

CHARLESTON CITY COUNCIL

Regular Meeting

November 2, 2020

at 7:00 PM



UNTIL FURTHER NOTICE, COUNCIL MEETINGS WILL BE MADE AVAILABLE TO THE PUBLIC VIA ZOOM AND CIVICCLERK

City Hall, 501 Virginia St. E.

Charleston, WV

AGENDA

***Join via internet:**

<https://us02web.zoom.us/j/82464268362?pwd=dVBjeVJlaE42cmJ6Mzk4d3hUSHNmdz09>

Passcode: 134148

***Join via Telephone: (312) 626-6799 or (929) 436-2866**

Webinar ID: 824 6426 8362

***Join via CivicClerk: <https://charlestonwv.civicclerk.com>**

CALL TO ORDER BY THE MAYOR

INVOCATION AND PLEDGE OF ALLEGIANCE

ROLL CALL

PUBLIC SPEAKERS AND CLAIMS

1. **INTERESTED PUBLIC SPEAKERS MUST REGISTER WITH THE CLERK'S OFFICE VIA PHONE ON NOVEMBER 2, 2020 FROM 3:00-6:00 P.M. FIVE (5) SPEAKERS WILL BE PERMITTED (RULE NO. 22 (B)). 304-348-8179.**

PROCLAMATIONS

1. 11-2-2020

COMMUNICATIONS

1. 11-2-2020

REPORTS OF STANDING COMMITTEES

PLANNING, STREETS AND TRAFFIC

1. Bill No. 7884 - A Bill amending the Zoning Ordinance of the City of Charleston by rezoning to a C-10 district, that certain strip, lots or parcels of land located at 3050 Chesterfield Avenue, owned by Charleston Area Medical Center, Inc.
2. Bill No. 7885 Committee Substitute - A Bill amending the Zoning Ordinance of the City of Charleston by rezoning to a C-10 district, that certain strip, lots or parcels of land located at 1625 7th Avenue, currently or formerly owned by Mountain Mission Inc.

FINANCE

1. Resolution No. 391-20 - Authorizing "Citizen Appreciation Parking" for November 14th, November 21st, November 28th, December 5th, December 12th, December 19th, December 26th, 2020, and January 2nd, 2021
2. Resolution No. 392-20 - Purchase of 24 sets of bunker gear for the Charleston Fire Department to be used for structural firefighting
3. Resolution No. 393-20 - Authorizing approval of Amendment No. 5 in the FY 2020-2021 General Fund Budget

REPORTS OF OFFICERS

1. 11-2-2020

NEW BILLS

1. 11-2-2020

UNFINISHED BUSINESS AND/OR MISCELLANEOUS BUSINESS

ROLL CALL

ADJOURNMENT

THE NEXT REGULAR MEETING OF COUNCIL WILL BE HELD NOVEMBER 16, 2020 AT 7:00 P.M.

**EXECUTIVE DEPARTMENT
CITY OF CHARLESTON
PROCLAMATION**

WHEREAS: It has long been our custom to commemorate November 11, the anniversary of the ending of World War I, by paying tribute to the heroes of that tragic struggle and by rededicating ourselves to the cause of peace; and

WHEREAS: In the intervening years the United States has been involved in other great military conflicts, which have added millions of veterans living and dead to the honor rolls of this Nation; and

WHEREAS: Congress passed a resolution on June 4, 1928, calling for the observance of November 11 with appropriate ceremonies, and later provided in an act approved May 13, 1938, that the eleventh of November should be a legal holiday and should be known as Armistice Day; and

WHEREAS: In order that a grateful nation might pay appropriate homage to the veterans of all its wars who have contributed so much to the preservation of this Nation, the Congress, by an act approved June 1, 1954, changed the name of the holiday to Veterans Day; and

WHEREAS: The City of Charleston has among its citizens those who have served in the United States Armed Forces; and

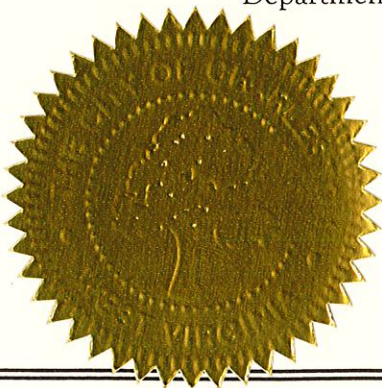
WHEREAS: We pay tribute to those who have sacrificed to serve and defend this Nation and are reminded that we are forever indebted to Veterans for their courageous service.

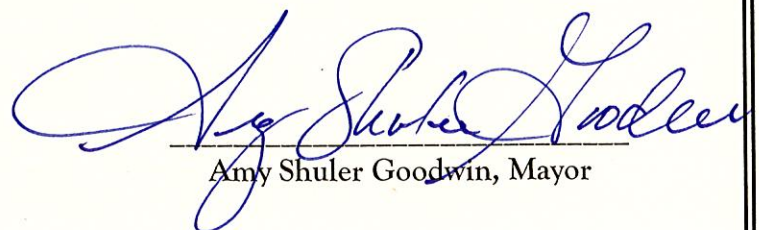
NOW THEREFORE, I, Amy Shuler Goodwin, Mayor of the City of Charleston, do hereby proclaim November 11, 2020, as

VETERANS DAY

in Charleston, West Virginia and encourage all citizens to recognize the sacrifices of our Veterans and their families during wartime and peace.

IN WITNESS WHEREOF, I have set my hand and caused the Seal of the Executive Department to be affixed this 2nd day of October 2020.




Amy Shuler Goodwin, Mayor



**TO: MILES CARY
CITY CLERK**

**FROM: AMY SHULER GOODWIN
MAYOR** 

RE: SELECT COMMITTEE ON CABLE FRANCHISE

DATE: NOVEMBER 2, 2020

In order to thoroughly review the City of Charleston's Cable Franchise Agreement with Altice/Suddenlink, I hereby create the Select Committee on Cable Franchise to review the current Franchise Agreement, engage the public in a community needs assessment, and recommend appropriate actions to take moving forward for the City of Charleston regarding the next Cable Franchise Agreement.

I appoint the following Council Members to the Select Committee on Cable Franchise: Councilman Ben Adams, as chair, Councilwoman Jennifer Pharr, Councilman Courtney Persinger, Councilman Chad Robinson, Councilwoman Caitlin Cook, Councilman Sam Minardi, and Councilman Bobby Reishman.

ASG/kmb



PLANNING, STREETS AND TRAFFIC COMMITTEE

Mary Beth Hoover, Chair

COMMITTEE REPORT

To: Miles Carey, City Clerk

From: Council's Committee on Planning, Streets and Traffic

Date: October 26, 2020

Subject: Bill No. 7884

The Committee on Planning, Streets, and Traffic had under consideration Bill #7884 attached hereto and made a part thereof.

Your Committee finds:

1. The rezoning is consistent with the future land use map which designates this property as "Convenience Commercial".
2. Rezoning will support the current and future anticipated use of the property and bring the property into alignment with the development pattern in the area.

and reports the same to Council with the recommendation that the Bill do pass.

Mary Beth Hoover – VIA Zoom

Chair

Naomi Bays – VIA Zoom

Becky Ceperley – VIA Zoom

Will Laird – VIA Zoom

Adam Knauff – VIA Zoom

Chad Robinson – VIA Zoom

Sam Minardi – VIA Zoom

Bill No. 7884

Introduced in Council

Passed by Council

October 5, 2020

Introduced By

Referred To

Bobby Reishman

Municipal Planning Commission

Signature of Council member

Planning Streets, and Traffic Committee

1 A Bill amending the Zoning Ordinance of the City of Charleston, West Virginia, enacted the 21st
2 day of November, 2005, as amended, and the map made a part thereof, by rezoning from a I-2
3 district to a C-10 district, that certain strip, lots or parcels of land located at 3050 Chesterfield
4 Avenue at the corner of 31st Street and Chesterfield Avenue, in Kanawha City, in the City of
5 Charleston, Kanawha County, State of West Virginia, owned by Charleston Area Medical Center,
6 Inc., a West Virginia nonprofit, nonstock corporation.

8 BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CHARLESTON, WEST VIRGINIA THAT:

10 1. The Zoning Ordinance of the City of Charleston, West Virginia, enacted the 21st
11 day of November, 2005, as amended, is hereby amended by rezoning from a I-2 district to a C-
12 10 district the whole of the following described strip, lots or parcels of land:

14 All of that certain lot or parcel of land, together with the improvements thereon and the
15 appurtenances thereunto belonging, situate in Kanawha City, in the City of Charleston, Kanawha
16 County, West Virginia, on the south side of the Chesapeake and Ohio Railway Company right of
17 way, west of Mission Hollow and being more particularly bounded and described as follows:

19 BEGINNING at an iron pin on the north side of Chesterfield Avenue (formerly
20 Giles-Fayette Kanawha Turnpike) at the easterly front corner of a tract of land
21 owned by Kuhn Construction Company, Inc.; thence leaving Chesterfield Avenue
22 and with the easterly line of said Kuhn Construction Company, Inc., N 22° 45' E
23 245.81 feet to an iron pin set in concrete in the southerly boundary line of the right
24 of way of The Chesapeake and Ohio Railway Company; thence with said right of
25 way line S 69° 56' E passing the northern corner of a parcel conveyed to The Royal
26 Crown Bottling Company of Charleston, West Virginia, by Banks-Miller Supply
27 Company, by deed dated September 19, 1963, and of record in the Office of the
28 Clerk of the County Commission of Kanawha County, West Virginia, in Deed Book
29 1393, at page 197, at 200 feet in all 316.81 feet to a point in the westerly line of a
30 parcel of 5,340 square feet conveyed by the said Banks-Miller Supply Company to
31 the State Road Commission of West Virginia, by deed dated June 28, 1963, and
32 of record in said Clerk's Office in Deed Book 1391, at page 555 which is now the
33 westerly right of way line of 31st Street; thence with said westerly right of way line
34 S 20° 4' W 219.5 feet to a State Road Commission monument; thence with the
35 northerly right of way line of Chesterfield Avenue and passing the southwestern
36 corner of the aforementioned tract acquired from Banks-Miller Supply Company at
37 127.85 feet, in all 329.35 feet to the place of beginning, containing in all 74,926
38 square feet, more or less. The property hereby insured is shown on a survey
39 thereof dated September 24, 1976, entitled, "No. 3044 Chesterfield Avenue, Being
40 Part of the C & O Property As Originally Sold by C. B. Early, Trustee, in the City of

41 Charleston, Kanawha County, W. Va. Property of ROYAL CROWN BOTTLING
42 COMPANY OF CHARLESTON, WEST VIRGINIA.”
43

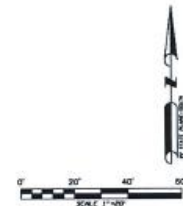
44 Being Tax Parcels 123 and 124 as shown on Kanawha City Tax Map No. 19. Said
45 tax map is of record in, and used as zoning map sectionals by, the City Planning
46 Office.
47

48 2. The Zoning Map, attached to and made a part of said Zoning Ordinance, is hereby
49 amended in accordance with Section 1 of this Ordinance.
50

51 3. All prior ordinances, or parts of ordinances, inconsistent with this Ordinance, are
52 hereby repealed to the extent of said inconsistency.
53

54
55
56
57 13324237
58

Page | 8 of



THESE SYMBOLS AND LINES MAY
BE FOUND IN THE DRAWING.

THESE SYMBOLS AND LINES MAY
BE FOUND IN THE DRAWING.

- [illegible]

UTILITY LOCATIONS SHOWN ARE A COMPILATION OF FIELD VERIFICATION, & UTILITY COMPANY LOCATION REVIEW SPECIFIC CONSTRUCTION AREA WITH UTILITY COMPANIES BEFORE CONSTRUCTION. UTILITIES MAY EXIST THAT ARE NOT SHOWN ON THIS DRAWING AND LOCATIONS SHOWN MAY VARY GREATLY FROM ACTUAL LOCATION.

UTILITY LOCATIONS SHOWN ARE A COMPILATION OF FIELD VERIFICATION, & UTILITY COMPANY LOCATION REVIEW SPECIFIC CONSTRUCTION AREA WITH UTILITY COMPANIES BEFORE CONSTRUCTION. UTILITIES MAY EXIST THAT ARE NOT SHOWN ON THIS DRAWING AND LOCATIONS SHOWN MAY VARY GREATLY FROM ACTUAL LOCATION.

COORDINATES: <https://www.google.com/maps/@33.4482222,-112.0740278,15z>

COORDINATES: <https://www.google.com/maps/@33.4482222,-112.0740278,15z>

ARTICLE 10.

ARTICLE 10.

LIMITATIONS OF SAMPLE

LIMITATIONS OF SAMPLE

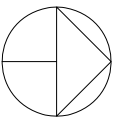
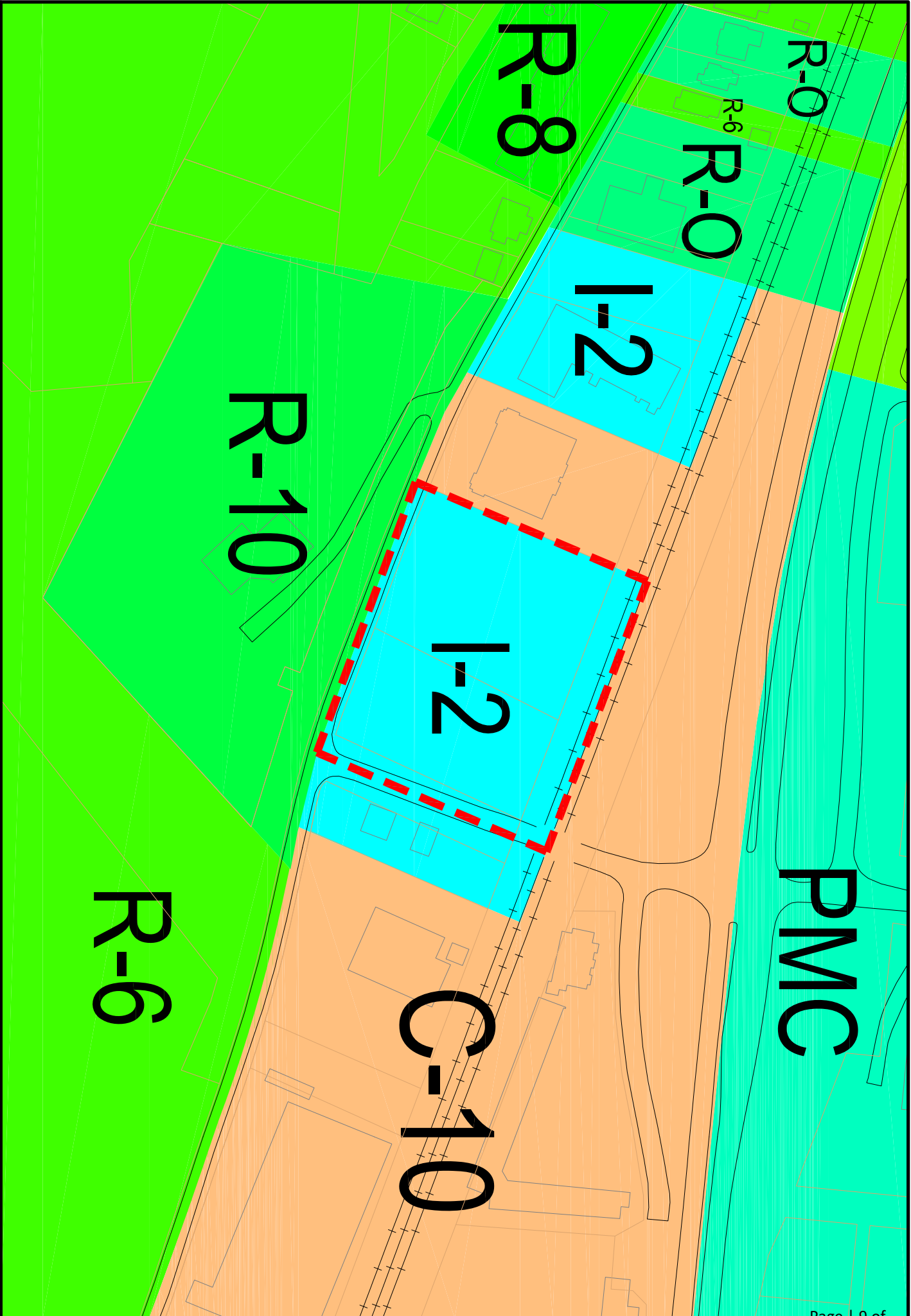
LEGAL RIGHTS OF WAY, EASEMENTS, AND RESTRICTIONS OF RIGHTS

LEGAL RIGHTS OF WAY, EASEMENTS, AND RESTRICTIONS OF RIGHTS

OF THE PROPERTY OWNER

OF THE PROPERTY OWNER

PROJECT #
2106062



REZONING FROM I-2 TO C-10

STAFF
EXHIBIT



PLANNING, STREETS AND TRAFFIC COMMITTEE

Mary Beth Hoover, Chair

COMMITTEE REPORT

To: Miles Carey, City Clerk

From: Council's Committee on Planning, Streets and Traffic

Date: October 26, 2020

Subject: Bill No. 7885

The Committee on Planning, Streets, and Traffic had under consideration Bill #7885 attached hereto and made a part thereof.

The Committee finds:

1. The rezoning is consistent with the future land use map which designates this property as "Mixed Use Corridor".
2. Rezoning will remove the presence of two zoning districts on the site making reuse and redevelopment easier.
3. Stemming population loss through the development of new, affordable housing will foster vitality in a core neighborhood of Charleston.

and reports the same to Council with the recommendation that the Bill do pass as a committee substitute.

Mary Beth Hoover – VIA Zoom
Chair

Naomi Bays – VIA Zoom
Becky Ceperley – VIA Zoom
Will Laird – VIA Zoom
Adam Knauff – VIA Zoom
Chad Robinson – VIA Zoom
Sam Minardi – VIA Zoom

Bill No. 7885 Committee Substitute

Introduced in Council

Passed by Council

October 5, 2020

Introduced by

Referred to

Mary Beth Hoover

**Municipal Planning Commission
Planning, Streets, and Traffic**

Bill No. 7885 Committee Substitute - A Bill amending the Zoning Ordinance of the City of Charleston, West Virginia, enacted the 21st day of November, 2005, as amended, and the map made a part thereof, by rezoning from a C-8 district to a C-10 district, that certain strip, lots or parcels of land located at 1625 7th Avenue, ~~Kanawha City~~, in the City of Charleston, Kanawha County, State of West Virginia, currently or formerly owned by Mountain Mission Inc., a West Virginia nonprofit corporation.

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

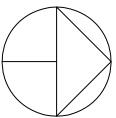
1. The Zoning Ordinance of the City of Charleston, West Virginia, enacted the 21st day of November, 2005, as amended, is hereby amended by rezoning from a C-8 district to a C-10 district the whole of the following described strip, lots or parcels of land:

All of that certain lot or parcel of land, together with the improvements thereon and the appurtenances thereunto belonging, ~~situate in Kanawha City~~, in the City of Charleston, Kanawha County, West Virginia, on the south side of 1600-block of 7th Avenue, west of Mission Hollow and being more particularly shown on the attached EXHIBIT A and described as:

Being Tax Parcels 288, 290-293, 298, 299, 301, & 302, Charleston, West Virginia.as shown on Charleston West District 12, Tax Map No. 10. Said tax map is of record in, and used as zoning map sectionals by, the City Planning Office.

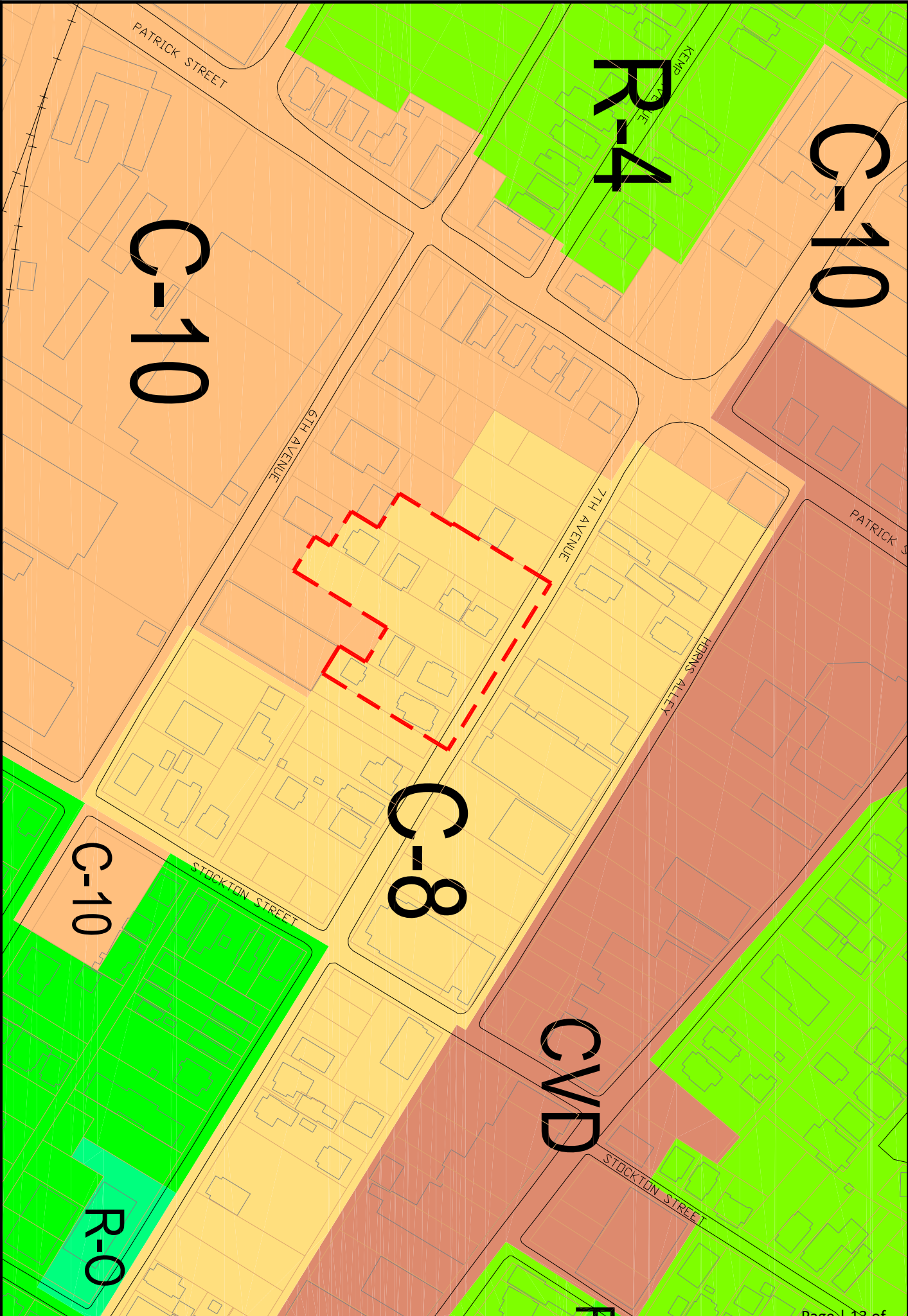
2. The Zoning Map, attached to and made a part of said Zoning Ordinance, is hereby amended in accordance with Section 1 of this Ordinance.

3. All prior ordinances, or parts of ordinances, inconsistent with this Ordinance, are hereby repealed to the extent of said inconsistency.



REZONING FROM C-8 TO C-10

STAFF
EXHIBIT



Resolution No. 391-20

Introduced in Council

Passed by Council

November 2, 2020

Introduced by
Joseph Jenkins

Referred from
Finance Committee

1 Resolution No. 391-20 - Authorizing "Citizen Appreciation Parking" for November 14th,
2 November 21st, November 28th, December 5th, December 12th, December 19th,
3 December 26th, 2020, and January 2nd, 2021. "Citizen Appreciation Parking" shall include
4 the waiving of hourly parking fees at all metered on-street parking spaces. The parking
5 revenue losses will amount to approximately \$1,100 per Saturday if portions of Capitol
6 and Hale Street remain closed to vehicular traffic on these Saturdays or approximately
7 \$1,700 per Saturday if the parking meters on those blocks are available for use.

8

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

10

11 That "Citizen Appreciation Parking" is authorized for November 14th, November 21st,
12 November 28th, December 5th, December 12th, December 19th, December 26th, 2020,
13 and January 2nd, 2021. "Citizen Appreciation Parking" shall include the waiving of hourly
14 parking at all metered on-street parking spaces. The parking revenue losses will amount
15 to approximately \$1,100 per Saturday if portions of Capitol and Hale Street remain
16 closed to vehicular traffic on these Saturdays or approximately \$1,700 per Saturday if
17 the parking meters on those blocks are available for use.

Resolution No. 392-20

Introduced in Council

Passed by Council

November 2, 2020

Introduced by
Joseph Jenkins

Referred from
Finance Committee

1 Resolution No. 392-20 - Authorizing the Mayor or City Manager to purchase twenty-four
2 (24) sets of bunker gear for the Charleston Fire Department from Red Hot Fire
3 Equipment Co., in the amount of \$45,601.44. The gear, which includes jackets and
4 trousers, will be used for structural firefighting. The purchase price was determined
5 through a competitive bidding process, and the vendor was awarded the contract by
6 action of the City Council on March 2, 2020. The successful vendor agreed to hold its
7 prices firm for one year.

8

9 Now Therefore, Be It Resolved By The Council Of The City Of Charleston, West Virginia:

10

11 That, the Mayor or City Manager is authorized to purchase twenty-four (24) sets of
12 bunker gear for the Charleston Fire Department from Red Hot Fire Equipment Co., in the
13 amount of \$45,601.44. The purchase price was determined through a competitive
14 bidding process, and the vendor was awarded the contract by action of the City Council
15 on March 2, 2020. The successful vendor agreed to hold its prices firm for one year.

16

Resolution No. 393-20

Introduced in Council

Passed by Council

November 2, 2020

Introduced by
Joseph Jenkins

Referred from
Finance Committee

- 1 Resolution No. 393-20 - Authorizing approval of Amendment No. 5 of the FY 2020-2021
- 2 General Fund Budget as indicated on the attached list of accounts.
- 3
- 4 Now Therefore, Be It Resolved By The Council Of The City Of Charleston, West Virginia:
- 5
- 6 That Amendment No. 5 of the FY 2020-2021 General Fund Budget as indicated on the
- 7 attached list of accounts is approved.
- 8

General Fund FY 2020-2021 Budget Amendment No. 5 - November 2, 2020

Account No.	Department	Account Description	Amount
001 366 00 0000	Revenue	State Government Grants	(31,500)
001 299 0		Unassigned Fund Balance	(8,000)
001 412 00 000 1 103	City Manager	Salaries & Wages	19,500
001 412 00 000 2 223	City Manager	Professional Services	20,000

To rollover the balance and recognize the remaining activity for the DEP recycling grant.

001 368 12 0000	Revenue	Contributions - AARP	(15,000)
001 409 00 000 5 568	Mayor	Contributions to Other Entities	(10,000)
001 979 00 900 4 458	Capital Outlay - Park	Major Improvements	25,000

To receive a \$15,000 grant from AARP for an East End Dog Park and reallocate \$10,000 from the Mayor's Contributions to a dog park at Cato Park.

Reportable: To Maintain compliance with the budgetary guidelines of the State of West Virginia

Bill No. 7886

Introduced in Council

Passed by Council

November 2, 2020

Introduced by

Referred to

Mary Beth Hoover

Planning, Streets & Traffic Committee
Municipal Planning Commission

Bill No. 7886 - Amending the Zoning Ordinance of the City of Charleston, West Virginia, adopted January 1, 2006, as amended, by removing "Blade Signs", allowing "Projecting Signs" in commercial and industrial districts, and increasing wall sign area in the R-O residential Office zoning district.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CHARLESTON, WEST VIRGINIA

The Zoning Ordinance for the City of Charleston, West Virginia, effective January 1, 2006, is hereby amended as follows:

1) In Article 24: Signs

Section 24-050 Prohibited Signs

Delete subsection:

~~Q. Projecting signs, except where blade signs are specifically permitted.~~

2) In Article 24: Signs

Table 24-070-04.01 On-Premise Signs Permitted in Residential Districts

Amend the table as follows:

On-Premise Signs Permitted in Residential Districts (R-2, R-4, R-6, R-8, R-10, R-O, PUD)				
Type	Maximum Number	Maximum Area	Max. Height	Minimum Setback
Signs for Each Single-Family Dwelling, Duplex or Triplex				
Subdivision Signs	1 per subdivision entrance	18 sq ft	8 ft	5 ft from property line
Building Signplates	1 per dwelling unit	2 sq ft	NA	NA
Temporary Signs	2 per building	6 sq ft	4 ft	3 ft from property line
Instructional Signs	Exempt from regulations when in compliance with Sec. 22-070.04.			
Signs for Multi-Family Buildings				
Building Signplates	1 per public entrance	2 sq ft	NA	NA
Freestanding Signs	1 per development entrance	12 sq ft	8 ft	8 ft from property line
Temporary Signs	2 per building	6 sq ft	4 ft	3 ft from property line
Instructional Signs	Exempt from regulations when in compliance with Sec. 22-070.04.			
Signs for Non-residential Uses in R-2, R-4, R-6, R-8, R-10 and PUD				
Building Signplates	1 per public entrance	2 sq ft	NA	NA
Freestanding or Wall Signs	1 per street frontage	12 sq ft	8 ft	8 ft from property line
Temporary Signs	2 per building	6 sq ft	4 ft	3 ft from property line
Instructional Signs	Exempt from regulations when in compliance with Sec. 22-070.04.			
Signs for Non-residential Uses in an R-O				

Building Signplates	1 per public entrance	2 sq ft	NA	NA
Wall or Awning Signs	1 per building frontage	12 sq ft + .5 sq ft per linear ft of building frontage over 50 ft .75 sq ft per linear ft of building frontage	8 ft	NA
Freestanding Signs	1 per building	24 sq ft	8 ft	5 ft from property line
Temporary Signs	2 per building	32 sq ft	4 ft	3 ft from property line
Instructional Signs	Exempt from regulations when in compliance with Sec. 24-070.04.			

3) In Article 24: Signs

Sec. 24-080 On-Premise Signs Permitted in Commercial and Industrial Districts (C-4, C-8, C-10, C-12, CBD, CDV, UCD, PMC, I-2, I-4)

Add subsection:

Sec. 24-080-03 Supplemental Regulations for Projecting Signs in Commercial and Industrial Districts

A. Projecting signs shall project no more than four (4) feet from the façade of the structure or beyond the curb of any sidewalk, whichever is less.

B. Shall be at least nine (9) feet above ground level

C. Such signs may project over a public right-of-way but never into the vehicular travel lane or parking area of a public street.

D. Signs projecting into a city right of way are subject to review and approval by the City Engineer and may be subject to a right of way agreement.

Renumber subsections accordingly

4) In Article 24: Signs

Table 24-080.01 On-Premise Signs Permitted in Commercial and Industrial Districts

Amend the table as follows:

On-Premise Signs Permitted in Commercial and Industrial Districts (C-4, C-8, C-10, C-12, CBD, CVD, UCD, PMC, I-2 and I-4)				
Type	Maximum Number	Maximum Area	Max. Height	Minimum Setback
Signs Permitted in the C-4 District				
Building Signplates	1 per public entrance	2 sq ft	NA	NA
Shingle Signs	1 per public entrance	4 sq ft	NA	NA
Blade Sign	1per public street front entrance	6 sq.ft.	NA	NA
Wall, Awning, Canopy or Marquee Signs	No maximum	24 sq ft + .5 sq ft per linear ft of building frontage over 50 ft	NA	NA
Temporary Signs	1 per business	32 sq ft	4 ft	5 ft from property line
Instructional Signs	Exempt from regulations when in compliance with Sec. 24-080-04.			
Signs Permitted in the C-8, C-10, I-2, I-4 and PMC Districts				
Single Parcel Commercial Establishments				
Building Signplates	1 per public entrance	2 sq ft	NA	NA
Shingle Signs	1 per public entrance	4 sq ft	NA	NA
Blade Sign	1per public street front entrance	6 sq.ft.	NA	NA
Wall, Awning, Canopy, Projecting, or Marquee Signs	No maximum	1.5 sq ft per linear ft of building frontage	NA	NA
Freestanding Signs	1	50 sq ft	15 ft	5 ft from property line

Temporary Signs	2 per building	32 sq ft	4 ft	5 ft from property line
Instructional Signs	Exempt from regulations when in compliance with Sec. 24-080-04.			
Multi-tenant Commercial Establishments				
Building Signplates	1 per public entrance	2 sq ft	NA	NA
Shingle Signs	1 per public entrance	4 sq ft	NA	NA
Blade Sign	1 per public street front entrance	6 sq.ft.	NA	NA
Wall, Awning, Canopy, Projecting, or Marquee Signs	1 per building frontage	1.5 sq ft per linear ft of building frontage	NA	NA
Freestanding Signs	1 per lot	50 sq ft + .25 sq ft per linear ft of building frontage	20 ft. 15 ft	5 ft from property line
Temporary Signs	1 per business	32 sq ft	4 ft	5 ft from property line
Instructional Signs	Exempt from regulations when in compliance with Sec. 24-080-04.			
Signs Permitted in the C-12 District				
Single Parcel Commercial Establishments				
Building Signplates	1 per public entrance	2 sq ft	NA	NA
Shingle Signs	1 per public entrance	4 sq ft	NA	NA
Blade Sign	1 per public street front entrance	6 sq.ft.	NA	NA
Wall, Awning, Canopy, Projecting, or Marquee Signs	No maximum	1.5 sq ft per linear ft of building frontage	NA	NA
Freestanding Signs	1	80 sq ft	35 ft	5 ft from property line
Temporary Signs	2 per building	32 sq ft	4 ft	5 ft from property line
Instructional Signs	Exempt from regulations when in compliance with Sec. 24-080-04.			
Multi-tenant Commercial Establishments				
Building Signplates	1 per public entrance	2 sq ft	NA	NA
Shingle Signs	1 per public entrance	4 sq ft	NA	NA
Blade Sign	1 per public street front entrance	6 sq.ft.	NA	NA
Wall, Awning, Canopy, Projecting, or Marquee Signs	1 per building frontage	1.5 sq ft per linear ft of building frontage	NA	NA
Freestanding Signs	1 per lot	80 sq ft + .25 sq ft per linear ft of building frontage	40 ft	5 ft from property line
Temporary Signs	1 per business	32 sq ft	4 ft	5 ft from property line
Instructional Signs	Exempt from regulations when in compliance with Sec. 24-080-04.			
Signs Permitted in the CBD, CVD and UCD				
Building Signplates	1 per public entrance	2 sq ft	NA	NA
Blade Signs	1 per public street front entrance	6 sq ft	NA	NA
Wall, Awning, Canopy, Projecting, or Marquee Signs	1 per business per building frontage	1.5 sq ft per linear ft of building frontage*	NA	NA
Monument Signs	1 per building	32 sq ft	10 ft	3 ft from property line
Electronic Message Board (when in compliance with section 22-080-05)	1 per building	100 sq ft	18 ft	NA
Temporary Signs	2 per building	32 sq ft	4 ft	Flush against building
Instructional Signs	Exempt from regulations when in compliance with Sec. 24-080-04.			

- 5) All prior ordinances or parts of ordinances, inconsistent with this ordinance are hereby repealed to the extent of such inconsistency.

Bill No. 7887

Introduced in Council:

November 2, 2020

Adopted by Council:

Introduced by:

Ben Adams

Referred to:

Urban Renewal and Economic Development

1 **Bill No. 7887** - A BILL to amend and reenact Sections 18-611, 18-613, 18-631, 18-632,
2 18-633, and 18-634 of the Municipal Code of the City of Charleston, as amended; to
3 amend and reenact Sections 18-1031, 18-1032, 18-1033, 18-1034, 18-1035, 18-1036,
4 and 18-1037 of said Code; to amend said Code by adding thereto five new sections,
5 designated Sections 18-1038, 18-1039, 18-1040, 18-1041, and 18-1042; to amend and
6 re-enact Section 18-1061 of said Code; to amend said Code by repealing Sections 18-
7 1062, 18-1063, 18-1064, and 18-1065; to amend said Code by adding thereto a new
8 section, designated Section 18-1081, within a newly created Division 3 of Article XXII,
9 Chapter 18; and to amend and re-enact Section 110-63 of said Code, all relating to
10 updating the regulation of street vendors and itinerant vendors; and creating certain
11 business and occupation tax relief for street vendors and itinerant vendors.

12
13 *WHEREAS*, the City of Charleston is authorized to regulate the use of public streets for
14 public health, safety, welfare and convenience;

15
16 *WHEREAS*, the City of Charleston needs uniform taxation obligations and licensing
17 requirements for all street vendors and iterant vendors doing business within the City;

18
19 *WHEREAS*, the City of Charleston needs an equitable, uniform vending ordinance and
20 regulations in order to protect the public health and welfare and to ensure the safety of
21 pedestrians and vehicular traffic;

22
23 *WHEREAS*, the City of Charleston's current vending ordinance and regulations are not
24 developed to adequately address the recent evolution of the mobile food vehicle industry
25 and other changes in general business practices and technology;

26
27 *WHEREAS*, mobile food vehicles have become a national trend and provide the useful
28 service of convenient and varied dining options;

29
30 *WHEREAS*, the mobile food industry has the unique potential to add vitality, culinary
31 creativity and life to the streets of Charleston, while providing jobs and opportunities to a
32 number of new entrepreneurs; and,

33
34 *WHEREAS*, the City of Charleston finds it in the best interest of the public to authorize
35 the operation of mobile food vehicles within the City, subject to regulations to protect the
36 safe and convenient use of public rights-of-way and to balance the rights and interests of

these mobile businesses with those of established restaurant businesses.

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

That Sections 18-611, 18-613, 18-631, 18-632, 18-633, and 18-634 of the Municipal Code of the City of Charleston be amended and re-enacted; that Sections 18-1031, 18-1032, 18-1033, 18-1034, 18-1035, 18-1036, and 18-1037 of said Code be amended and re-enacted; that said Code be amended by adding thereto five new sections designated Sections 18-1038, 18-1039, 18-1040, 18-1041, and 18-1042; that Section 18-1061 of said Code be amended and re-enacted; that said Code be amended by repealing Sections 18-1062, 18-1063, 18-1064, and 18-1065; that said Code be amended by adding thereto a new section, designated Section 18-1081, within a newly created Division 3 of Article XXII, Chapter 18; and that Section 110-63 of said Code be amended and re-enacted, all to read as follows:

CHAPTER 18 – BUSINESS.

ARTICLE XIV. ITINERANT VENDORS.

DIVISION 1. – GENERALLY.

Sec. 18-611. - Definitions; exemptions.

(a) The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Itinerant vendor ~~means and~~ includes all persons, whether working independently or as part of an organized event under the umbrella of a promoter, sponsor, or organizer of an event, who engage or conduct within this city, either in one locality or in traveling from place to place, a temporary or transient business of selling goods, wares and merchandise; and who, for the purpose of carrying on such business, use, lease or occupy either in whole or in part, a room, building or other structure, or who use, lease or occupy for such purposes a room in any hotel or other structure, for the exhibition and sale of such goods, wares and merchandise; and the person so engaged shall not be relieved from the provisions of this article by reason of association temporarily with any local dealer, trader, merchant or auctioneer, or by conducting such temporary or transient business in connection with or as part of the business of, or in the name of, any local dealer, trader, merchant or auctioneer. Itinerant vendor shall not include those individuals engaged in business under Article XXII as a street vendor using a Nonmotorized Vending Unit or Mobilized Vending Vehicle.

(b) The provisions of this article shall not apply to special sales nor to persons conducting special sales within the purview of article VIII of this chapter; nor to sales made to persons engaged in wholesale or retail business by commercial travelers or selling agents in the usual course of business; nor to hawkers or peddlers in the streets, roads or highways, from packs or vehicles as defined in section 18-491; nor to persons selling meat or the products of the farm, garden or dairy; nor to any sales of goods, wares or

merchandise on the grounds of any agricultural association during the continuance of any annual fair held by such association; nor to any sales by societies acting for charitable, religious or benevolent purposes; nor to judicial sales directed by law, or under the orders of any court; nor to the sales of the common necessities of life in any public market place.

Sec. 18-613. ~~Scope of article.~~ Rules and regulations under article.

The City of Charleston City Collector's Office is hereby authorized to promulgate reasonable rules and regulations regarding the administration of the requirements of this article, including the review of all Itinerant Vendor business license and applications. Copies of such regulations, as amended from time to time, shall be maintained by the City Collector's Office, posted on the City's website and on file in the City Clerk's office, and shall be available to interested parties at all reasonable times.

~~The provisions of this article shall not apply to:~~

~~(1) Sales at trade shows or conventions, expos, arts and crafts fairs, and other similar events, or sales by entities at events registered with the Charleston Regatta Commission, or sales by entities at events hosted by a nonprofit or political subdivision;~~

~~(2) Special sidewalk sales, festivals or other special events allowed by special permit or ordinance; or~~

~~(3) Any city-sponsored event.~~

Secs. 18-614—18-630. - Reserved.

DIVISION 2. - LICENSE

Sec. 18-631. - Application for license and requirements for certain class of sales.

An applicant for an itinerant vendor's license shall file an application with the City of Charleston City Collector's Office on such form as prescribed by the city collector. Each applicant for an itinerant vendor's license who proposes to advertise, represent or hold forth a sale of goods, wares or merchandise as a bankrupt, insolvent, assignee, trustee, executor, administrator, receiver, attorney, manufacturer's wholesale sale, or a sale of any goods damaged by smoke, fire, water or otherwise shall state in writing, under oath, to the city collector at the time he makes application for a license, all the facts relating to the reason and character of such sale as proposed to be advertised, held forth or represented, including a statement of the names of the persons from whom such goods, wares or merchandise were purchased and the date of the delivery to the person applying for license; the place, if any, where such goods, wares or merchandise were previously exposed for sale, and such details as are necessary to locate exactly and identify fully all such goods, wares and merchandise proposed to be sold. Such applicant shall also include in such statement the name and residence of the owner in whose interest the business is conducted.

**Sec. 18-632. - Denial of license when ~~special sales license required instead;~~
preservation of applications and availability to public; reassessment and appeal.**

(a) The city collector, upon receipt of a sworn application as provided in section 18-631 shall, before issuing the license applied for, first ~~satisfy himself~~ confirm that the proposed sales are not within the purview of article VIII of this chapter; and the city collector shall not issue an itinerant vendor's license for any purpose for which a special sales license is required under the provisions of article VIII of this chapter.

(b) Each application as provided in section 18-631 shall be kept on file in the office of the city collector, and a record shall be kept by the city collector of all such statements in convenient form and open to public inspection.

(c) The city collector may summarily deny or revoke an Itinerant Vendor's business license pursuant to the provisions of this Code: (1) for any reason aforementioned; (2) for violation of any term or condition of such license promulgated hereafter; (3) for violation of any pertinent provision of state law, this Code or other ordinance or rules and regulations promulgated thereto; or (4) for the perpetration or attempted perpetration of fraud, malpractice or malfeasance by the licensee.

(d) Any Itinerant Vendor whose license has been denied or revoked may request reconsideration from the city collector. The request for reconsideration must be received within 20 days from the date of receipt of the revocation and shall include a written explanation stating with particularity the reason for the request. Upon receipt of a timely request for reconsideration, the vendor shall be entitled to a formal hearing before the city collector or a hearing examiner designated by the city collector in order to provide the vendor with an opportunity to show that the action taken was incorrect or contrary to law, in whole or in part, after which hearing, the city collector or the designee shall either grant or deny the request with justification thereof in writing within 15 days of the hearing. If the request for reconsideration is denied, the Itinerant Vendor may appeal within 30 days from the date of the denial or revocation of the license to the Circuit Court of Kanawha County in the manner prescribed by law for an appeal of an administrative decision.

Sec. 18-633. - License fee.

The annual license fee to carry on the business of itinerant vendor shall be \$20.00. Dishonored checks shall be subject to a \$15.00 returned check fee in addition to the \$20.00 license fee.

Sec. 18-634. - Bond required and additional requirements.

(a) Every itinerant vendor shall execute a continuing bond in the form prescribed by the city collector, with satisfactory corporate surety, in the penalty of \$5,000.00, payable to the city, conditioned that such itinerant vendor will pay all damages accruing to any person by reason of any act or action done, performed or taken by such itinerant

175 vendor in or about the conduct of his business, and further conditioned that such itinerant
176 vendor will pay all taxes, fees and penalties imposed by this city; however, the aggregate
177 liability of the surety for all such damages, taxes, fees and penalties shall, in no event,
178 exceed the sum of the bond. This bond shall be filed with the city collector and shall be
179 open to inspection during business hours to any person desiring to inspect it.

180
181 (b) Prior to the issuance of an itinerant vendor license, the applicant must agree,
182 in writing, that it shall indemnify, defend, and save harmless the City, its officers, agents,
183 and employees, from and against all liability, claims, suits, damages, losses, costs,
184 attorneys' fees and expenses of any or all types arising out of, or related in any way to
185 the operations or activities of the Itinerant Vendor.

186
187 (c) All Itinerant Vendors are responsible for complying with taxation requirements
188 as provided in this Code, including but not limited to the Business and Occupation Tax as
189 imposed in Sections 110-52 through 110-59. Nothing in this subsection shall be construed
190 as permitting the City to tax in violation of the Constitution or laws of this state or the
191 United States.

192
193 **Secs. 18-635—18-660. - Reserved.**

194
195 **ARTICLE XXII. STREET VENDORS.**

196 **DIVISION 1. GENERALLY.**

197 **Sec. 18-1031. Definitions.**

198
199 The following words, terms and phrases, when used in this article, shall have the
200 meanings ascribed to them in this section, except where the context clearly indicates a
201 different meaning:

202
203 ~~Central vending district means the area bounded on the north by Washington Street,~~
204 ~~on the east by Broad Street, on the south by the Kanawha River, and on the west by~~
205 ~~Pennsylvania Avenue. Vending sites within the district shall be identified by the city~~
206 ~~collector in accordance with this division and such other regulation as the city collector~~
207 ~~may promulgate pursuant hereto. Such regulations promulgated by the city collector must~~
208 ~~be approved by the city council.~~

209
210 Approved public right-of-way means publicly owned property including, but not limited
211 to, a park, plaza, road, sidewalk or parking space in an area zoned commercial, industrial,
212 central business, urban corridor, professional or medical campus, or otherwise
213 designated by the city manager for use by Street Vendors: *Provided*, That the city
214 manager may also exclude areas from the generally approved zones.

215
216 Mobilized Vending Vehicle means a readily movable motorized vehicle whose
217 operator may, upon issuance of a business license and street vending permit by the City,
218 and in conformance with the rules and regulations established pursuant to this Article,
219 along with all applicable parking and traffic regulations, temporarily park such vehicle
220 upon an approved public right-of-way to engage the lawful sale of a service or sale of

tangible personal property, including but not limited to, goods, merchandise, food or beverages, and specifically including the preparation, service, sale or distribution of ready-to-eat food and/or beverages for individual portion service to the general public directly from the vehicle, commonly referred to as “food trucks”.

Nonmotorized Vending Unit means a readily movable nonmotorized device, including but not limited to, a pushcart, table, or stand whose operator may, upon issuance of a business license and street vending permit by the City and in conformance with the rules and regulations established pursuant to this Article, temporarily set up such device on an approved public right-of-way and engage in the lawful sale of a service or sale of tangible personal property, including but not limited to, goods, merchandise, food or beverages.

Street Vendor means and includes any person, except itinerant vendors, who possesses a valid street vending permit issued by the City Collector’s Office to engages engage in or conducts conduct the business of selling a service or tangible personal property including but not limited to goods, merchandise, food, or beverages upon any approved public right-of-way, either as principal or agent, and whether working independently or as part of an organized event under the umbrella of a promoter, sponsor, or organizer of an event in the city. a business selling goods, wares, merchandise, food, confectionery or drink upon any street, sidewalk or public park. Street Vendors include both those persons that operate from a Nonmotorized Vending Unit, including but not limited to, pushcarts, tables, or stands, as well as those persons that operate from a Mobilized Vending Vehicle.

Outdoor dining area means a confined area of the public sidewalk or private property, which area is adjacent to an operator’s building/permanent structure, where patrons may sit at tables while consuming food and beverages.

Sec. 18-1032. Penalties. Rules and regulations under article; designation of Approved public rights-of-way.

~~In addition to any penalties or sanctions provided in this article, the violation of any requirement of this article shall constitute an offense punishable in municipal court with penalty for violation of a fine not to exceed \$500.00 and imprisonment of not more than 30 days, or both, for each such offense.~~

(a) The City of Charleston City Collector’s Office is hereby authorized to promulgate reasonable rules and regulations regarding the administration of the requirements of this article, including the review of all Street Vendor business license and permit applications. Copies of such regulations, as amended from time to time, shall be maintained by the City Collector’s Office, posted on the City’s website and on file in the City Clerk’s office, and shall be available to interested parties at all reasonable times.

(b) The generally approved public rights-of-way are defined in Section 18-1031 of this Code. The city manager shall have the authority to designate additional approved public rights-of-way, or portions thereof, for use by Street Vendors; provided, the city

manager, at his or her discretion, shall also have the authority to suspend the use of approved public rights-of-way by Street Vendors with or without prior notice for special events or other reasons deemed necessary and appropriate by the city manager.

Sec. 18-1033. Scope of Article.

The provisions of this Article shall apply to all Street Vendors engaged in the business of selling a service or tangible personal property including but not limited to distributing goods, merchandise, food or beverages with or without charge from a Nonmotorized Vending Unit on an approved public right-of-way and Street Vendors preparing, selling or distributing food and/or beverages with or without charge from a Mobilized Vending Vehicle on an approved public right-of-way subject to the requirements set forth herein.

~~The provisions of this article shall not apply to:-~~

- ~~(1) Sales governed by article XIV of this chapter or sales made to dealers by commercial travelers or selling agents in the usual course of business;~~
- ~~(2) Bona fide sales of goods, wares or merchandise by samples for future delivery;~~
- ~~(3) Sales at trade shows or conventions, expos, arts and crafts fairs, and other similar events, or sales by entities at events registered with the Charleston Regatta Commission, or sales by entities at events hosted by a nonprofit or political subdivision;~~
- ~~(4) Special sidewalk sales, festivals or other special events allowed by special permit or ordinance; or~~
- ~~(5) Any city-sponsored event.~~

Sec. 18-1034. Categories for street vending. Business license required; application, fee.

~~The types of businesses or activities that are permitted in the central vending district shall be defined by the following classifications:-~~

- ~~(1) *Classification A:* All nonfood items such as T-shirts, sweatshirts, arts/crafts, flowers, and any miscellaneous items that are not food products.~~
- ~~(2) *Classification B:* All food products that do not require cooking such as fruits, vegetables and nonperishable food items that are prepackaged by the manufacturer.~~
- ~~(3) *Classification C:* All food products that require cooking or heating or a health permit.~~

(a) No person shall engage in the business or trade of a Street Vendor without first obtaining a business license from the city collector; provided, however, that any person who already possesses a valid business license issued by the city collector for the same type of business as that in which it wishes to engage in as a Street Vendor shall not be required to obtain a separate business license for street vending purposes.

(b) An applicant for a business license shall file an application with the City of Charleston City Collector's Office on such form as prescribed by the city collector. The

applicant may be an individual or a firm or corporation on behalf of an individual. In the case where a person, firm or corporation applies for the license on behalf of an individual, the license shall be issued in the name of the applicant; and the license shall also bear the name of the Street Vendor on whose behalf the license is issued.

(c) The license fee for engaging in the business of a Street Vendor shall be \$20.00 per calendar year, or any portion thereof. Dishonored checks shall be subject to a \$15.00 returned check fee in addition to the \$20.00 license fee.

Sec. 18-1035. Street sales. Revocation of business license.

~~(a) — No person licensed as a vendor shall demonstrate, sell or offer for sale or barter any goods, wares, merchandise, food, confection or drink upon any street or sidewalk or any other city-owned property within the city except in accordance with all of the following provisions:~~

~~(1) — No merchandise shall be displayed or sold except in the locations designated in the rules and regulations of the city collector, and approved by the city council.~~

~~(2) — No merchandise shall be displayed or sold in a manner that blocks, obstructs or restricts the free passage of pedestrians or vehicles in the lawful use of the sidewalks, streets or public places or ingress or egress to the abutting property.~~

~~(3) — All merchandise shall be displayed or sold from portable tables, carts or containers as approved by the city collector. Each vendor shall remove all merchandise, packaging, paper, display tables, carts or containers, or other materials brought to the location at the termination of sales each day.~~

~~(4) — No vendor's table, cart, container or other appurtenances, paraphernalia, merchandise, supplies or signage shall occupy an area more than three feet in width and eight feet in length.~~

~~(5) — Each vendor during the period of selling shall keep the area within ten feet of the location where the vendor sells or displays merchandise free from all litter and debris arising from the operations, including the litter which arises from action of customers in disposing of wrapping or packaging materials of merchandise sold by the vendor.~~

~~(6) — Vendors shall at all times exercise reasonable care that their merchandise, packaging material, display equipment and other paraphernalia shall not create a safety or health hazard to customers or other persons using the public streets, sidewalks or public places, or to persons on or in abutting property.~~

~~(7) — No street sales shall be conducted nor shall any display table, cart, container or other appurtenances be permitted on any public property between the hours of 12:00 midnight and 6:00 a.m. daily. Any other ordinance prescribing more restrictive hours shall prevail.~~

~~(8) — No items of a pornographic nature shall be sold or displayed by street merchants.~~

~~(9) — The playing of any radio, phonograph, or any musical instrument or device in such a manner or with such volume as to annoy or disturb the quiet comfort and repose of store owners, employees or patrons in the central vending district is prohibited pursuant to section 78-212~~

b. ~~Nothing in this section shall be construed to prohibit the distribution or the sale of newspapers on the sidewalks.~~

The city collector, upon reasonable notice provided in writing to the licensee through certified mail or personal service, may summarily revoke a Street Vendor's business license pursuant to the provisions of this Code: (1) for any reason which would have been grounds for denial of such license when first issued; (2) for violation of any term or condition of such license; (3) for violation of any pertinent provision of state law, this Code or other ordinance or rules and regulations promulgated thereto; or (4) for the perpetration or attempted perpetration of fraud, malpractice or malfeasance by the licensee.

Sec. 18-1036. Compliance with guidelines. Request for reconsideration and appeal of revocation of business license.

~~The city collector's office may conduct site checks to determine if vendors are in compliance with the guidelines. Upon inspection, if a violation is found, vendors are immediately issued site check forms which indicate specific regulation violations. Vendors will be given no more than 24 hours to correct cited violations. Upon the receipt of three cited violations within 90 days, the city collector may issue a notice terminating the license for the remainder of the current licensing period.~~

Any Street Vendor whose license has been revoked may request reconsideration from the city collector. The request for reconsideration must be received within 20 days from the date of receipt of the revocation and shall include a written explanation stating with particularity the reason for the request. Upon receipt of a timely request for reconsideration, the Street Vendor shall be entitled to a formal hearing before the city collector or a hearing examiner designated by the city collector in order to provide the vendor with an opportunity to show that the action taken was incorrect or contrary to law, in whole or in part, after which hearing, the city collector or the designee shall either grant or deny the request with justification thereof in writing within 15 days of the hearing. If the request for reconsideration is denied, the Street Vendor may appeal within 30 days from the date of the denial or revocation of the license to the Circuit Court of Kanawha County in the manner prescribed by law for an appeal of an administrative decision.

Sec. 18-1037. Street vending permit required; application, fees.

~~The violation of any requirement of this article, or of any rule or regulation promulgated pursuant to this article, or of any ordinance or law shall be grounds for immediate revocation of the Street Vendor's permit by the city collector.~~

(a) No person or business entity, including a religious or charitable organization, shall operate a Nonmotorized Vending Unit or a Mobilized Vending Vehicle upon the public right-of-way within the City without a street vending permit.

(b) An applicant for a street vending permit shall file an application with the City of Charleston City Collector's Office on such forms and subject to such procedures as the City Collector's Office may establish. All applicants serving food shall submit with their application evidence of approval from the Kanawha-Charleston Health Department.

(c) The City may charge an administrative fee for permits not to exceed \$20.00 per permit per calendar year, or any portion thereof. Dishonored checks shall be subject to a \$15.00 returned check fee in addition to the \$20.00 permit fee.

(d) Permits are nontransferable, and each Nonmotorized Vending Unit or Mobilized Vending Vehicle must have its own permit which shall be posted at all times on or in the Nonmotorized Vending Unit or Mobilized Vending Vehicle, visible to customers and the public.

(e) Permits shall be renewable on a calendar year basis and shall expire on December 31 of each year: *Provided*, That any street vendor permit granted under the previous version of this Municipal Code for the fiscal year ending June 30, 2021, shall be automatically extended and deemed to expire on December 31, 2021.

Sec. 18-1038. Additional Requirements.

(a) Prior to the issuance of a street vending permit, the applicant must agree, in writing, that it shall indemnify, defend, and save harmless the City, its officers, agents, and employees, from and against all liability, claims, suits, damages, losses, costs, attorneys' fees and expenses of any or all types arising out of, or related in any way to the operations or activities of the Street Vendor.

(b) An applicant seeking a permit for a Nonmotorized Vending Unit or Mobilized Vending Vehicle shall maintain such general liability insurance with at least \$1,000,000 coverage per each occurrence and shall name as additional insured the City of Charleston, its agents, officers, directors, and employees. A copy of said insurance policy shall be furnished to the City of Charleston.

Sec. 18-1039. Revocation of street vending permit.

The city collector, upon reasonable notice provided in writing to the Street Vendor through certified mail or personal service, may summarily revoke a Street Vendor's permit pursuant to the provisions of this Code: (1) for any reason which would have been grounds for denial of such permit when first issued for; (2) for violation of any term or condition of such permit; (3) for violation of any pertinent provision of state law, this Code or other ordinance or rules and regulations promulgated thereto; or (4) for the perpetration or attempted perpetration of fraud, malpractice or malfeasance by the permittee.

Sec. 18-1040. Request for reconsideration and appeal of revocation of street vending permit.

Any Street Vendor whose permit has been revoked may request reconsideration from the city collector. The request for reconsideration must be received within 20 days from the date of receipt of the revocation and shall include a written explanation stating with particularity the reason for the request. Upon receipt of a timely request for reconsideration, the Street Vendor shall be entitled to a formal hearing before the city collector or a hearing examiner designated by the city collector in order to provide the vendor with an opportunity to show that the action taken was incorrect or contrary to law, in whole or in part, after which hearing, the city collector or the designee shall either grant or deny the request with justification thereof in writing within 15 days of the hearing. If the request for reconsideration is denied, the Street Vendor may appeal within 30 days from the date of the denial or revocation of the license to the Circuit Court of Kanawha County in the manner prescribed by law for an appeal of an administrative decision.

Sec. 18-1041. Compliance with federal, state and local laws and regulations.

(a) The operation of a Nonmotorized Vending Unit or Mobilized Vending Vehicle pursuant to a street vending permit granted under this Article shall comply with all provisions of state and local building and fire codes, as well as all state and local health laws and regulations regarding the service and preparation of food, if applicable. Nothing in this article shall be intended to alter or abridge any applicable federal, state and local laws, unless specifically stated herein with respect to the Municipal Code of the City of Charleston.

(b) Nothing in this article shall be intended to alter or abridge the prohibition of service of alcoholic beverages or possession thereof on public property in the City, as set forth in applicable West Virginia Code and Section 78-211(b) of the Municipal Code of the City of Charleston.

(c) All Street Vendors are responsible for complying with all taxation and fee requirements as provided in this Code, including but not limited to the Business and Occupation Tax as imposed in Sections 110-52 through 110-59 and the City Service Fee as imposed in Section 2-737. However, the taxation and fee requirements for Street Vendors shall be on an annual filing basis for the entire calendar year on forms prescribed by the City Collector, rather than by quarterly filing. Failure to properly file the required annual tax return will result in the withholding or suspension of a Street Vendor license and permit.

Sec. 18-1042. Penalty.

In addition to any penalties or sanctions provided in this Article, the violation of any requirement of this Article shall constitute an offense punishable by a civil penalty not to exceed \$500.00 for each offense. Each day of violation shall be considered a separate offense. Any person assessed such a civil penalty shall have the right to appeal the civil penalty to the municipal court by posting bond equivalent to the penalty with the municipal court within thirty days of the date of the assessment and the municipal court shall set the matter for a hearing within six weeks of the appeal.

Secs. 18-103743—18-1060. Reserved.

DIVISION 2. LICENSE NONMOTORIZED VENDING UNITS; PUSHCARTS, TABLES AND STANDS

Sec. 18-1061. Operation without license unlawful; failure to display license unlawful. Standards for Nonmotorized Vending Units.

~~No person shall engage in the business or trade of street vendor without first obtaining a license from the city collector. The license shall be displayed conspicuously at all times upon the vendor's table, cart or container. Any and all additional licenses or permits required pursuant to law shall be displayed conspicuously at all times upon the vendor's table, cart or container. Each day's operation of such business without a license shall constitute a separate offense.~~

(a) It shall be unlawful to leave any Nonmotorized Vending Unit unattended on an approved public right of way or remain on an approved public right of way outside of the allowed hours of operation. If any Nonmotorized Vending Unit is left unattended for more than 30 minutes, it will be considered abandoned and may be removed by the City. If removed by the City consistent with this subsection, the Street Vendor shall be liable for all reasonable removal and storage charges. The City may also require additional restrictions to abate nuisances.

(b) A Street Vendor may not operate a Nonmotorized Vending Unit within two hundred (200) feet of any event that is licensed or sanctioned by the City, unless the Street Vendor is an authorized participant in such event.

(c) A Street Vendor operating a Nonmotorized Vending Unit may not make or cause to be made any unreasonable or excessive noise in violation of Section 78-212 of this Code, including noise from generators. Any Street Vendor operating a Nonmotorized Vending Unit in conjunction with an operational generator may not operate within 50 feet from any outdoor dining area as defined in this Article. A Street Vendor may not use or maintain any outside sound amplifying equipment, lights, or noisemakers, such as bells, horns or whistles or similar devices. A Street Vendor engaging in food service shall take all reasonable steps to prevent activity akin to a nuisance, including but not limited to smoke and steam emissions.

(d) With the exception of trash bins, a Street Vendor operating a Nonmotorized Vending Unit may not use or place on the approved public right-of-way any external signage, tables, seating, or any other equipment not contained within or upon the Nonmotorized Vending Unit.

(e) A Street Vendor operating a Nonmotorized Vending Unit may not have any exclusive and/or perpetual right to use any location upon the streets, alleys, or public grounds of the City. All locations designated as approved public rights-of-way for

Nonmotorized Vending Units shall be available on a first come, first served basis with no particular location(s) assigned to any particular Street Vendor(s). Notwithstanding, the City may assign locations for Street Vendors during city-sponsored events.

(f) A Street Vendor operating a Nonmotorized Vending Unit may not conduct business on an approved public right-of-way between the hours of 4 a.m. and 6 a.m. nor may any Nonmotorized Vending Unit be permitted to remain on an approved public right-of-way between the hours of 4 a.m. and 6 a.m.

(g) A Nonmotorized Vending Unit operating within the designated locations may not be of a size or configuration as to interfere with City or public use of any public right-of-way or impede ingress or egress by vehicles or pedestrians.

(h) An unobstructed clearance for pedestrian travel must be maintained around any Nonmotorized Vending Unit.

(i) An unobstructed clearance of 42 inches, must be maintained between a fire hydrant and any Nonmotorized Vending Unit.

(j) A Street Vendor operating a Nonmotorized Vending Unit may not park such Unit on a utility/manhole cover located upon an approved public right-of-way.

(k) Street Vendors shall obey any lawful order of a police officer to move a Nonmotorized Vending Unit to a different approved location, or to remove it entirely, if necessary to avoid congestion or obstruction of a public right-of-way, or for the City's use of such right-of-way for emergency purposes, construction or any other public benefit deemed necessary or appropriate at the discretion of the officer including but not limited to nuisance abatement.

(l) Any power required for a Nonmotorized Vending Unit located on an approved public right-of-way shall be self-contained and it may not draw its power from the public right-of-way, except where approved by the city manager. Power cables or equipment may not extend across any public street, alley or sidewalk.

(m) Street Vendors operating a Nonmotorized Vending Unit shall contain all refuse within the Nonmotorized Vending Unit, or provide a small moveable trash can maintained by the Street Vendor and located adjacent to the Nonmotorized Vending Unit in such a manner as not to block or otherwise obstruct pedestrian or vehicular traffic. The operator of the Nonmotorized Vending Unit shall be responsible for properly disposing of such refuse as would any business, and shall not place it in any public trash container, or in any private container without proper permission. Spills of food or food by-products shall be cleaned up by the Street Vendor operating the Nonmotorized Vending Unit, and no dumping of gray water on the streets is allowed.

(n) Any signage or advertising signs shall be maintained by the Street Vendor and located adjacent to the Nonmotorized Vending Unit in such a manner as not to block or

otherwise obstruct pedestrian or vehicular traffic.

(o) The Street Vendor's license shall be displayed conspicuously at all times upon the vendor's table, cart or container. Any and all additional licenses or permits required pursuant to law and this article shall be displayed conspicuously at all times upon the vendor's table, cart or container.

(p) Nothing in this Section shall be construed to prohibit the distribution or the sale of newspapers on the sidewalks.

Sec. 18-1062. License fees.

The license fee for engaging in the trade or business of street vendor shall be \$20.00 per fiscal year, or any portion. Dishonored checks shall be subject to a \$15.00 return check fee in addition to the \$20.00 license fee.

Sec. 18-1063. Application and issuance of vendor's license; general liability insurance required; procedures.

(a) Each applicant for a vendor's license shall file an application with the city collector in such form as prescribed by the city collector. The applicant may be an individual or a firm or corporation on behalf of an individual. In the case where a person, firm or corporation applied for the license on behalf of an individual, the license shall be issued in the name of the applicant; and the license shall also bear the name of the vendor on whose behalf the license is issued.

(b) All food vendor applicants under classification C of section 18-1034 shall submit with their application evidence of approval from the Kanawha-Charleston Health Department for the type of food to be sold.

(c) No license shall be issued or shall remain in effect unless such vendor can demonstrate to the city collector proof of general public liability insurance in the aggregate sum of \$500,000.00, naming the city as additional insured, with assurance that the city will be advised by the insurance carrier if the insurance is canceled. In addition, such vendor shall enter into a hold harmless agreement with the city.

(d) All street vendor applicants shall be given a copy of the rules and regulations for street vendors and are charged with knowledge of such rules and regulations.

Sec. 18-1064. Revocation.

The violation of any requirement of this division, or of any rule or regulation promulgated pursuant to this division, or of any ordinance or law shall be grounds for immediate revocation of the vendor's license by the city collector.

Sec. 18-1065. Appeal of revocation.

~~Any vendor who feels aggrieved by the revocation of the vendor's license or other adverse action taken by the city collector may, by filing a written request with the city collector within ten days, obtain reconsideration by the city collector. If requested, the vendor shall be entitled to a formal hearing before the city collector or a hearing examiner designated by the city collector in order to provide the vendor with an opportunity to show that the action taken was incorrect or contrary to law, in whole or in part, after which hearing, the city collector shall, within a reasonable time, give notice in writing of his decision. Such appeal, unless and until the ruling of the city collector is modified or rescinded, shall not effect any stay of the action taken by the collector which is being appealed. Further appeal may be taken by the vendor to the circuit court by certiorari in the manner prescribed by law.~~

Secs. 18-10662—18-11601080. Reserved.

DIVISION 3. MOBILIZED VENDING VEHICLES.

Sec. 18-1081. Standards for Mobilized Vending Vehicles.

(a) It shall be unlawful to leave any Mobilized Vending Vehicle unattended on an approved public right-of-way or remain on an approved public right-of-way outside of the allowed hours of operation unless the same is legally parked in a manner consistent with all parking and traffic regulations. A Mobilized Vending Vehicle left unattended in violation of this subsection shall be subject to citation(s) for traffic/parking violations and may be towed by the City. If removed by the City consistent with this subdivision, the Street Vendor shall be held liable for all reasonable towing and storage charges. The City may also require additional restrictions to abate nuisances.

(b) A Street Vendor may not operate a Mobilized Vending Vehicle within two hundred (200) feet of any event that is licensed or sanctioned by the City, unless the Street Vendor is an authorized participant in such event.

(c) A Street Vendor operating a Mobilized Vending Vehicle may not make or cause to be made any unreasonable or excessive noise in violation of Section 78-212 of this Code, including noise from generators. Any Street Vendor operating a Mobilized Vending Vehicle in conjunction with an operational generator may not operate within 50 feet from any outdoor dining area as defined in this Article. A Street Vendor may not use or maintain any outside sound amplifying equipment, lights, or noisemakers, such as bells, horns or whistles or similar devices. A Street Vendor engaging in food service shall take all reasonable steps to prevent activity akin to a nuisance, including but not limited to smoke and steam emissions.

(d) With the exception of trash bins, a Street Vendor operating a Mobilized Vending Vehicle may not use or place on the public right-of-way any external signage, tables, seating, or any other equipment not contained within or upon the Mobilized Vending Vehicle.

680
681 (e) A Street Vendor operating a Mobilized Vending Vehicle may not have any
682 exclusive and/or perpetual right to use any location upon the streets, alleys, or public
683 grounds of the City. All locations designated as approved public rights-of-way for
684 Mobilized Vending Vehicles shall be available on a first come, first served basis with no
685 particular location(s) assigned to any particular Street Vendor(s). Notwithstanding, the
686 City may assign locations for Street Vendors during city-sponsored events.

687
688 (f) A Street Vendor operating a Mobilized Vending Vehicle may not conduct
689 business on an approved public right-of-way between the hours of 4 a.m. and 6 a.m., nor
690 may any Mobilized Vending Vehicle be permitted to remain on any approved public right-
691 of-way between the hours of 4 a.m. and 6 a.m. unless parked in conformance with all
692 applicable parking and traffic regulations.

693
694 (g) Mobilized Vending Vehicles shall be parked at all times in conformance with
695 applicable parking and traffic regulations, including but not limited to payment of parking
696 meters during hours of operation, and may not hinder the lawful parking or operation of
697 other vehicles. Mobilized Vending Vehicles may not bag parking meters to conduct street
698 vending operations. Mobilized Vending Vehicles shall be permitted to park in loading
699 zones between the hours of 6:00 p.m. and 4:00 a.m. Any opening or window from which
700 business is conducted for all Mobilized Vending Vehicle must open toward the sidewalk,
701 walkway or parking area. No window or opening from which business is conducted may
702 open toward the street or traffic area.

703
704 (h) A Mobilized Vending Vehicle may not be of a size or configuration as to interfere
705 with City or public use of any public right-of-way or impede ingress or egress by vehicles
706 or pedestrians.

707
708 (i) An unobstructed clearance of at least 42 inches must be maintained between a
709 fire hydrant and any Mobilized Vending Vehicle.

710
711 (j) An unobstructed clearance for pedestrian travel must be maintained around any
712 Mobilized Vending Vehicle.

713
714 (k) A Street Vendor operating a Mobilized Vending Vehicle may not park such
715 Vehicle on a utility/manhole cover located upon an approved public right-of-way.

716
717 (l) Street Vendors shall obey any lawful order of a police officer to move a Mobilized
718 Vending Vehicle to a different approved location, or to remove it entirely, if necessary to
719 avoid congestion or obstruction of a public right-of-way, or for the City's use of such right-
720 of-way for emergency purposes, construction or any other public benefit deemed
721 necessary or appropriate at the discretion of the officer, including but not limited to the
722 abatement of a nuisance.

723
724 (m) Any power required for the Mobilized Vending Vehicle located on a public right-
725 of- way shall be self-contained and it may not draw its power from the public right-of-way,

except where approved by the city manager. Power cable or equipment may not be extended across any public street, alley or sidewalk.

(n) Street Vendors shall contain all refuse, trash, and litter within the Mobilized Vending Vehicle or provide a small moveable trash can maintained by the Street Vendor, and located adjacent to the Mobilized Vending Vehicle in such a manner as not to block or otherwise obstruct pedestrian or vehicular traffic. The Street Vendor operating the Mobilized Vending Vehicle shall be responsible for properly disposing of such refuse as would any business, and may not place it in any public trash container, or in any private container without proper permission. Spills of food or food by-products shall be cleaned up by the Street Vendor operating the Mobilized Vending Vehicle, and no dumping of gray water on the streets is allowed.

(o) Any signage or advertising signs shall be maintained by the Street Vendor and located adjacent to the Mobilized Vending Vehicle in such a manner as not to block or otherwise obstruct pedestrian or vehicular traffic.

(p) The Street Vendor's license shall be displayed conspicuously at all times upon the vendor's Mobilized Vending Vehicle. Any and all additional licenses or permits required pursuant to law and this article shall be displayed conspicuously at all times upon the vendor's Mobilized Vending Vehicle.

(q) Nothing in this Section shall be construed to prohibit the distribution or the sale of newspapers from a motor vehicle.

Secs. 18-1082—18-1160. Reserved.

CHAPTER 110 – TAXATION

ARTICLE II – BUSINESS AND OCCUPATION TAX

Sec. 110-63. - Exemptions.

(a) The provisions of this article shall not apply to:

(1) Insurance companies which pay the state 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 city, whether such income is in the form of rentals or royalties;

(2) Nonprofit cemetery companies organized and operated for the exclusive benefit of their members;

(3) 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 W. Va. Code ch. 60, art. 7;

(4) Corporations, associations and societies organized and operated exclusively for religious or charitable purposes; provided that: the City may impose its business and occupation tax on any activity of a corporation, association or society organized and operated exclusively for religious or charitable purposes only to the extent that the income generated by the activity is subject to taxation under the provisions of section 511 of the Internal Revenue Code of 1986, as amended;

(5) Production credit associations, organized under the provisions of the federal Farm Credit Act of 1933; provided, that the exemptions of this section shall not apply to corporations or cooperative associations organized under the provisions of W. Va. ch. 19, art. 4;

(6) Any credit union organized under the provisions of chapter 31 or any other chapter of the Code of West Virginia; provided, that the exemptions of this section shall not apply to corporations or cooperative associations organized under the provisions of W. Va. ch. 19, art. 4;

(7) Gross income derived from advertising service rendered in the business of radio and television broadcasting;

(8) The gross income or gross proceeds of sale of a gasification or liquefaction of coal project in the demonstration, pilot or research states; provided, that prior to the commencement of operation of any such project, the tax commissioner of the state shall have first certified the project as eligible for such exemption; provided, further, that such exemption shall expire seven years from the date the project first receives gross income or gross proceeds from sales; and

~~(9) — The gross income or gross proceeds of sale derived from sales or services by an itinerant vendor or a street vendor in cases where no itinerant vendor license or street vendor license is required by City Code sections 18-613 or 18-1033.~~

(9) The first five thousand dollars (\$5,000.00) of gross income or gross proceeds derived from sales or services by a street vendor or itinerant vendor shall be exempt from the tax imposed by this Article. The street vendor or itinerant vendor shall file a Business and Occupation tax return for such gross income or gross proceeds even if such revenue is exempt.

(b) An organization is "charitable" for purposes of subdivision (4) of subsection (a) of this section above if it satisfies both of the following criteria: (1) it is exempt from Federal Tax, under 26 U.S.C. § 501(c)(3), and (2) its purposes include relief of poverty, advancement of education, advancement of religion, promotion of health, governmental or municipal purposes, or other purposes that are beneficial to the community.