



CITY OF CHARLESTON West Virginia

Council Member – 10th WARD



Keeley Steele
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Public Safety Committee, Chair
Ordinance and Rules Committee
Finance Committee
Parking Committee

TO: Public Safety Committee
FROM: Keeley Steele, Chair
RE: Committee Meeting

There will be a Committee meeting of Public Safety on **October 16, 2019 at 5:35 PM** in the A/V Conference Room, City Hall, Room 308.

The agenda will be as follows:

*This meeting will immediately follow the Ordinance and Rules Meeting

APPROVAL OF PREVIOUS MINUTES

1. 10-7-2019

RESOLUTIONS

1. Resolution No. 251-19 - Authorizing the Charleston Police Department to enter into a Memorandum of Understanding with the United States Marshals Service for the Violent Offender Task Force

BILLS

1. Bill No. 7835 Committee Substitute - A BILL to amend the Code of the City of Charleston 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.

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

KS/ns

MINUTES

PUBLIC SAFETY COMMITTEE MEETING

5:15 P. M., OCTOBER 7, 2019

A/V CONFERENCE ROOM

Keeley Steele, Chairperson, called the meeting of the Charleston City Council Committee on Public Safety to order at 5:15p.m., OCTOBER 7, 2019, in the Audio/Visual Room in City Hall.

Committee Members Present:

Keeley Steele, Chair
Chuck Overstreet, Vice Chair (arrived 5:28)
Naomi Bays
Brady Campbell (arrived 5:22)
Becky Ceperley
Joseph Jenkins
Robert Sheets (arrived 5:38)

1. Councilmember Ceperley moved to approve the minutes of the previous meeting on 6-3-2019. Councilmember Bays seconded. There was no objection and the minutes were approved.

2. Bill No. 7835

City Attorney, Kevin Baker, explained that the bill updates current City Code with respect to illegal conduct that happens on a person's property. It will clarify that an owner of a property who knows that illegal activity is happening on their property could be held liable. It creates and amends offenses that are punishable by a fine. They are required to rectify the offense within 30 days of given notice. The bill clarifies that the City will need a warrant or consent to enter the property.

Councilmember Steele clarified with Baker that tenants and landlords are being notified at the same time, although the Police can informally speak to the landlord beforehand in an attempt to rectify the situation.

Councilmember Jenkins asked how the bill was based on federal law. Baker answered that it was modeled after forfeiture laws. Councilmember Jenkins asked if there was a reason why the illegal activity was defined in boarder terms. Baker explained that, by not creating lists, the City is not going to risk leaving something out.

Councilmember Jenkins stated that under Section 50-34 (b), the first sentence seemingly conflicts with the second sentence. Baker explained that the first sentence refers to subsection (a). Councilmember Jenkins stated that the language could be amended to clarify any ambiguity that exists.

Councilmember Jenkins additionally suggested that on line 88 the term “curtilage” should be removed, as it could potentially create a conflict, and instead use the term “real property.” Baker stated the he believed the language came from federal law, but would have to do further research as he did not draft that section of the bill.

Councilmember Campbell motioned to Lay Over the bill until the next Committee meeting. Councilmember Ceperley seconded. There was no objection.

3. Discussion- Replacing Retiring Police Officers

Deputy Chief, Paul Perdue, explained that there can be a total of 173 Charleston Police Officers, and there are currently 14 vacancies. They are actively recruiting using a variety of methods and testing at least twice a year. He cited that from over 300 pre-applications turned in, only 37 showed up to take the test (only 5 individuals actually qualified). This has been a trend for the City as well as nationally. They are implementing new strategies for recruiting (such as offering a bonus for pre-certified candidates). The Deputy Chief added that certain out-of-date policies (such as facial hair) have been changed. Councilmember Jenkins asked how the CPD salaries compared to competing agencies. The Deputy Chief answered that the City was comparable.

Chief, Opie Smith, added that in the near future, about 50 Police Officers could potentially retire. Councilmember Bays asked if there was anything that could be done to retain Officers to stay beyond their retirement qualifications. The Deputy Chief answered that that the recent cap put on sick leave was a detractor.

Councilmember Jenkins asked why so few of the initial applicants were showing up to take the test. The Deputy Chief and Chief cited a few factors such as: applicants not ready for the commitment, negative media publicity, etc.

4. Discussion – Sharing Crime Data Collected by The Police Department

Councilmember Jenkins asked if there was a way for Councilmembers to get crime reports specific to their Wards. The CPD Records Officer, Randy Sampson, sends a report to the news media and could include them in his email. They would not, however, exactly match up to the Ward boundaries.

Councilmember motioned to adjourn the meeting. Meeting adjourned.

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:~~

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

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

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

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

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

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

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

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

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

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

Sec. 50-36. - Inspections, investigations and complaints.

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

Resolution No. 251-19

Introduced in Council:

October 21, 2019

Introduced by:

Keeley Steele

Adopted by Council:

Referred to:

Public Safety

Resolution No. 251-19 – “Authorizing the Chief of Police to enter into a Memorandum of Understanding with the United States Marshall Service to create a Violent Offender Task Force, pursuant to 28 U.S.C. § 566, to investigate and arrest persons who have active state and federal warrants for their arrest, thereby improving public safety and reducing violent crime.”

Now, therefore, be it Resolved by the Council of the City of Charleston, West Virginia:

That the Chief of Police is hereby authorized to enter into a Memorandum of Understanding with the United States Marshall Service to create a Violent Offender Task Force, pursuant to 28 U.S.C. § 566, to investigate and arrest persons who have active state and federal warrants for their arrest, thereby improving public safety and reducing violent crime.

Committee Substitute for Bill No. 7835

Introduced in Council:

September 16, 2019

Introduced by:

Keeley Steele, Becky Ceperley, Pat Jones,
Bobby Reishman, Shannon Snodgrass,
Jeanine Faegre and Brent Burton

Adopted by Council:

Referred to:

Public Safety

Committee Substitute for 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; ~~and~~ 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) ~~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~~

34 illegal activity within thirty (30) days after the notice then he or she shall be guilty of a
35 misdemeanor and, upon conviction thereof, shall be punished by a fine of not more
36 than \$1,000.00 for each offense. Any owner who is not the operator of the property
37 upon which illegal activity is taking place or which is being used for illegal activity who
38 fails to take action to terminate the illegal activity for a period of 30 days after notice by
39 the chief of police or his designated representative shall be subject to a civil fine of
40 \$500.00 for each day the illegal activity takes place after expiration of such 30-day
41 period. The conduct prohibited by this subsection ~~(b) of this section~~ is subject to the
42 following:

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

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

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56 (3) A letter to the owner of the property shall describe in specific detail the facts
57 forming the basis for the allegation of the illegal activity and the specific illegal activity
58 occurring. The letter to the owner shall inform the owner that the illegal activity
59 constitutes a nuisance and that the owner has a duty to take all action reasonably
60 expected to abate the nuisance.

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

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

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

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

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

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

82
83 (3) "Illegal Activity" means an act harmful not only to an individual but also to a
84 community, society or state, which is forbidden and punishable by law.

85
86 **~~Sec. 50-36. -- Inspections, investigations and complaints.~~**

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