

# CHARLESTON CITY COUNCIL

Regular Meeting

September 16, 2019

at 7:00 PM



Council Chambers, Third Floor  
City Hall, 501 Virginia St. E.  
Charleston, WV

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## AGENDA

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CALL TO ORDER BY THE MAYOR

INVOCATION AND PLEDGE OF ALLEGIANCE

ROLL CALL

PUBLIC SPEAKERS AND CLAIMS

1. Claims 9-16-2019

PROCLAMATIONS

1. 9-16-2019

COMMUNICATIONS

1. 9-16-2019

PUBLIC HEARINGS

1. Resolution No. 245-19 - A Resolution authorizing the City Manager to enter into a lease for space in 601 Morris Street with West Virginia Child Abuse Network.

REPORTS OF STANDING COMMITTEES

*FINANCE*

1. Resolution No. 243-19 - Authorizing the Mayor or their designee to submit the CAT Expansion Grant as part of the 2019 Continuum of Care grant to the U. S. Department of Housing and Urban Development.
2. Resolution No. 245-19 - A Resolution authorizing the City Manager to enter into a lease for space in 601 Morris Street with West Virginia Child Abuse Network.
3. Resolution No. 246-19 - Authorizing the Mayor or City Manager to submit a Fiscal Year 2020 application to the State Development Office to request \$400,000 toward road improvements to Barlow Drive under the State's Industrial Access Road Program.

#### REPORTS OF OFFICERS

1. 9-3-2019

#### NEW BILLS

1. 9-16-2019

#### UNFINISHED BUSINESS AND/OR MISCELLANEOUS BUSINESS

#### ROLL CALL

#### ADJOURNMENT

THE NEXT REGULAR MEETING OF COUNCIL WILL BE HELD OCTOBER 7, 2019 AT 7:00 P.M.

**\*Meetings may be recorded and broadcast via internet <https://charlestonwv.civicclerk>**



# AFFIDAVIT City of Charleston



STATE OF WEST VIRGINIA  
COUNTY OF KANAWHA, to-wit:

The Mayor, Recorder, and/or Municipal Attorney of the City of Charleston, West Virginia, will take notice that this day appeared before the undersigned authority,

Anne K. Rada, Claimant,  
who, after being first by me duly sworn, deposes and says:

That this affiant resides at: 810 Scenic Dr Charleston WV 25311

Telephone Number: 304 346 0175, however, please call 304 549 2746 (Ed)

and that on the June day of 24, 2018 (2019), at approximately 7 am/pm  
in the City of Charleston, West Virginia, he/she sustained

White Oak tree was taken down during the tornado, blocking Scenic drive. The upper half.  
Nature Of Injury And/Or Damage

As A Result Of:

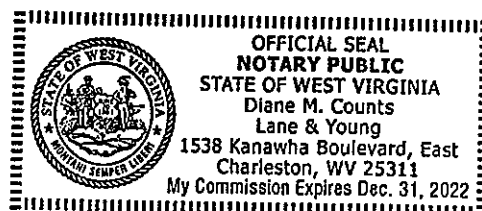
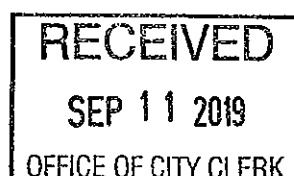
American Tree Expert was contacted to clear the street and to remove the tree. Root ball is still at the residence. A copy of the invoice for this service is attached for your review.

As a result of which accident the Claimant, Anne K. Rada, does hereby make claim against the City of Charleston, West Virginia, for damages incurred and to be incurred by him/her in the future.

Anne K Rada  
Signature of Claimant

Taken, subscribed and sworn to before me this 10th day of JULY, 2019.  
My commission expires December 31, 2022.

Diane M. Counts  
Notary Public





## AFFIDAVIT City of Charleston



STATE OF WEST VIRGINIA  
COUNTY OF KANAWHA, to-wit:

The Mayor, Recorder, and/or Municipal Attorney of the City of Charleston, West Virginia, will take notice that this day appeared before the undersigned authority, Linda Wojcieszak, Claimant, who, after being first by me duly sworn, deposes and says:

That this affiant resides at: 106 Chestnut Street, Dunbar, WV 25064

Telephone Number: 304-543-0111

and that on the 30<sup>th</sup> day of July, 2018, at approximately 9:00am in the City of Charleston, West Virginia, she sustained damage to her vehicle in the eastbound lane of Kanawha Blvd. E. in front of the Carpenters Local Union building (1500 Block)

### Nature Of Injury And/Or Damage

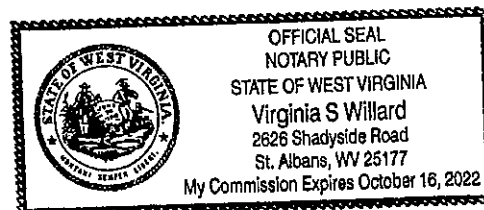
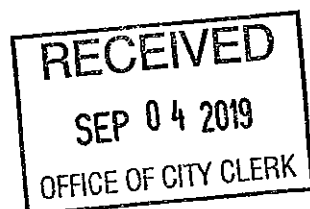
As A Result Of: Driving on Kanawha Boulevard E. I slowed down to make a legal u-turn in front of Carpenters Local Union and Ranson Law Offices. I drove over a manhole cover and it popped up and out, damaging my vehicle. A Charleston City truck was behind me and stopped to replace the manhole cover. By the time I pulled over to the side of the road he had left. Had the manhole cover been properly seated/placed it would not have come up off of the street. I filed a claim against the West Virginia Department of Transportation, Division of Highways who after one year advised that they were not responsible for maintaining the 1500 Block of Kanawha Boulevard East and dismissed my claim (see attached).

As a result of which accident the Claimant, Linda Wojcieszak, does hereby make claim against the City of Charleston, West Virginia, for damages incurred and to be incurred by her in the future.

Linda Wojcieszak  
Signature of Claimant

Taken, subscribed and sworn to before me this 3<sup>rd</sup> day of September, 2019.  
My commission expires October 16, 2022.

Virginia S. Willard  
Notary Public



**EXECUTIVE DEPARTMENT  
CITY OF CHARLESTON  
PROCLAMATION**

**WHEREAS:** The Constitution of the United States of America, the guardian of our liberties, embodies the principles of limited government in a Republic dedicated to rule by law; and

**WHEREAS:** September 17, 2019, marks the two hundred and thirty-second anniversary of the framing of the Constitution of the United States of America by the Constitutional Convention; and

**WHEREAS:** It is fitting and proper to accord official recognition to this magnificent document and its memorable anniversary, and to the patriotic celebrations which will commemorate it; and

**WHEREAS:** Public Law 915 guarantees the issuing of a proclamation each year by the President of the United States of America designating September 17 through 23 as Constitution Week

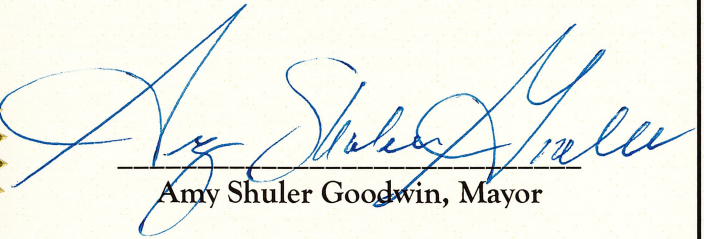
**NOW THEREFORE, I,** Amy Shuler Goodwin, Mayor of the City of Charleston, do hereby proclaim the week of September 17 through 23, 2019, as

**CONSTITUTION WEEK**

in Charleston, West Virginia and ask our citizens to reaffirm the ideals the Framers of the Constitution had in 1787 by vigilantly protecting the freedoms guaranteed to us through the United States Constitution.

**IN WITNESS WHEREOF,** I have set my hand and caused the Seal of the Executive Department to be affixed this 16<sup>th</sup> day of September 2019.



  
\_\_\_\_\_  
Amy Shuler Goodwin, Mayor

Resolution No. 243-19

Introduced in Council:

Adopted by Council:

September 16, 2019

Introduced by:

Referred to:

Joseph Jenkins

Finance Committee

1 Resolution No. 243-19 - Authorizing the Mayor or their designee to submit the CAT Expansion  
2 Grant as part of the 2019 Continuum of Care grant to the U. S. Department of Housing and  
3 Urban Development and sign all required certifications and agreements including sub-recipient  
4 agreements, relating to the CAT Expansion Grant.

5

6 Be it Resolved by the Council of the City of Charleston, West Virginia:

7

8 That the Mayor or their designee is hereby authorized and directed to submit the CAT  
9 Expansion Grant as part of the 2019 Continuum of Care grant to the U. S. Department of  
10 Housing and Urban Development and sign all required certifications and agreements including  
11 sub-recipient agreements, relating to the CAT Expansion Grant.

Resolution No. 245-19

Introduced in Council:

Adopted by Council:

September 16, 2019

Introduced by:

Referred to:

Joseph Jenkins

Finance Committee

- 1 Resolution No. 245-19 - Authorizing the City Manager to enter into a lease for approximately  
2 1,600 square feet of space in 601 Morris Street, Suite 200, with West Virginia Child Abuse  
3 Network, Inc., for office space for a term of two (2) years and monthly rent of \$2,624.  
4  
5 Be it Resolved by the Council of the City of Charleston, West Virginia:  
6  
7 The City Manager is authorized to enter into a lease for approximately 1,600 square feet of  
8 space in 601 Morris Street, Suite 200, with West Virginia Child Abuse Network, Inc., for office  
9 space for a term of two (2) years and monthly rent of \$2,624.

Resolution No. 246-19

Introduced in Council:

Adopted by Council:

September 16, 2019

Introduced by:

Referred to:

Joseph Jenkins

Finance Committee

- 1 Resolution No. 246-19 - Authorizing the Mayor or City Manager to submit a Fiscal Year 2020
- 2 application to the State Development Office to request \$400,000 toward road improvements
- 3 to Barlow Drive under the State's Industrial Access Road Program.
- 4
- 5 Be it Resolved by the Council of the City of Charleston, West Virginia:
- 6
- 7 The Mayor or City Manager is authorized to submit a Fiscal Year 2020 application to the State
- 8 Development Office to request \$400,000 toward road improvements to Barlow Drive under the
- 9 State's Industrial Access Road Program.

**MUNICIPAL COURT  
CITY OF CHARLESTON**

**Post Office Box 2749  
Charleston, West Virginia 25330  
(304) 348-8079**

**Anne B. Charnock, Judge**

**Conrad Lucas, Clerk**

**TO:** Mayor Amy Shuler Goodwin  
**FROM:** Conrad Lucas, Clerk  
**DATE:** **Tuesday, September 3, 2019**  
**RE:** **August 2019 Financial Information, Charleston Municipal Court**

**TOTAL CITATIONS FILED: 1,130**

Criminal Violations: 211

Traffic Violations: 918

Parking: 1

Building Search Warrants: 0

**RESTITUTION COLLECTED (paid to victims): \$0.00**

Primarily related to shoplifting cases, restitution monies are collected and refunded to the store/victim.

**FINANCIAL REPORT ATTACHED**

cc: Judge Anne B. Charnock  
Miles Cary, City Clerk  
Victor Grigoraci, Treasurer  
Lieutenant Paul Perdue, Deputy Chief of Police  
Tony Harmon, Building Department  
David Potters, Office of the City Attorney  
Captain Mark Abbott, CPD  
Nikki Smith, City Clerk's Office

CHARLESTON MUNICIPAL COURT  
 Report For August 1, 2019 Thru August 31, 2019 FILEDST

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 Violations by Filed Date...
 

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|                        |     |       |
|------------------------|-----|-------|
| TRAFFIC                | 918 |       |
| CRIMINAL               | 211 |       |
| PARKING                | 1   |       |
| Total Filed Violations |     | 1,130 |

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 Completed Cases...
 

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|                    |     |     |
|--------------------|-----|-----|
| Paid Fine...       |     |     |
| TRAFFIC            | 441 |     |
| CRIMINAL           | 8   |     |
| PARKING            | 0   |     |
| Total Paid Fines   |     | 449 |
| Before Judge...    |     |     |
| TRAFFIC            | 19  |     |
| CRIMINAL           | 4   |     |
| PARKING            | 0   |     |
| Total Before Judge |     | 23  |
| Total Completed    |     | 472 |

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 Other Completed...
 

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|                                |    |    |
|--------------------------------|----|----|
| DISMISS- OFFICER NOT WITH CITY |    |    |
| TRAFFIC                        | 2  |    |
| CRIMINAL                       | 2  |    |
| PARKING                        | 0  |    |
| Total                          |    | 4  |
| DEFENDANT DECEASED             |    |    |
| TRAFFIC                        | 11 |    |
| CRIMINAL                       | 4  |    |
| PARKING                        | 0  |    |
| Total                          |    | 15 |
| DISMISSED - DEFECTIVE CITATION |    |    |
| TRAFFIC                        | 1  |    |
| CRIMINAL                       | 0  |    |
| PARKING                        | 0  |    |
| Total                          |    | 1  |
| DISMISSED OFFICER FAIL TO PROS |    |    |
| TRAFFIC                        | 16 |    |
| CRIMINAL                       | 5  |    |
| PARKING                        | 0  |    |
| Total                          |    | 21 |
| DISMISSED(PRESENTED INSURANCE) |    |    |

## CHARLESTON MUNICIPAL COURT

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|                                |     |     |
|--------------------------------|-----|-----|
| TRAFFIC                        | 53  |     |
| CRIMINAL                       | 0   |     |
| PARKING                        | 0   |     |
| Total                          |     | 53  |
| DISMISSED (BY JUDGE'S ORDER)_  |     |     |
| TRAFFIC                        | 5   |     |
| CRIMINAL                       | 0   |     |
| PARKING                        | 0   |     |
| Total                          |     | 5   |
| DISMISSED E-PROOF              |     |     |
| TRAFFIC                        | 5   |     |
| CRIMINAL                       | 0   |     |
| PARKING                        | 0   |     |
| Total                          |     | 5   |
| DISMISSED (PRESENTED DL)       |     |     |
| TRAFFIC                        | 4   |     |
| CRIMINAL                       | 0   |     |
| PARKING                        | 0   |     |
| Total                          |     | 4   |
| DISMISSED STORE CLOSED         |     |     |
| TRAFFIC                        | 0   |     |
| CRIMINAL                       | 9   |     |
| PARKING                        | 0   |     |
| Total                          |     | 9   |
| DISMISSED OFF FAIL TO PROV VIN |     |     |
| TRAFFIC                        | 6   |     |
| CRIMINAL                       | 0   |     |
| PARKING                        | 0   |     |
| Total                          |     | 6   |
| DISMISSED (PROSECUTOR'S ORDER) |     |     |
| TRAFFIC                        | 125 |     |
| CRIMINAL                       | 50  |     |
| PARKING                        | 1   |     |
| Total                          |     | 176 |
| DISMISSED PRESENTED RECORDS    |     |     |
| TRAFFIC                        | 122 |     |
| CRIMINAL                       | 0   |     |
| PARKING                        | 0   |     |
| Total                          |     | 122 |
| DISMISSED AFTER PT DIVERSION   |     |     |
| TRAFFIC                        | 17  |     |
| CRIMINAL                       | 8   |     |
| PARKING                        | 0   |     |
| Total                          |     | 25  |
| DISMISSED WITHOUT PREJUDICE    |     |     |

CHARLESTON MUNICIPAL COURT  
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 FILEDST

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|                               |    |     |
|-------------------------------|----|-----|
| TRAFFIC                       | 27 |     |
| CRIMINAL                      | 25 |     |
| PARKING                       | 0  |     |
| Total                         |    | 52  |
| DISMISSED (AFTER APPEAL)      |    |     |
| TRAFFIC                       | 0  |     |
| CRIMINAL                      | 2  |     |
| PARKING                       | 0  |     |
| Total                         |    | 2   |
| VOIDED DOCKET                 |    |     |
| TRAFFIC                       | 3  |     |
| CRIMINAL                      | 1  |     |
| PARKING                       | 0  |     |
| Total                         |    | 4   |
| Total Other Completed         |    | 504 |
| Grand Total Completed         |    | 976 |
| Net Difference Filed/Complete |    | 154 |

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## Warrants...

## Issued...

|                       |     |     |
|-----------------------|-----|-----|
| TRAFFIC               | 395 |     |
| CRIMINAL              | 353 |     |
| PARKING               | 0   |     |
| Total Violations      |     | 748 |
| Total Warrants Issued |     | 748 |

## Cleared...

|                        |     |     |
|------------------------|-----|-----|
| TRAFFIC                | 343 |     |
| CRIMINAL               | 308 |     |
| PARKING                | 0   |     |
| Total Violations       |     | 651 |
| Total Warrants Cleared |     | 651 |

|                          |  |    |
|--------------------------|--|----|
| Change in Total Warrants |  | 97 |
|--------------------------|--|----|

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## Other Paid Cases...

## Paid Fine...

|                        |  |     |
|------------------------|--|-----|
| Total Other Paid Fines |  | 115 |
|------------------------|--|-----|

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|                                   |             |
|-----------------------------------|-------------|
| LAWLOC LAW ENFORCE. TRAIN (LOCAL) | \$2,029.00  |
| ADMIN ADMINISTRATIVE COST         | \$838.00    |
| FINE FINE                         | \$37,303.86 |
| LAWFND LAW ENFORCE. TRAIN STATE   | \$842.00    |

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CHARLESTON MUNICIPAL COURT  
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|                                |             |
|--------------------------------|-------------|
| CVC CRIME VICTIM'S FUND        | \$3,364.00  |
| JAILF REGIONAL JAIL CORR.      | \$15,774.32 |
| OP OVER PAYMENT                | \$67.43     |
| CCF COMMUNITY CORRECTIONS FUND | \$140.00    |
| REST RESTITUTION               | \$2,330.24  |
| BF BOND FORFEITURE             | \$1,124.00  |
| Total Fees/Fines Paid          | \$63,812.85 |

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## Monthly Report – Definition Key

### **Violations by Filed Date:**

Violations keyed into the Court software during the month

### **Completed Cases:**

Cases where the fine and court costs were paid in full and the case was closed during the month.

### **Before Judge:**

Number of violations where a case set for trial before the judge; the defendant was found guilty or entered a guilty plea at trial and the defendant paid off all costs/fines in full thereby closing the case.

### **Other Completed -Dismissed (By Complainant):**

The City Attorney moved to dismiss cases because the person who filed the complaint no longer wishes to pursue the charges.

### **Defendant Deceased:**

Cases dismissed because the defendant died.

### **Dismissed Officer Fail to Pros:**

Cases dismissed because the officer failed to appear in Court.

### **Dismissed (presented insurance):**

Cases dismissed because the defendant presented valid proof of insurance for the offense date.

### **Dismissed (presented DL):**

Cases dismissed because the defendant presented a valid driver's license.

### **Dismissed Mistaken Identity:**

Cases dismissed cases on the City Attorney's motion due to mistaken identity.

### **Dismissed (Prosecutor's Order):**

Cases dismissed on the City Attorney's motion or as a result of a plea agreement.

### **Dismissed Presented Records:**

Cases dismissed because the defendant presented records to satisfy a code or Court requirement.

### **Dismissed After PT Diversion:**

Cases dismissed because the defendant entered into a Pre-Trial Diversion agreement with the City and satisfied the requirements of the Pre-Trial Diversion.

### **Dismissed Victim/Witness FTA:**

Cases dismissed because the witness or victim did not appear in Court for trial.

### **Dismissed without prejudice:**

Cases dismissed but the City having the option to re-file the case within one (1) year of the date of the offense.

### **Dismissed No Drug Results:**

Drug results were not received for trial.

### **Dismissed – Officer Not With City**

Officer/Witness is no longer employed by the City.

### **Warrants**

The Court issues warrants for Failure to Appear in Court for court sessions. These warrants are printed and copied to the CPD Warrants Division.

### **Cleared:**

The Court clears warrants once the warrant is served by an officer or when a defendant self reports to the Court. The Court also clears warrants if a person is deceased, posts bond and or, in some cases, enters a plea.

### **Other Paid Cases:**

The Court received a partial payment for a case; however, the defendant still has a balance due.

### **Search Warrant Issued:**

A search warrant document was prepared and presented to the court by the City Attorney's office with regard to safety and public health concerns of a structure/property.

This report is not indicative of the case volume in Municipal Court. Rather, this information reflects payment status/coding for cases.



# City of Charleston West Virginia

**Vic Grigoraci, City Treasurer**

## City Treasurer's Report To City Council

Month Ended

August 2019

**Please Note:**

1. Here is the August 2019 Page 1  
"All Funds Collections & Withdrawals"  
that shows the total of each fund balance.
2. A full copy of the August 2019 Report has  
been emailed to you.
3. The Report is searchable.
4. If you would like a paper copy of the full  
report, or if you need assistance in any  
way, please contact my office  
at 304-348-8029.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Vic Grigoraci", is written over a light blue horizontal line.

Victor Grigoraci, CPA -- City Treasurer

| <u>Fund / Description</u>                    | <u>Balance<br/>August 2018</u> | <u>Balance<br/>July 2019</u> | <u>Collections<br/>August 2019</u> | <u>Withdrawals<br/>August 2019</u> | <u>Balance<br/>August 31, 2019</u> |
|----------------------------------------------|--------------------------------|------------------------------|------------------------------------|------------------------------------|------------------------------------|
| 001 General Fund                             | 5,013,855.35                   | 8,340,892.72                 | 7,130,997.90                       | 7,453,766.91                       | 8,018,123.71                       |
| 002 Coal Severance Tax                       | 17.08                          | 5,522.97                     | 0.00                               | 5,500.00                           | 22.97                              |
| 003 Municipal Stabilization                  | 4,207,225.21                   | 4,294,580.52                 | 7,689.06                           | 0.00                               | 4,302,269.58                       |
| 009 Community Development                    | 10,172.07                      | 2,478.12                     | 37,075.68                          | 11,867.00                          | 27,686.80                          |
| 010 Supportive Housing                       | 0.00                           | 0.00                         | 6,934.46                           | 6,934.46                           | 0.00                               |
| 012 West Side Improvement                    | 0.00                           | 29.75                        | 37,899.50                          | 29.75                              | 37,899.50                          |
| 014 IT Infrastructure                        | 0.00                           | 89,653.22                    | 178.94                             | 0.00                               | 89,832.16                          |
| 016 Charleston Land Trust                    | 45,034.50                      | 45,622.10                    | 81.68                              | 0.00                               | 45,703.78                          |
| 017 Project West Invest                      | 43,806.85                      | 517.34                       | 25,008.12                          | 0.00                               | 25,525.46                          |
| 026 Uniform Pension Reserve Fund             | 13,683,106.91                  | 18,510,692.73                | 4.12                               | 340,566.00                         | 18,170,130.85                      |
| 035 Municipal Beautification                 | 31,557.91                      | 32,773.75                    | 58.68                              | 0.00                               | 32,832.43                          |
| 036 Special Demolition                       | 15,133.24                      | 18,127.11                    | 32.45                              | 0.00                               | 18,159.56                          |
| 037 Sister Cities                            | 26,718.88                      | 27,273.66                    | 48.83                              | 0.00                               | 27,322.49                          |
| 038 Solid Waste                              | 629,223.79                     | 632,393.11                   | 345,414.67                         | 92,318.60                          | 885,489.18                         |
| 039 Waste Disposal                           | 0.00                           | 0.00                         | 91,972.20                          | 91,972.20                          | 0.00                               |
| 040 Landfill Closure                         | 3,209,652.30                   | 3,327,360.87                 | 10,895.01                          | 0.00                               | 3,338,255.88                       |
| 041 Police Contributions                     | 10,476.96                      | 11,400.61                    | 20.41                              | 0.00                               | 11,421.02                          |
| 042 Police Evidence                          | 31,948.43                      | 1,239,601.92                 | 2,208.44                           | 31,004.77                          | 1,210,805.59                       |
| 043 Forfeited Funds                          | 333,635.73                     | 282,880.20                   | 36,978.88                          | 31,720.63                          | 288,138.45                         |
| 044 Municipal Court                          | 175,514.53                     | 221,595.54                   | 64,233.94                          | 58,536.09                          | 227,293.39                         |
| 045 Homeland Security                        | 0.00                           | 13,078.00                    | 0.00                               | 0.00                               | 13,078.00                          |
| 047 Health Insurance Reserves                | 6,044,402.37                   | 6,169,903.30                 | 11,046.66                          | 0.00                               | 6,180,949.96                       |
| 048 Wayfinding Commission                    | 72,986.11                      | 73,774.42                    | 132.09                             | 0.00                               | 73,906.51                          |
| 049 Live On The Levee                        | 19,569.16                      | 35,597.18                    | 2,529.23                           | 20,068.82                          | 18,057.59                          |
| 080 Human Rights                             | 176,793.29                     | 176,793.29                   | 0.00                               | 0.00                               | 176,793.29                         |
| 081 Home Program                             | 7,804.40                       | 26,506.35                    | 1,240.57                           | 667.24                             | 27,079.68                          |
| 085 Firefighters Assistance Grant            | 77.08                          | 77.08                        | 0.00                               | 0.00                               | 77.08                              |
| 088 SBA Riverfront Project Donation Account  | 9.18                           | 9.18                         | 0.00                               | 0.00                               | 9.18                               |
| 088 SBA Riverfront Project Grant Account     | 10,167.71                      | 10,167.71                    | 0.00                               | 0.00                               | 10,167.71                          |
| 094 Byrne Justice                            | 0.00                           | 0.00                         | 114,750.00                         | 114,750.00                         | 0.00                               |
| 095 Police Grants                            | 112,046.36                     | 209,822.60                   | 15,428.82                          | 184,655.60                         | 40,595.82                          |
| 096 Historic Preservation                    | 2,601.00                       | 2,601.00                     | 0.00                               | 0.00                               | 2,601.00                           |
| 099 Public Arts Grant                        | 166,160.00                     | 146,264.34                   | 0.00                               | 0.00                               | 146,264.34                         |
| 100 Sinking Fund                             | 4,001,253.20                   | 4,081,090.16                 | 8,089.91                           | 0.00                               | 4,089,180.07                       |
| 200 Infrastructure                           | 148,617.13                     | 151,702.90                   | 271.61                             | 0.00                               | 151,974.51                         |
| 207 South Side Recreation                    | 9,962.30                       | 0.00                         | 0.00                               | 0.00                               | 0.00                               |
| 214 Civic Center Capital Improvement         | 337,412.78                     | 368,040.05                   | 22,354.44                          | 0.00                               | 390,394.49                         |
| 215 Municipal Auditorium Capital Improvement | 138,811.98                     | 160,357.43                   | 387.11                             | 0.00                               | 160,744.54                         |
| 218 Soccer Fields                            | 3,080.92                       | 0.00                         | 0.00                               | 0.00                               | 0.00                               |
| 220 General Maintenance                      | 1,297,059.87                   | 2,213,149.04                 | 3,867.64                           | 73,237.40                          | 2,143,779.28                       |
| 221 City Service Fee Capital Project         | 4,445,776.31                   | 3,182,661.09                 | 5,085.58                           | 1,318,805.67                       | 1,868,941.00                       |
| 222 Facilities Maintenance                   | 2,025,091.89                   | 284,785.09                   | 502.51                             | 11,802.39                          | 273,485.21                         |
| 255 Ballpark Maintenance                     | 86,142.31                      | 55,466.60                    | 99.31                              | 0.00                               | 55,565.91                          |
| 402 Civic Center Revenue                     | 66,733.53                      | 269,078.80                   | 432,530.44                         | 601,351.35                         | 100,257.89                         |
| 406 Parking System Revenue                   | 3,958,288.60                   | 4,377,414.79                 | 271,233.13                         | 105,596.06                         | 4,543,051.86                       |
| 426 Parking Operation and Maintenance        | 1,604,366.40                   | 1,765,168.01                 | 3,160.38                           | 0.00                               | 1,768,328.39                       |
| 427 Civic Center TIF Project                 | 1,406,438.69                   | 32,226.92                    | 13,364.48                          | 38,151.45                          | 7,439.95                           |
| 900 M - DENT                                 | 520,309.95                     | 774,925.65                   | 25,356.41                          | 82,175.67                          | 718,106.39                         |
| 901 Pending Forfeiture                       | 2,151,302.30                   | 890,373.20                   | 114,884.29                         | 42,330.71                          | 962,926.78                         |
| Working Cash Advance Fund                    | 37,460.00                      | 32,925.00                    | 0.00                               | 0.00                               | 32,925.00                          |
| Total All Funds                              | 56,317,804.56                  | 62,587,355.42                | 8,844,047.58                       | 10,717,808.77                      | 60,713,594.23                      |

**Bill No. 7834**

**Introduced in Council:**

**September 16, 2019**

**Introduced by:**

**Joseph Jenkins**

**Adopted by Council:**

**Referred to:**

**Finance**

**Bill No. 7834** - A BILL to amend and reenact Sections 110-33, 110-114 and 110-115 of the Municipal Code of the City of Charleston, as amended, all relating to updating the tax hearing procedure and appeal process; clarifying language regarding refunds and credits; requiring the use of a neutral hearing examiner; and clarifying appeal times and processes.

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

That Sections 110-33, 110-114 and 110-115 of the Municipal Code of the City of Charleston, as amended, are hereby amended and reenacted to read as follows:

**Sec. 110-33. - Refunds and credits.**

(a) Any taxpayer claiming to have overpaid any tax, interest or penalty imposed by this article shall file his claim with the city collector, with a copy to the city attorney, within three years after the due date of the return ~~determined by including any written authorized extension of time for filing~~, in respect of which the tax was imposed ~~or within two years from the date the tax was paid, whichever of such periods expires the later, or if no return was filed by the taxpayer, within two years from the time the tax was paid~~, and not thereafter. Notwithstanding such period of limitation, the taxpayer may file a claim for refund within ninety days after a final determination by the state tax department of an overpayment in the taxpayers state business and occupation tax liability.

(b) If, on such petition and the proofs filed in support thereof, the city collector shall be of the opinion that the tax, interest or penalty, or any part thereof, was overpaid, ~~he the city collector~~ shall refund the same to the taxpayer. If the city collector shall be in doubt as to whether or not there exists an overpayment, ~~he the city collector may institute against the taxpayer a declaratory judgment proceeding in the circuit court of the county to ascertain whether or not there exists an overpayment of tax, interest or penalty, or any part thereof shall consult with the finance director and city attorney to make a determination.~~ If the city collector is of the opinion that there exists no overpayment of tax, interest or penalty, or any part thereof, ~~he the city collector~~ shall notify the taxpayer.

(c) Taxpayer's failure to abide by express procedures contained in this section

precludes taxpayer's claim for refund or credit.

**Sec. 110-114. - Hearing procedure; administrative decision.**

(a) When a petition for reassessment or refund or credit as provided for in sections ~~10-113 and 110-33~~, 110-112, or 110-113 is filed within the time prescribed for such filing, the city collector shall assign a time and a place for a ~~an~~ administrative hearing thereon and shall notify the petitioner and the City Attorney of such hearing by written notice at least ~~twenty~~ sixty days in advance thereof. Such hearing shall be held within ninety days from the date of filing the petition, unless continued by written agreement of the parties or in writing by the city collector or hearing examiner designated by the city collector for sufficient cause. With respect to all petitions filed after the effective date of the 2019 amendments to this section, a hearing may not be continued more than one year from the filing of the petition without reasonable cause placed on the record.

(b) The hearing shall be informal and shall be conducted in an impartial manner by ~~the city collector or~~ a hearing examiner designated by the city collector. Any designated hearing examiner shall be a licensed attorney with experience in administrative law or tax law, or with experience as a judge, including the sitting municipal judge, who does not have a conflict of interest with respect to the taxpayer. If the city collector desires to designate the municipal judge as the hearing examiner, the city collector shall confirm that the municipal judge is able to meet the time requirements contained in this section as part of, and without detriment to, the other ongoing duties of the municipal judge and without additional compensation. The burden of proof shall be upon the taxpayer to show that the assessment or denial of a refund or credit is incorrect and contrary to law, in whole or in part. The hearing examiner is not bound by the rules of evidence as applied in civil cases in the circuit courts of this State. The hearing examiner may admit and give probative effect to evidence of a type commonly relied upon by a reasonably prudent person in the conduct of his or her affairs. All testimony shall be given under oath. All hearings shall be recorded by means acceptable for use in courts of this State. All parties shall receive notice that the hearing will be recorded and that each is entitled to receive a copy of the recording at cost. A copy of the exhibits made part of the record shall be available to any party upon request and payment of a reasonable fee.

(c) After such ~~the administrative~~ hearing, ~~the city collector shall~~ hearing examiner may request that proposed findings of fact and conclusions of law from the parties be submitted within thirty days and shall, within a reasonable time, give notice in writing of his or her decision. The decision shall be made no later than six months after the administrative hearing unless extraordinary circumstances exist, in which case the Final Order shall disclose such extraordinary circumstances. The Final Order shall include notice of the right to appeal, as stated in section 110-115, and the bonding requirements for such an appeal.

**Sec. 110-115. - Appeals to circuit court.**

(a) An appeal may be taken by the taxpayer or the City to the Circuit Court of Kanawha County within thirty ~~30 days after service of the city collector's~~ of entry of the

82 hearing examiner's decision.

83 (b) The appeal shall be taken by the filing of a petition and notice with the Circuit  
84 Court of Kanawha County, a copy of which petition and notice shall be serviced upon or  
85 accepted by the city collector as an original notice served upon the city collector and the  
86 opposing party's counsel, or directly to the opposing party if not represented by  
87 counsel. When the petition and notice is so served it shall, with the return or  
88 acceptance thereon, be filed in the office of the clerk of the circuit court and The appeal  
89 will be docketed at the circuit court in a similar manner as other cases administrative  
90 appeals, with the taxpayer as plaintiff appealing party listed as petitioner and the city  
91 collector as defendant other party listed as respondent. The petition for appeal shall  
92 state whether the appeal is taken on questions of law or questions of fact, or both, and  
93 set forth with particularity the items of the hearing examiner's decision objected to,  
94 together with the reasons for the objections. The filing of the appeal shall not stay the  
95 collection of the tax decision of the hearing examiner. The collection of the tax decision  
96 of the hearing examiner shall be stayed if the plaintiff taxpayer shall file with such the  
97 clerk of the circuit court a bond for the use of the defendant City, with sureties approved  
98 by the clerk, the penalty of the bond amount to be not less than the total amount of the  
99 tax, interest and penalties (to such date) appealed from, and conditioned that the  
100 plaintiff taxpayer shall perform the orders of the court; provided, that the judge of the  
101 circuit court may stay the collection of the tax decision of the hearing examiner without  
102 the requirement of a bond, upon a proper showing by the taxpayer that the properties of  
103 the taxpayer are sufficient to secure performance of the court's orders or that the ends  
104 of justice will be served thereby. Upon receipt, the city collector shall forward a  
105 complete copy of the record, including the Final Order, transcripts/recording of the  
106 hearing, papers, motions, documents, exhibits, evidence and records as were before  
107 the hearing examiner or supplemented prior to the decision, to the Circuit Court, the  
108 City Attorney, and the taxpayer, in a manner consistent with Rule 4 of the West Virginia  
109 Rules of Procedure for Administrative Appeals.

110 (c) The circuit court shall hear the appeal and determine anew all questions  
111 submitted to it on appeal from the determination of the city collector hearing examiner  
112 pursuant to West Virginia Code § 29A-5-4. In such appeal a certified copy of the city  
113 collector's assessment shall be admissible and shall constitute prima facie evidence of  
114 the tax due under the provisions of this article. The court shall render its decree  
115 thereon, and a certified copy of the decree shall be filed by the clerk of the court with  
116 the hearing examiner and the city collector, who shall then correct the assessment in  
117 accordance with such decree. Either party may appeal to the Supreme Court of  
118 Appeals as provided in West Virginia Code § 29A-6-1.

119 (d) Unless an appeal is taken pursuant to this section within thirty 30 days after  
120 service of entry of the administrative decision, the city collector's hearing examiner's  
121 decision shall become final and conclusive and not subject to administrative or judicial  
122 review. The amount, if any, due the city under such decision shall be due and payable  
123 on the day following the date upon which such decision becomes final and any decision  
124 requiring the city to make changes shall be promptly addressed by correcting the  
125 assessment, issuing a requisition, or establishing a credit for the amount of an  
126 overpayment, as the case may be, on the day following the date upon which the  
127 decision becomes final.



**Bill No. 7835**

**Introduced in Council:**

**September 16, 2019**

**Introduced by:**

**Keeley Steele**

**Adopted by Council:**

**Referred to:**

**Public Safety**

**Bill No. 7835** - A BILL to amend and reenact Sections 50-34 and 50-36 of the Code of the City of Charleston, as amended, all relating to clarifying the process by which the Charleston Police Department may address houses where illegal activity is ongoing; updating notice requirements; defining terms; and clarifying certain warrant requirements related to inspections.

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

That Sections 50-34 and 50-36 of the Code of the City of Charleston, as amended, are hereby amended and reenacted to read as follows:

**Sec. 50-34. - Additional nuisances; penalties.**

(a) No owner or operator of any property shall knowingly allow on the property or permit the use of the property for any illegal activity. Conduct prohibited by this shall constitute a nuisance. Each day such activity exists conduct prohibited by this section continues shall constitute a separate offense.

(b) Any owner or operator who shall violate the provisions of subsection (a) shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than ~~\$500.00~~ \$1,000.00 ~~or by confinement in jail not more than 30 days~~ for each offense. An owner or operator of a property who receives notice by certified mail from the Charleston Police Department of illegal activity on the property shall take action to terminate the illegal activity within thirty (30) days after receiving notice by certified mail by the Charleston Police Department. If the owner or operator fails to terminate the illegal activity within thirty (30) days after the notice then he or she shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than \$1,000.00 for each offense.

~~(c) Any owner who is not the operator of the property upon which illegal activity is taking place or which is being used for illegal activity who fails to take action to terminate the illegal activity for a period of 30 days after notice by the chief of police or his designated representative shall be subject to a civil fine of \$500.00 for each day the illegal activity takes place after expiration of such 30-day period, The conduct prohibited by subsection (b) of this section is subject to the following:~~

36  
37 (1) ~~The chief of police or his designated representative~~ Charleston Police  
38 Department shall first provide a notice by certified mail to the ~~tenant in~~ owner and/or  
39 operator of the property that illegal activity is being conducted and that the ~~tenant will be~~  
40 ~~subject to eviction if any such activity is not corrected within a period of 15 days, a copy~~  
41 ~~of which notice shall be provided to the owner of the property and payer of rent~~ owner  
42 and/or operator of the property are subject to the provisions of this article if not  
43 corrected, and the property could potentially be subject to forfeiture if applicable by  
44 state and federal laws.

45  
46 (2) Any notice to the owner of the property under this section shall also be  
47 served on the tenant by regular mail.

48  
49 (3) A letter to the owner of the property shall describe in specific detail the facts  
50 forming the basis for the allegation of the illegal activity and the specific illegal activity  
51 occurring. The letter to the owner shall inform the owner that the illegal activity  
52 constitutes a nuisance and that the owner has a duty to take all action reasonably  
53 expected to abate the nuisance.

54  
55 (4) If the owner properly notifies the Charleston Police Department, then the  
56 chief of police or his a designated representative shall appear at any hearing on eviction  
57 action or other legal action taken by the owner of the property pursuant to this section  
58 and produce witnesses and other evidence detailing the illegal activity of the tenant.

59  
60 (5) It shall be an absolute defense for the owner of property for charges under  
61 this section if such owner initiates legal activity to evict the tenant pursuant to this  
62 section, regardless of the ultimate ruling or outcome of the case in court.

63  
64 (6) ~~An owner of property shall have the absolute right to evict any tenant of~~  
65 ~~property upon receipt of the 30-day notice letter from the chief of police or his~~  
66 ~~designated representative.~~

67  
68 (d) For purposes of this section the following definitions shall apply:

69  
70 (1) "Operator" means any person, whether an owner, tenant, possessor or any  
71 agent, partner, officer or employee, in possession and control of property.

72  
73 (2) "Property" means any business, establishment, building, vehicle, home,  
74 structure or other property, together with the land surrounding property.

75  
76 (3) "Illegal Activity" means an act harmful not only to an individual but also to a  
77 community, society or state, which is forbidden and punishable by law.

78  
79 **Sec. 50-36. - Inspections, investigations and complaints.**

80 It shall be the duty of the building and housing commissioner, chief of police,  
81 chief of the bureau of fire prevention in the fire department, city engineer, city manager,

82 ~~health commissioner~~ and such other city officers as may be subject to the orders of the  
83 city manager and designated by him for such purpose to make inspections and  
84 investigations, or to cause inspections and investigations to be made, from time to time  
85 to determine whether any condition exists or any activity is being engaged in which  
86 constitutes a nuisance; and any such officer shall make or cause to be made an  
87 inspection and investigation upon complaint being made by any responsible person.  
88 Any inspection of investigation that encroaches upon the curtilage of the real property  
89 not owned or maintained by the City, absent exigent circumstances, must be made  
90 pursuant to a valid warrant or consent. For the purpose of this section, "curtilage"  
91 means an area of land attached to a house and forming one enclosure with it.