, City Staff: Permit Tech

4. APPROVAL OF MINUTES

4.1: January 18, 2024 Minutes – Special Meeting

Motion to approve

RESULT:	**Approved**
MOVER:	Derr
SECONDER:	Hynes
AYES:	Paonessa, Derr, Dunning, Hynes, Long

4.2: TXA2024-03 – January 22, 2024 Minutes – Regular Meeting

Motion to approve

RESULT:	**Approved**
MOVER:	Hynes
SECONDER:	Derr
AYES:	Paonessa, Derr, Dunning, Hynes, Long

4.3: TXA2024-03 – January 30, 2024 Minutes – Special Work Session

Motion to approve subject to the following: Change required on page 1, section 3.1. Language must be modified to be grammatically correct. Need to correct spelling of 'Ordinance'.

RESULT:	**Approved**
MOVER:	Dunning
SECONDER:	Long
AYES:	Paonessa, Derr, Dunning, Hynes, Long

5. UNFINISHED BUSINESS

None

6. NEW BUSINESS

6.1: SLD2023-04 Fairview Major Subdivision

Staff gave presentation

APPROVED

Derr: How is the commercial acreage calculated, as there is conflict with numbers in staff report compared to numbers in the plan set?

Staff: There is a credit for land they dedicated for the water treatment plant.

Hynes: How are the traffic amounts calculated since the self-storage use is not permitted?

Mark Phillips, Kimley-Horn: Unsure, but traffic study is based on current proposal and traffic study will need to be updated according to any revision. Typically, it would be based on the highest possible use it could be utilized under current approved zoning if no specific use is declared.

Hynes: How are passive fields, multipurpose playing fields and recreational fields defined and how do they differ?

Staff: A passive field of grass is with an open field of space and a multipurpose play field would be more like soccer or baseball fields.

Jason Gerhardt, Applicant's Engineer: Commercial land total includes land designated for water treatment. Traffic study can be updated as actual commercial uses get purposed. You want to provide a study based on what is known and updated to account for future impacts.

Hynes: Why self-storage?

Jason Gerhardt, Applicant's Engineer: There are few things allowed, and the most likely use would be self-storage.

Hynes: Why passive field as opposed to multi-purpose fields?

Jason Gerhardt, Applicant's Engineer: Our intent is to provide a multi-purpose field, graded for active use. It will be a large flat field and no equipment details have been identified yet as to what will be provided.

Motion to open public hearing

RESULT:	**Approved**
MOVER:	Derr
SECONDER:	Long
AYES:	Paonessa, Derr, Dunning, Hynes, Long

Lynn Widmyer: Opposed. Not in conformance with the Comprehensive Plan. Stated concerns that the sketch plan is a backdoor to changing the Comp Plan. Worry about lack of public input for preliminary plan. Stormwater impact and analysis not included with sketch plan, though Applicant stated they willing to work with us.

PC Discussion about public hearing rules.

Ron Widmyer: This is not an urban style development, and there is no surrounding development for it to connect to. Additional housing will burden the school system. Not enough recreation space or trails available on site. Concern about impact to City and County services.

APPROVED

Motion to close public hearing

RESULT:	**Approved**
MOVER:	Long
SECONDER:	Hynes
AYES:	Paonessa, Derr, Dunning, Hynes, Long

Jason Gerhardt, Applicant's Engineer: Application complies with zoning and conditions of annexation. Project to be phased. Committed to working with the Widmyer family.

Abe Ashton, Applicant's Attorney: According to the requirements of a sketch plan, it does not require much detail. We will keep stormwater on site.

Derr: Why are only certain traffic impacts required to be mitigated?

Mark Phillips, Kimley-Horn: Intersections 4 and 5 on table 4, page 34, are the ones most closely correlated with the impact of this site's development.

Paonessa: Commercial pad sites to be prepped?

Hynes: Yes. Required by COA. They are already complying with that and this was the inspiration for a recent text amendment.

Paonessa: Not in conformance with comprehensive plan.

Staff: Updated conditions of Annexation accepted by Council, knowing it was predominantly residential even though the Comprehensive Plan calls for Office/Professional uses.

Long: Any special stormwater management requirements regarding runoff and being adjacent to agricultural use?

Mark Phillips, Kimley-Horn: At the level of a sketch plan there are limits to what can be shown. At the next stage of the preliminary plan, they will be required to show and reduce their ten-year runoff. Stormwater regulations are not affected by adjacent land use.

Motion to approve Motion to approve SLD2023-04 Fairview Major Subdivision subject to the following: Include conditions recommended by staff

RESULT:	**Approved**
MOVER:	Derr
SECONDER:	Dunning

Hynes: Spoke about unit fees and impact fees

Amended Motion to approve SLD2023-04 Fairview Major Subdivision subject to the following: At the preliminary plan stage, the traffic study needs to provide what the LOS level would be for intersections 4 and 5 and include staff recommendations.

RESULT:	**Approved**
MOVER:	Derr
SECONDER:	Dunning
AYES:	Paonessa, Derr, Dunning, Hynes, Long
NAYES:	Long

APPROVED

6.2: TXA2024-Neighborhood Residential Update

Staff gave presentation

Motion to open public hearing

RESULT:	**Approved**
MOVER:	Hynes
SECONDER:	Derr
AYES:	Paonessa, Derr, Dunning, Hynes, Long

No comment

Motion to close public hearing

RESULT:	**Approved**
MOVER:	Long
SECONDER:	Derr
AYES:	Paonessa, Derr, Dunning, Hynes, Long

Motion to approve TXA2024-Neighborhood Residential Update

RESULT:	**Approved**
MOVER:	Long
SECONDER:	Derr

Hynes: Asked for clarification to be made regarding neighborhood commercial language

Amended Motion to approve TXA2024-Neighborhood Residential Update subject to the following: Keep "Neighborhood Commercial" language

RESULT:	**Approved**
MOVER:	Long
SECONDER:	Derr
AYES:	Paonessa, Derr, Dunning, Hynes, Long

6.3: BR2024-04 – Tate Manor Bond

Staff presentation

PC Discussion

Dan Ebersole, Applicant: This is a routine request. All lots are finally built out, ready to do the required work once the weather warms.

Motion to approve BR2024-04 – Tate Manor Bond subject to the following: Approval is extended to June 30, 2024

RESULT:	**Approved**
MOVER:	Hynes
SECONDER:	Derr
AYES:	Paonessa, Derr, Dunning, Hynes, Long

APPROVED

6.4: BR2023-12 – Norborne Glebe Phase 15 Bond Reduction

Staff presentation

Long: Estimate based on current or future proposed bond estimate forms?

Staff: Current

Motion to approve BR2023-12 – Norborne Glebe Phase 15 Bond Reduction – PERFORMANCE BOND

RESULT:	**Approved**
MOVER:	Hynes
SECONDER:	Derr
AYES:	Paonessa, Derr, Dunning, Hynes, Long

Motion to approve BR2023-12 – Norborne Glebe Phase 15 Bond Reduction – LAND DISTURBANCE BOND

RESULT:	**Approved**
MOVER:	Hynes
SECONDER:	Long
AYES:	Paonessa, Derr, Dunning, Hynes, Long

6.5: BR2024-01 – Westover Dental Bond Establishment

Staff presentation

Motion to approve BR2024-01 – Westover Dental Bond Establishment

RESULT:	**Approved**
MOVER:	Long
SECONDER:	Hynes
AYES:	Paonessa, Derr, Dunning, Hynes, Long

6.6: BR2024-01 – SLD2022-04 – Hillside Preliminary Plan

Staff presentation

Motion to table until March 25, 2024 per applicant's request

RESULT:	**Approved**
MOVER:	Hynes
SECONDER:	Long
AYES:	Paonessa, Derr, Dunning, Hynes, Long

6.7: SLD2022-06 – Norborne Glebe Phases 10B, 11, 12, 13

Staff presentation

Derr: Asked clarifying question regarding lighting, acorn versus colonial.

Staff: They are of similar design

APPROVED

Motion to approve SLD2022-06 – Norborne Glebe Phases 10B, 11, 12, 13

RESULT:	**Approved**
MOVER:	Long
SECONDER:	Derr
AYES:	Paonessa, Derr, Dunning, Hynes, Long

6.8: SLD2024-01 – WVU Healthcare Foundation Sketch Plan

Staff presentation

Hynes: Asked for clarification regarding rezoning.

Staff: They are going to submit a rezoning, boundary line adjustment, and a sketch plan.

Hynes: Does this sketch plan impact multiple properties?

Rob Whitson, Applicant's Engineer: Includes approximately 9.4 acres of neighboring residential property to the north

Long: Does your sketch plan assumes a successful rezoning of that other parcel to general commercial?

Rob Whitson, Applicant's Engineer: Yes

Thomas Moats, Applicant's Attorney: The amendment application has been filed and is on the agenda for March.

PC discussion regarding process

Motion to table SLD2024-01 – WVU Healthcare Foundation Sketch Plan,

RESULT:	**Failed**
MOVER:	Long
SECONDER:	Paonessa
AYES:	Paonessa, Long
NAYES:	Derr, Dunning, Hynes

Motion to table SLD2024-01 – WVU Healthcare Foundation Sketch Plan

RESULT:	**Approved**
MOVER:	Hynes
SECONDER:	Derr
AYES:	Paonessa, Derr, Dunning, Hynes, Long

The Items were tabled to allow the rezoning process to play out first.

7. ADJOURNMENT

Motion to adjourn

RESULT:	**Approved**
MOVER:	Hynes
SECONDER:	Long
AYES:	Paonessa, Derr, Dunning, Hynes, Long

Meeting adjourned at 8:18 pm.

APPROVED

City Council
101 East Washington Street
Charles Town, WV 25414

Meeting: 05/06/24
Department: City Council
Category: Report
Initiator:

SCHEDULED

AGENDA ITEM (ID #)

2024-478: Charles Town Police Department Statistic Report - March 2024

ATTACHMENTS:

- CTPD March 2024 Stats.pdf

Charles Town Police Department
Monthly Stat Report

March 2024

911 Hangup	
Abandoned Vehicle	9
Alarm	20
Animal Complaint	1
Assault	1
ATV Complaint	1
BOLO	4
Breaking and Entering	1
Breaking and Entering Veh	2
Building Check	41
Burglary	1
Capias Recall by Court	19
Capias Service	3
Code Enforcement	
Court/Bailiff Duty	4
Crossing Guard Duties	1
Destruction of Property	2
Directed Patrol	239
Disabled Vehicle	5
Disturbance	36
Domestic Battery	1
Drug Activity	4
DUI	2
EMS Assist	7
Fingerprinting	6
Fireworks Complaint	1
Follow Up	19
Foot Patrol	9
Found Property	2
Fraud	2
Gunshots Heard	
Harassment	1
Hardcopy Check	1
Illegal Burn	
Information	1
Injured Animal	
Intoxicated Person	3
Juvenile Complaint	6

Missing Person	
Motorist Assist	4
MVA w/ Entrapment	
MVA Hit and Run	3
MVA No Injury	17
MVA Into Structure	
MVA w/ Injury	2
Out of Car (Investigation/Mtg/Court)	4
Panhandling	1
Overdose	
Overdose-Death	
Parking Complaint	11
Public Assist (In Person Contact)	30
Public Service (Phone Contact)	92
Pursuit	
Rabid Animal	3
Reckless Driver	2
Road Patrol	12
Robbery	
Shoplifting	2
Special Event/Detail	
Suspicious Activity	8
Suspicious Mail	
Suspicious Person	3
Suspicious Vehicle	11
Terrorist Threats	
Theft	6
Threats	4
Traffic Hazzard	6
Transport	
Trespassing	
Unattended Death	
Vehicle Fire	
VIN Verification	1
Warrant Service	8
Welfare Check	17
Wildlife Complaint	4
Total calls of service	**706**

Assists/Back-Ups:				
	Ranson	**17**	Sheriffs Dept.	**18**
	Harpers Ferry		State Police	**7**
	Shepherdstown		Other (not including CTPD)	
			Total Assists	**42**

	Male	Female	Caucasian	African American	Hispanic	Asian	Other/ Unknown	Total
Defendants:	13	7	13	6	1	0	0	**20**
Total Charges	38	8	29	16	1	0	0	**46**
Citations:								**263**
- Moving								**104**
- Nonmoving								**145**
- Criminal								**7**
- S Ticket (Parking)								**7**
Stops	136	84	174	22	21	1	2	**220**
Warnings:								**123**
Stops	73	51	95	13	9	0	7	**124**
Total	**222**	142	**282**	**41**	**31**	**1**	**9**	
Incident Report								**56**
Parking								
- Citations								**232**
-Warnings								**25**

Charles Town Police Department
Monthly Stat Report
Charges by Offense/Gender/Race

March 2024

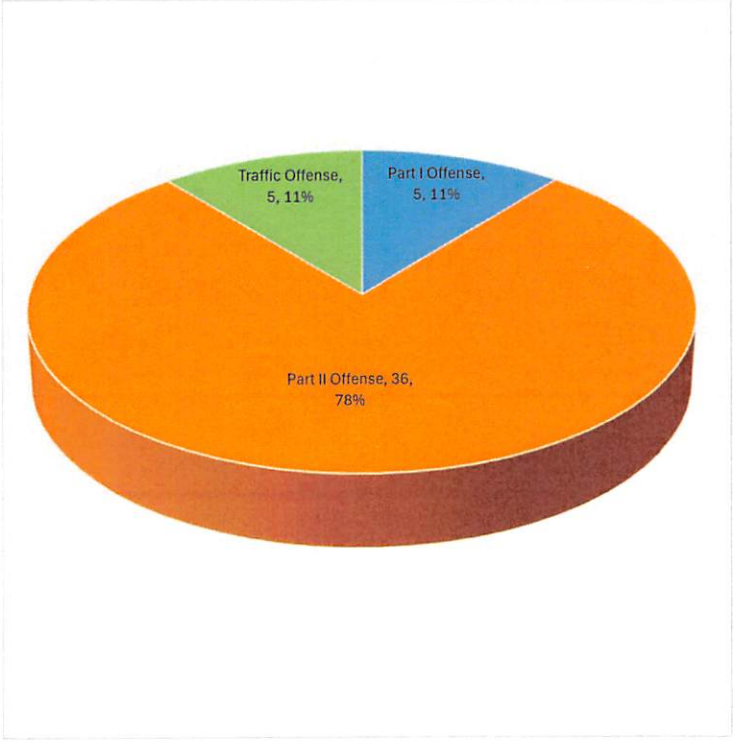
	Male	Female	Caucasian	African American	Hispanic	Asian	Unknown
PART I OFFENSE							
Burglary (Daytime)							
Burglary (Nighttime)							
Grand Larceny	1				1		
Malicious Assault							
Malicious Wounding							
Attempted Murder 1st Degree							
Murder 1st Degree							
Petit Larceny		1	1				
Robbery - Attempted							
Robbery							
Robbery 2nd Degree							
Sexual Assault 1st Degree							
Shoplifting	2	1	3				
Shoplifting 2nd Offense							
Shoplifting 3rd Offense							
Strangulation							
TOTAL	3	2	4	0	1	0	0
PART II OFFENSE							
Assault	2			2			
Assault on an Officer	1			1			
Attempted to Defeat Drug/Alcohol Screening Test							
Battery	1	1	1	1			
Battery on School Employee							
Breaking and Entering							
Capias Served		3	3				
Child Abuse Resulting in Injury							
Child Neglect Creating Risk of Injury							
Computer Fraud							
Conspiracy							
Conspiracy to Distribute MDMA							
Conspiracy to Breaking and Entering							
Conspiracy to Possess w/Intent to Deliver Acid/LSD							
Conspiracy to Commit Petit Larceny							
Deadly Weapon on School Property							
Delivery of Controlled Substance							
Destruction of Property	3		1	2			
Disorderly Conduct	1			1			
Disruption of School							
Distribution of Crack Cocaine							
Disturbing the Peace							
Domestic Assault							
Domestic Battery	1		1				
Domestic Battery 2nd Offense							
Domestic Battery 3rd Offense							
Driving Revoked for DUI							
Driving Revoked for DUI 2nd							
Driving Revoked for DUI 3rd							
Driving Revoked Non DUI Admin							
DUI	2		2				
DUI 2nd							
DUI 3rd							
DUI Aggravated							
DUI Causing Bodily Injury							
DUI - Drugs							

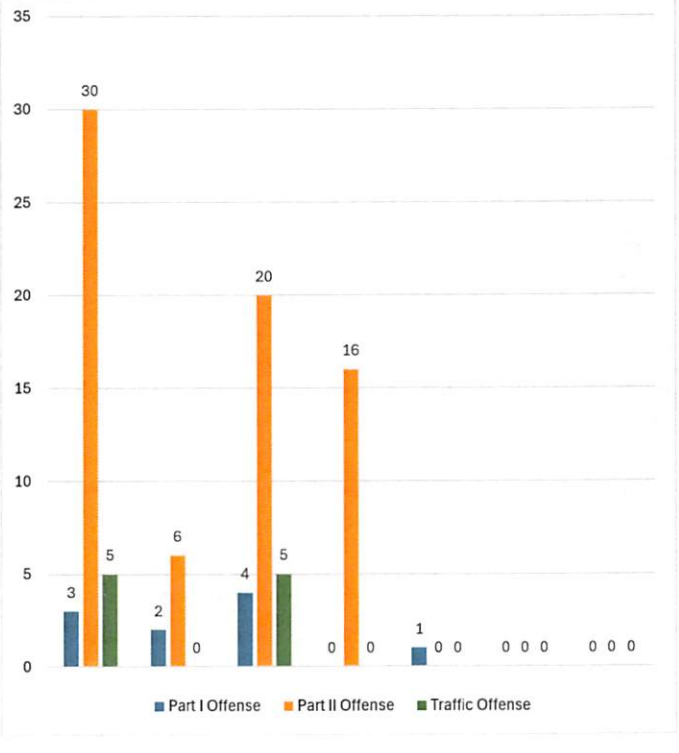
Charles Town Police Department
Monthly Stat Report
Charges by Offense/Gender/Race

DUI - Drugs 2nd Offense							
DUI w/ Minor							
Embezzlement							
Failure to Register for Child Abuse Registry							
False Alarm of Fire							
False Reporting of an Emergency							
Felon in Possession of Firearm							
Fingerprint Refusal	4		2	2			
Fleeing on Foot							
Fleeing in Vehicle							
FPO Violation							
Fraudulent Schemes							
Fugitive From Justice	1		1				
Incest							
Interfering with Emergency Communication							
Interlock Violation							
Littering							
Non-Consensual Disclosure of Private Intimate Images							
Obstructing an Officer	5		3	2			
Obtain Money, Property, Services by False Pretense							
Open Container	1		1				
Open Container in Vehicle							
Pedestrian in Roadway							
Pimping							
Possession Deadly Weapon by Minor							
Possession of Alcohol Under 21							
Possession of Controlled Substance							
Possession of Gabapentin							
Possession of Heroin	2		2				
Possession of Marijuana	3	1	1	3			
Possession of Methamphetamine							
Possession of Psilocybin Mushrooms (Schedule I CDS)		1		1			
Possession of Stolen Property							
Possession of Vape Product under 18							
Possession w/ Intent to Deliver Cocaine							
Possession w/ Intent to Deliver Fentanyl							
Possession w/ Intent to Deliver Marijuana							
Possession w/ Intent to Deliver MDMA (Molly)							
Probation Violation							
Prohibited Person in Poss of Firearm	1		1				
Prostitution							
Prostitution 2nd Offense							
Providing Alcohol to Under 21							
Public Intoxication	1		1				
Reckless Driving							
Resisting Arrest	1			1			
Sexual Abuse 1st Degree							
Sexual Assault 2nd Degree							
Threats of Terroristic Acts							
Transfer Receive Stolen Property							
Trespassing							
Unlawful Possession/Transport into WV Fentanyl							
Underage Possession of Firearm (Federal Warrant)							
Uttering							
Violation of Protection Order							
TOTAL	**30**	**6**	**20**	**16**	**0**	**0**	**0**

Charles Town Police Department
Monthly Stat Report
Charges by Offense/Gender/Race

TRAFFIC OFFENSE							
Cell Phone Violation							
Child Safety Restraint Violation							
Defective Equipment							
Driving Suspended	1		1				
Driving Suspended 2nd Offense							
Driving Suspended 3rd Offense							
Driving Too Fast for Conditions							
Exp/No MVI							
Expired/No Operators	1		1				
Expired/No Registration	1		1				
Fail to Keep Right							
Fail to Maintain Control							
Fail to Obey Traffic Control Device							
Fail to Obtain WV Operators							
Fail to Report Accident							
Failure to Update Address on License							
Following to Closely							
Improper Backing							
Improper Registration							
Leaving the Scene of Accident	1		1				
Left of Center							
No Insurance/No Proof of Insurance	1		1				
No Motorcycle Endorsement							
No Parking Violation							
No Seatbelt							
Passing on Right							
Red Light Violation							
Speeding							
Stopping on Highway							
TOTAL	**5**	**0**	**5**	**0**	**0**	**0**	**0**
TOTAL CHARGES	**38**	**8**	**29**	**16**	**1**	**0**	**0**





Charles Town Police Department

SRO Monthly Report

Washington High School / Charles Town Middle School / 2023-2024 / March 2024

INVOLVEMENTS:					
Alcohol Related	1	Fire/Shelter Drills	1	SRO Use of Force	0
Battery on School Employee	0	Found Property	0	Suspensions	11
Citizen Assist	0	Incident Reports	2	Threats	0
Directed Patrols	0	Juvenile Petitions	0	Tobacco Related	3
Disturbance	5	Marijuana Possession	0	Trespassing	0
Evacuations	0	Parental Contacts	5	Vandalism/Theft	1
Extra Curricular Activities	0	Parking Complaints	0	Vehicle Accident	0
Fights	1	Reckless Driver	0	Welfare Check	0
Fire Department Assist	0	Social Media Related	1	***Total Involvements***	***31***

Officer Notes/Misc. Information:

YOUTH SERVICES:	
Total Classes Taught:	0
Students in Class:	N/A
Topics Taught:	See Misc.
One on One Contacts:	3
Total Students Served:	3

Charles Town Police Department

Total Traffic Citation Report, by Violation

Violation	Description	Total
17A-3-1	Owner New Plates 10 Days	1
17A-3-15	Improper Display Of Registration	1
17A-3-16	Expired Registration	75
17A-9-2	No Or Expired Registration	26
17B-2-1	No Operators	14
17B-2-12	Expired Operators	2
17B-4-3a	Driving Suspended or Revoked	12
17C-12-5	Stop Sign Violation	1
17C-12-7	Fail To Stop For School Bus	3
17C-13-1	Parking In Roadway	1
17C-13-3	Parking Violation	6
17C-14-15	Use Handheld Communication Device	1
17C-15-1	Unsafe-Improperly Equipped Vehicle	1
17C-15-2	Driving Without Headlights	1
17C-16-9	No Or Expired MVI	30
17C-3-4	Fail To Obey Traffic Control Device	6
17C-3-5	Fail To Obey Traffic Light	21
17C-5-2(e)	Basic DUI <.15	2
17C-5D-3	Open container in vehicle	1
17C-6-1a	Failure To Maintain Control	2
17C-6-1b	Speeding	36
17C-7-1	Fail to Keep Right	1
17C-7-4	Passing On Right-Off Road	1
17C-9-1	Fail Yield At Intersection	1
17C-9-4	Fail To Yield From Private Road	1
17D-2A-3	No Insurance	2
17D-2A-4	No Proof Of Insurance	6
CTPD171.07	Failure To Appear For Trial (CAPIAS)	3
CTPD361.16	Parking More Than 48 Hours	1
CTPD530.02(f)	Solicit Money Or Other	1
CTPD531.03	Possession Of Marijuana <15gms	1
CTPD533.01(1)	Shoplifting	1
ctpd521.06(a)(1)	Public Intoxication	1

Report Totals **263**

Report Includes:

All dates of issue between `00:00:00 03/01/24` and `23:59:59 03/31/24`, All agencies matching `CTPD`, All issuing officers, All areas, All courts, All offense codes, All dispositions, All citation/warning types

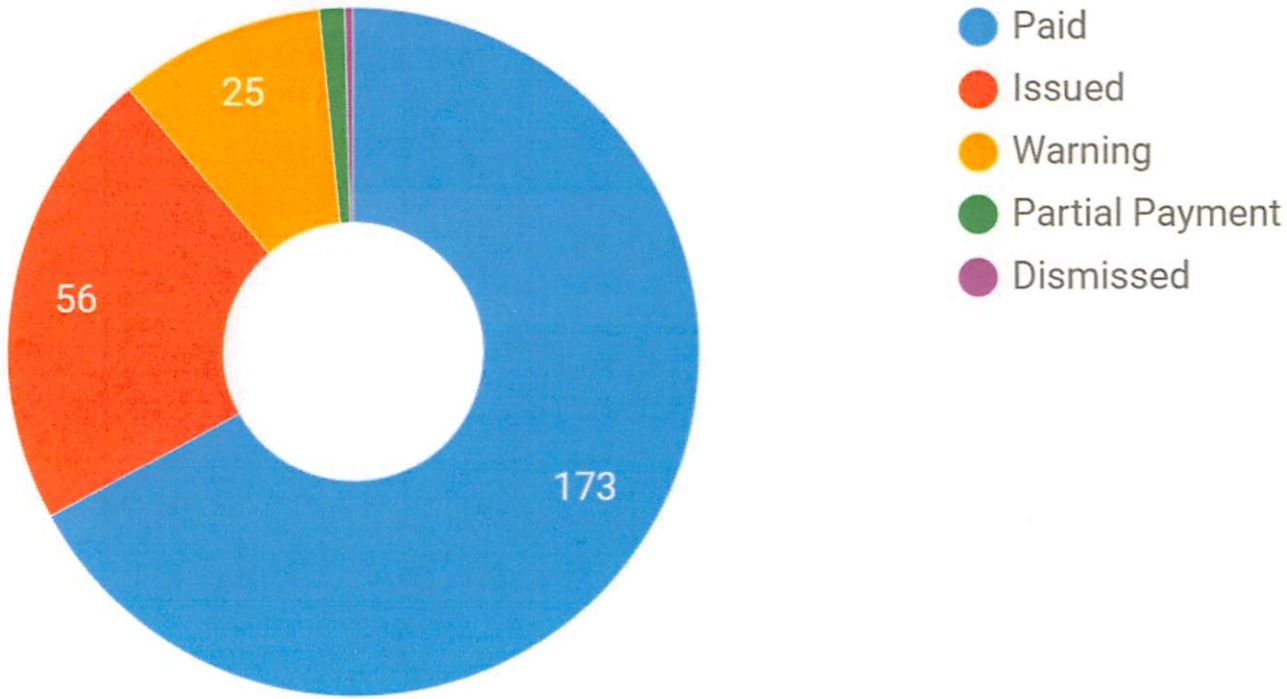
Charles Town Police Department

Total Traffic Warning Report, by Violation

Violation	Description	Total
17A-3-15	Improper Display Of Registration	25
17A-3-16	Expired Registration	29
17A-9-2	No Or Expired Registration	2
17C-15-1	Unsafe-Improperly Equipped Vehicle	11
17C-16-9	No Or Expired MVI	4
17C-3-4	Fail To Obey Traffic Control Device	8
17C-3-5	Fail To Obey Traffic Light	9
17C-4-2	Leaving The Scene Of An Accident	1
17C-6-1(a)	Too Fast For Conditions	2
17C-6-1a	Failure To Maintain Control	2
17C-6-1b	Speeding	23
17C-7-4	Passing On Right-Off Road	5
17C-9-3	Fail To Yield-Thru Highway	2
	Report Totals:	**123**

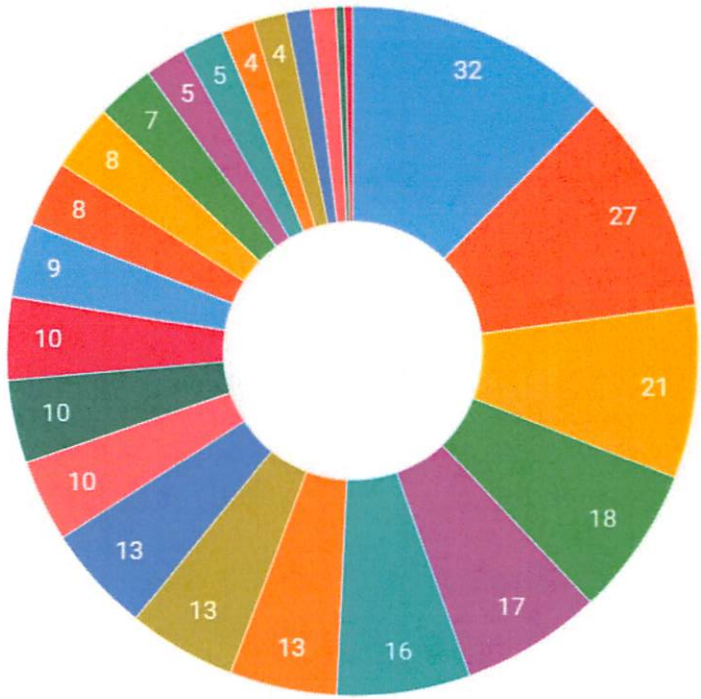
Report Includes:
All dates between `00:00:00 03/01/24` and `23:59:59 03/31/24`, All agencies matching `CTPD`, All issuing officers, All areas, All violations

City of Charles Town - Tickets By Status (Mar. 2024)



Data as of 4/15/2024, 12:00:00 AM

City of Charles Town - Tickets By Location (Mar. 2024)

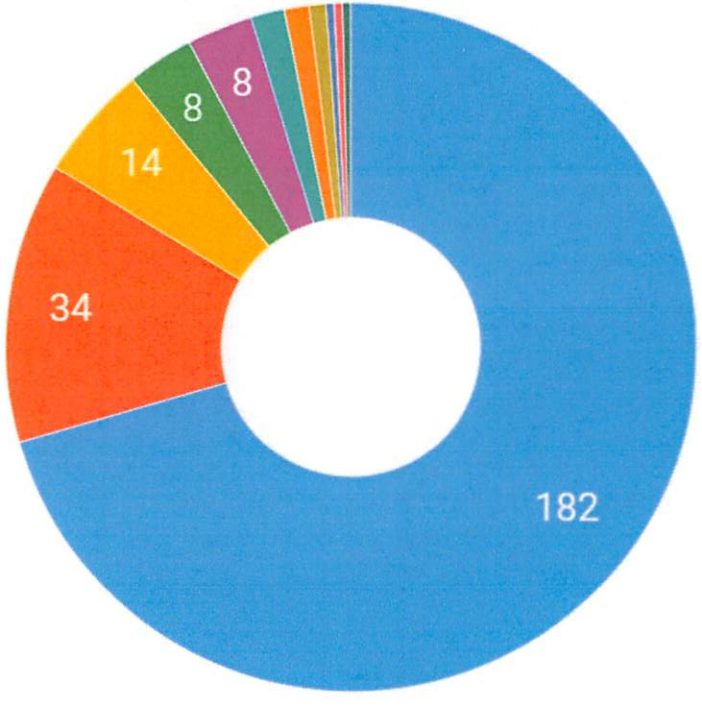


- 100 BLOCK SOUTH CHARLES STREET
- 100 BLOCK NORTH CHARLES STREET
- 200 BLOCK WEST LIBERTY STREET
- 100 BLOCK EAST WASHINGTON STREET
- 100 BLOCK WEST LIBERTY STREET
- 100 BLOCK WEST WASHINGTON STREET
- 100 BLOCK SOUTH SAMUEL STREET
- 200 BLOCK NORTH GEORGE STREET
- LAWRENCE STREET PARKING LOT
- 100 BLOCK NORTH SAMUEL STREET
- 200 BLOCK WEST CONGRESS STREET
- 100 BLOCK EAST LIBERTY STREET
- 200 BLOCK WEST WASHINGTON STREET
- LIBERTY STREET PARKING LOT
- 100 BLOCK EAST CONGRESS STREET
- CHARLES STREET PARKING LOT

▲ 1/2 ▼

Data as of 4/15/2024, 12:00:00 AM

City of Charles Town - Tickets By Violation (Mar. 2024)



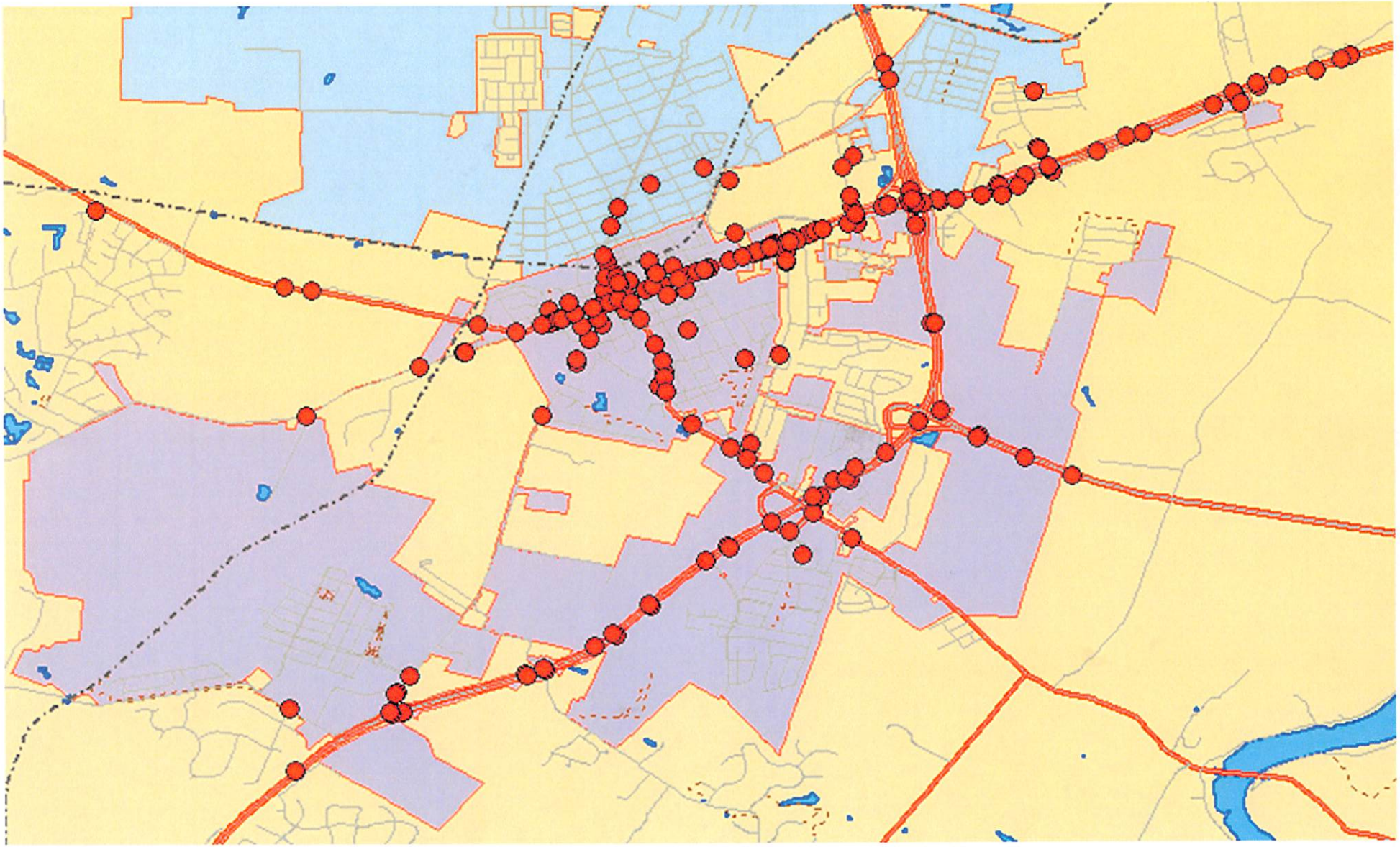
- Expired Meter
- Exceed 2 Hour Free Parking
- Accessible Parking Violation
- Parking Permit Violation
- Permit Parking Only/Pay by App Vi...
- Yellow/Red Painted Curbs or Stree...
- Designated No Parking Zone Viola...
- Right wheel more than 18" from rig...
- Fire Hydrant Violation
- Improper Manner of Parking
- Parked within 20 feet of a Crossw...

Data as of 4/15/2024, 12:00:00 AM

March 2024 – All CTPD Calls



March 2024 – All CTPD Traffic Stops



City Council
101 East Washington Street
Charles Town, WV 25414

Meeting: 05/06/24
Department: City Council
Category: Report
Initiator:

SCHEDULED

AGENDA ITEM (ID #)

2024-480: Charles Town Utility Board (CTUB) Meeting Minutes - April 10, 2024

ATTACHMENTS:
- 2024.04.10 UB MINUTES.pdf

Charles Town Utility Board
Regular Board Meeting
April 10, 2024

The Charles Town Utility Board held a regular meeting on April 10, 2024 at 4:00 P.M. Members of the Board present were John Nissel, Chairman; Duke Pierson, Vice Chairman; Tommy Stocks, Treasurer; Jeff Whitten, Board Member; and Heidi Parker, Board Member. Also present were Kristen Stolipher, Utility Manager; April Shultz, Assistant Utility Manager; Ashley Stottlemyer, Secretary; Robert Rodecker, Legal Counsel and Tricia Jackson, County Commission Liaison.

CALL TO ORDER

The Chairman called the meeting to order at 4:00 P.M.

APPROVAL OF MINUTES

Approval of March 27, 2024 Regular Meeting Minutes

The Chairman called for changes or corrections to the March 27, 2024 regular meeting minutes.

Action: **Motion made by Mr. Whitten, second by Mr. Pierson, the Board unanimously approved the March 27, 2024 minutes.**

PUBLIC COMMENT

Public comment was received from Jacquelyn Milliron, Robert Ryan, Elizabeth Ricketts and Maria Russo.

NEW BUSINESS

Greenfield Forcemain Project - Possible Executive Session Under: WV State Code Section §6-9A-4(b)(12) to discuss any matter which, by express provision of federal law or state statute or rule of court is rendered confidential or to discuss a matter of potential Litigation.

Action: **This item was moved to the end of the meeting.**

Greenfield Invoice

Action: **This item was moved to the end of the meeting.**

Renewal and Replacement Project Resolution No. 18 – Contractor Pay Application No. 18

Mrs. Stolipher included the contractor application for Payment No. 18 in the amount of $78,290.45 for work completed.

Action: **Motion made by Mr. Pierson, second by Mr. Whitten, the Board unanimously approved Resolution No. 18.**

Source Water Protection Plan Draft

Mrs. Stolipher provided the draft plan which is due to the WV Bureau of Public Health by May 1st. She mentioned a public comment hearing will be held at the April 24 board meeting and encouraged the Board to provide comments as well as other stakeholders.

Action: **No action required by the Board.**

2024 Sewer Strategic Plan Draft

Mrs. Stolipher included the draft plan for the Board to review and provide comments to discuss at the next board meeting with adoption in May. The Board provided discussions.

Action: **No action required by the Board.**

Resolution 2024-01 – FY 2024 Budget Revisions

Mrs. Shultz briefed the Board on the minor revisions to the FY 2024 water and sewer operating budgets. She provided the overall budget revisions for FY 2024 were not significant. The Board provided discussion on the revisions.

Action: **Motion made by Mr. Pierson, second by Mr. Whitten, the Board unanimously approved Resolution 2024-01 – FY 2024 Budget Revisions.**

MANAGER REPORTS

Utility Manager Report

Mrs. Stolipher provided an update on the Renewal and Replacement project and suggested moving the CTUB Day to the Fall when the project is near completion.

Mrs. Parker requested staff look into evaluating capital improvement fees once the strategic plan is approved.

Action: **No action required by the Board.**

Chairman Report

The Chairman provided an update on the appointment of a CTUB Board member.

Action: **No action required by the Board.**

APPROVAL OF BILLS

April 10, 2024

Action: **Motion made by Mr. Stocks, second by Mr. Pierson, the Board unanimously approved the payment of the bills.**

EXECUTIVE SESSION

Greenfield Forcemain Project - Possible Executive Session Under: WV State Code Section §6-9A-4(b)(12) to discuss any matter which, by express provision of federal law or state statute or rule of court is rendered confidential or to discuss a matter of potential Litigation.

Action: **Motion by Mr. Pierson, second by Mr. Stocks, the Board unanimously approved convening into Executive Session at 4:48 P.M. to discuss the Greenfield Forcemain Project and invoice.**

Action: **Motion made by Mr. Pierson, second by Mr. Stocks, the Board unanimously approved returning to public session. Executive session was declared over at 5:08 P.M.**

Action: **Motion made by Mr. Pierson, second by Mr. Whitten, the Board unanimously approved paying the Greenfield invoice for $22,050.34**

Action: **Motion made by Mr. Pierson, second by Mrs. Parker, the Board unanimously approved terminating the contract with W. F. Delauter & Son, Inc. due to a mutual agreement effective April 10, 2024.**

ADJOURNMENT

There being no further business at this time, the Board adjourned the meeting.

Action: **Motion by Mr. Whitten, second by Mr. Pierson, the Board unanimously adjourned the meeting at 5:10 P.M.**

INFORMATION ONLY

The next meeting is scheduled for Wednesday, April 24, 2024 at 4:00 P.M. at 661 S. George Street.

John Nissel
Chairman

Ashley Stottlemyer
Secretary

City Council
101 East Washington Street
Charles Town, WV 25414

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AGENDA ITEM (ID #)

2024-485: Letter to the Charles Town City Council Supporting Josh Vance to Serve on the Council Select Committee on PODA

ATTACHMENTS:

- Letter of Support.pdf

April 16th, 2024

To the Honorable Members of the Charles Town City Council,

We, the undersigned members of the downtown business community, wish to express our enthusiastic support for the appointment of Mr. Josh Vance, the owner of Abolitionist Ale Works, to serve as the downtown business representative on the Charles Town City Council Select Committee on PODA (Private Outdoor Designated Area); as he is a pillar in our downtown community, not only through his stewardship of Abolitionist Ale Works but also through his unwavering commitment to the betterment of downtown Charles Town.

Under his leadership, Abolitionist Ale Works has grown over the last 7 years to be more than just a brewpub; it is a community hub that fosters inclusivity, culture, and local engagement. This has not only positively impacted the economic landscape of our downtown area but has also significantly contributed to the vibrancy and appeal of Charles Town as a whole, as evidenced by the Jefferson County Convention and Visitors Bureau frequently featuring Abolitionist Ale Works in their promotional material of Charles Town.

Moreover, Josh has demonstrated a strong commitment to community engagement and collaboration. He has a proven track record of working effectively with other local businesses, city officials, and community members to foster a cohesive and vibrant downtown ecosystem. Josh's innovative approach to business, combined with his keen insight into the needs and potential of our downtown area, makes him the ideal candidate to represent the interests and aspirations of the downtown businesses on the Council Select Committee on PODA.

In addition to his business acumen and community-oriented mindset, Josh is deeply invested in the sustainable development of downtown Charles Town. He understands the delicate balance between growth, preservation, and public safety, and we are confident he will advocate for policies that enhance our community's economic vitality while respecting our rich heritage.

In conclusion, we wholeheartedly endorse Josh Vance as the downtown business representative on the Charles Town City Council Select Committee on PODA. His leadership, vision, and commitment to our community make him an outstanding choice for this role. We urge you to consider his appointment, confident that his contributions will be instrumental in shaping a thriving, dynamic, and inclusive downtown Charles Town.

Sincerely,

Name	Business	Signature
Kimberly Thomas	The Succulent Garden	
James Thomas	The Succulent Garden	

Name	Business	Signature
Liz McDonald	Ladridge Realty Group	
Jess Dorr Jess Dorr/Anka Properties		
Leah Brooks	Four choices	
Stephanie Young	Down Under	Stephanie Young
MATTHEW "LEVI" SELLERS	SUSTAIN	
Brittany Poole	SUSTAIN	Brittany L Poole
STEVEN BREWER	OOH	
Todd Cook	Bishel & Peck	
Daphne Wall	AA Deco Dekor	
Matt Printz	North Mildred Depot	
Jessy Printz	Printz Mortgage Team	
Angela Kable-Johnson	Sanborn Properties	Angela Kable-Johnson
NATALIE GREENE	ORTEGA'S TACO SHOP	
Ann Fuoresso	Amore Law, PLLC	
Anne Sokol	Sokol MU + SC	
Patricia Muller	Double Iris Yoga and Massage	Patricia C Muller
JAMES KNIGHTON	KNIGHTON LAW OFFICES PLLC	
MARCELLA GENZ	OLD CHARLESTOWN LIBRARY, INC	
THOMAS King	Cathy King THE ART of FADE	THOMAS King
Lisa Browning	Foils and Fades Studio	Lisa Browning
Melissa A Glascock	Needful Things, LLC	Melissa A Glascock

Name	Business	Signature
Sara Anderson	Fuzzy Dog	
Shane Stoneberger	Fegans Jewelers	
H Fiona Harrison	Charles Town Farmers Market	H Fiona Harrison
Mary Powell	Sibley Coffee Roasting	
	Studio M	
Joe Russo	Agent - State Farm	Joe Russo
Melissa Grant	Cape Cod Formals	Melissa Grant
Dawn Rix	Dawn Rix Signature Salon Suite	Dawn Rix
Sandra Nichols	Firehouse Gallery, Gallery Chair	Sandra Nichols
Luis Guzman	Grandma's Diner	
Chris Hipp	Sierra Pacific Mortgage	
Jonah DeSimone	Paddys Irish Pub	
Mark Matthews	Blue Heron Tattoo	
Lee Jae White	Lee Dawgs BBQ	
Yaling Chen	poke Boba	
	Beths Coops	Bethany Starkey

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2024-486: Letter of Commendation - Patrolman Hinkle

ATTACHMENTS:
- Officer Hinkle.pdf

Phenix Green Acres
P.O. Box 485
Inwood, WV 25428

March 7, 2024

Chief Christopher Kutcher
Charles Town Police Department
661 S. George St., Suite 100
Charles Town, WV 25414

Dear Chief Kutcher,

This is a letter of commendation for Officer Hinkle, #110. This morning, my husband was taking me to Charles Town Races and Slots for my birthday. He was treating me to eat at the steakhouse and to lose money gambling. Being as old as he is, my husband did not see a no-turn sign so he made a left turn into the driveway. Also, he was trying to rush to the bathroom. He was wrong. He made a mistake. Officer Hinkle pulled us over and gave my husband a warning (Ticket#: 041094). I want you to know that Officer Hinkle was respectful, courteous and a first-rate professional.

As someone who works on White House initiatives for the federal government and who has been part of an agency that has, and continues to, fund police departments in West Virginia as well as broadband in the state--I just want you to know that this old black lady has been around including spending a few days with the Harrison County Sheriff's Office in Clarksburg, WV on a grant-funded project years ago. As such, I give the Charles Town Police Department two-thumbs up and a special commendation to Officer Hinkle.

Be sure to put this commendation in his file.

Sincerely,

Dr. Francine E. Alkisswani

Cc: Officer Hinkle, #110
Mayor Bob Trainor, Charles Town, WVA