

CHARLESTON CITY COUNCIL

Regular Meeting

December 5, 2022

at 7:00 PM



THIS MEETING WILL TAKE PLACE IN PERSON AND CAN BE VIEWED LIVE VIA

<https://charlestonwv.civicclerk.com/web/home.aspx>

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

AGENDA

CALL TO ORDER BY THE MAYOR

INVOCATION AND PLEDGE OF ALLEGIANCE

ROLL CALL

PUBLIC SPEAKERS AND CLAIMS

1. **INTERESTED PUBLIC SPEAKERS MUST REGISTER AT THE CLERK'S TABLE IN PERSON NO EARLIER THAN 15 MINUTES BEFORE THE MEETING STARTS. FIVE (5) SPEAKERS WILL BE PERMITTED (RULE NO. 22 (B)).**

PROCLAMATIONS

1. 12-5-2022

COMMUNICATIONS

1. 12-5-2022

REPORTS OF STANDING COMMITTEES

ORDINANCE AND RULES

1. Resolution No. 746-22 - Authorizing the adoption of the Charleston Fire Civil Service Rules, which were amended and approved by the Charleston Fire Civil Service Commission.
2. Bill No. 7978 - A BILL to amend the Municipal Code relating to updating the quadrennial organization statute to be consistent with the City Charter. (a Committee Substitute will be likely

be adopted by the Committee)

3. Bill No. 7980 - A BILL to amend the Municipal Code relating to the makeup of the Board of Directors of the Land Reuse Agency.

FINANCE

1. Resolution No. 744-22 – That the Mayor or City Manager is authorized to submit a grant application to the Land and Water Conservation Fund in the amount of \$1.2 million to perform athletic field turf renovations to the North Charleston Community Center football field. The Mayor or City Manager is further authorized to commit the City to the 50% cash match grant requirement.
2. Resolution No. 745-22 - A Resolution authorizing the acceptance of conservation easements from Graff-Lane Properties, LLC, on lands in the Quarry Creek development on the south side of the Kanawha River, for the purpose of preserving green spaces and enhancing the scenic backdrop to the State Capitol Building and the City of Charleston.
3. Bill No. 7979 - A BILL to amend the Municipal Code relating to expanding the time period within which a person may claim a refund for overpayment of the City Service Fee.
4. Bill No. 7981 - A BILL to amend the Municipal Code of the City of Charleston relating to expanding the ability of small businesses to obtain consent from the city collector to pay business and occupation taxes on an annual basis.

REPORTS OF OFFICERS

1. 12-5-2022

NEW BILLS

1. 12-5-2022

UNFINISHED BUSINESS AND/OR MISCELLANEOUS BUSINESS

REMARKS BY MEMBERS

ROLL CALL

ADJOURNMENT

THE NEXT REGULAR MEETING OF COUNCIL WILL BE DECEMBER 19, 2022 AT 7:00 PM.

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

Amy Shuler Goodwin
Office of the Mayor
City of Charleston



P.O. Box 2749
Charleston, WV 25330
(304) 348-8174 Office

December 5, 2022

Deb Weinstein:

It is with great pleasure I recognize your unwavering commitment to serving and advocating for those in our Capital City.

For nearly four decades you have put the needs of others first—providing refuge and compassion to those seeking a place of safety, identifying solutions to address current needs in our community, empowering others to amplify their voices, and inspiring those around you through compassion and hard work. You have led the charge – helping to grow the YWCA into what it is today and continuing to help women in need. You leave behind a legacy of compassionate service and advocacy – one that will live on through the continued work at the YWCA and through those whom you have worked with throughout the years.

It is with great honor I present to you the Key to the City Award in dedication of your commitment to the City of Charleston and her people.

Sincerely,

Amy Shuler Goodwin
Mayor of Charleston

**EXECUTIVE DEPARTMENT
CITY OF CHARLESTON
PROCLAMATION**

WHEREAS: The Salvation Army Charleston Area Command provides critically needed services to individuals across Central West Virginia, serving over 8,000 people each year; and

WHEREAS: Through youth programs, music and the arts, camps, community centers, Boys and Girls Clubs, and other innovative and professional services, The Salvation Army serves the people of Kanawha, Putnam, Roane, Clay, Boone, Logan and Mingo counties; and

WHEREAS: The Salvation Army helps those in our communities through year-round programs which provide food for the hungry, relief for disaster victims, assistance for the disabled, outreach to the elderly and ill, clothing and shelter to neighbors experiencing homelessness and opportunities for underserved children; and

WHEREAS: The Salvation Army loves beyond hunger, homelessness, fear, addiction, loneliness, despair, overdue bills and so much more – loving beyond the circumstances of those they serve, seeing and valuing each person; and

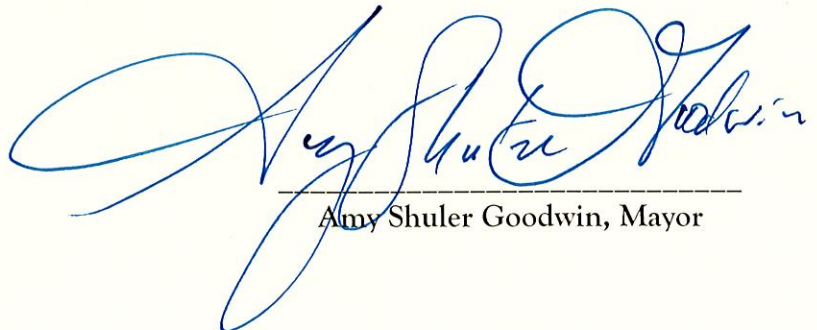
NOW THEREFORE, I, Amy Shuler Goodwin, Mayor of the City of Charleston do hereby designate the month of December as

Love Beyond Christmas Month

In the City of Charleston and encourage all citizens to learn more about the services and programming provided by The Salvation Army Charleston Command.

IN WITNESS WHEREOF, I have set my hand and caused the Seal of the Executive Department to be affixed this 5th day of December 2022.





Amy Shuler Goodwin, Mayor

Resolution No. 746-22

Introduced in Council:

December 5, 2022

Introduced by:

Chuck Overstreet

Adopted by Council:

Referred to:

Rules and Ordinances

1 Resolution No. 746-22 - Authorizing the adoption of the Charleston Fire Civil Service Rules,
2 which were amended and approved by the Charleston Fire Civil Service Commission and are
3 attached hereto as Exhibit A.

4

5 Now, therefore, be it Resolved by the Council of the City of Charleston, West Virginia: That the
6 Charleston Fire Civil Service Rules, attached hereto as Exhibit A, which were amended and
7 approved by the Charleston Fire Civil Service Commission are hereby approved by the
8 Charleston City Council and Mayor.

**REGULATIONS OF
THE FIREMEN'S' CIVIL SERVICE COMMISSION
OF
THE CITY OF CHARLESTON, WEST VIRGINIA**

Submitted to Charleston City Council

By its Commissioners

**Eric Kinder, President
Paul Harrison, Commissioner
Ben Thomas, Commissioner**

**REGULATIONS OF
THE FIRE CIVIL SERVICE COMMISSION OF
THE CITY OF CHARLESTON, WEST VIRGINIA**

PART I – GENERAL

1.01 Authority of Promulgation.

The Rules and Regulations contained herein are promulgated pursuant to the authority vested in the Firemen's' Civil Service Commission of the City of Charleston, West Virginia by West Virginia Code §8-15-15 as it may be amended from time to time.

1.02 Effective Date.

The Rules and Regulations contained herein become effective after they have been approved by the Mayor and City Council of the City of Charleston or after the passage of twenty (20) days from the date of submission of these Rules and Regulations to said Mayor and City Council, whichever date is sooner.

1.03 Distribution of Copies.

Copies of these Rules and Regulations, as adopted by the Mayor and the City Council, shall be distributed in printed form to the Mayor, the City Clerk, the Fire Chief and each current and later appointed member of the Fire Department within a reasonable time after they become effective, at the expense of the City of Charleston. Additional copies may be obtained from the City Clerk.

1.04 Amendments.

Amendments to these Rules and Regulations may be adopted from time to time by the Commission and shall become effective on the date of their approval by the Mayor and the City Council or twenty (20) days after their submission to said Mayor and City Council, whichever date is sooner. Copies of amendments to these Rules and Regulations shall be provided to each member of the Fire Department and shall be posted in a conspicuous place at the Charleston City Hall, at each Fire Station, and at such other places as the Commission may direct.

1.05 Severability.

If any provision of these Rules and Regulations or its application to any person or circumstance is determined to be unconstitutional, in conflict with State or Federal law or is otherwise invalid, such unconstitutionality conflict or invalidity shall not affect other provisions or application of these Regulations. And, to this end, the provisions of these Regulations will be interpreted to comply with law where possible, and when not possible, those provisions shall be held void and severable.

PART II – DEFINITIONS

2.01 As used in these Regulations, the term or phrase:

(a) "Appointing Officer" means the Mayor of the City of Charleston, West Virginia.

(b) "Appointment" or "Conditional Appointment" means the process whereby vacancies not filled by promotion, reinstatement, reduction or non-competitive examination (provisional appointment) are filled by persons making an original entry into the Department.

(c) “Code of West Virginia” or “The Code” means the Code of West Virginia of 1931, as amended.

(d) “Commission” or “Firemen’s Civil Service Commission” means the Fire Civil Service Commission of the City of Charleston, West Virginia, duly constituted and appointed pursuant to the provisions of West Virginia Code § 8-15-12.

(e) Except where reference is made to “Members” of the Commission, “Member” or “Member of the paid Fire Department” means and includes any person employed by the Fire Department of the City of Charleston. “Member” does not include civilian employees of the Fire Department.

(f) “Promotion” means advancement in rank and base pay. The term “Promotion”, in the discretion of the Commission, may also mean a raise in base pay not shared by other members of the same rank.

(g) “Removing officer” means the Fire Chief of the City of Charleston.

(h) “Suspension, Discharge, Removal, or Reduction in Rank or Pay” means any final disciplinary action which results in suspension from duty without pay, removal from office, discharge, or reduction in the rate of pay, regardless of the time period involved.

(i) “The Department” or “The Fire Department” means the Fire Department of the City of Charleston.

(j) “Hearing Board” means the Fire Department’s Conduct Review Hearing Board established pursuant to West Virginia Code §8-14A-1(4)(a).

(k) “Punitive Action” means any action which results in the termination of employment, demotion or reduction in rank, suspension from duty without pay, reduction in salary, written reprimand or transfer for purposes of punishment. Administrative leave for investigative or other official purposes does not constitute punitive action and is not appealable to the Commission.

(l) “Transfer for Purposes of Punishment” means an involuntary transfer from one assignment to another assignment as a result of a complaint against the member, as punishment, or an involuntary transfer for reasons other than economy, administrative efficiency, competence, training or managerial discretion. An affected Member shall have the initial burden of establishing that any contested transfer is for punitive purposes. If so established, the City will have the ultimate burden of establishing good cause for the transfer.

(m) “Business day” means days when City Hall is open for the general transaction of public business.

PART III - FIRE CIVIL SERVICE COMMISSION

3.01 Organization of the Commission.

(a) Membership - The Commission shall consist of three members, whose appointment and removal shall be in accordance with the provisions of West Virginia Code § 8-15-12.

(1) Continuation in office. Any Commissioner duly appointed for a full term or to fill an unexpired term of office will continue in office as Commissioner from term to term unless that Commissioner’s appointing authority (whether the Mayor, the Local International Association of Fire Fighters or the Chamber of Commerce) elects

to replace the Commissioner by making a new appointment at any time after the expiration of any appointed term of office.

(2) Temporary absence - Recusal. In the event that an Commissioner is temporarily unable to fulfill his duties for reasons including, but not limited to, military service, medical necessity or recusal from an issue or case, that Commissioner's appointing authority shall designate a temporary replacement Commissioner to act in the stead of its appointed Commissioner for that case or issue or for the term of the absence or disability.

(b) President; Vice President -

(1) At the first regularly scheduled meeting after the first day of January, each year, the three (3) members of the Commission shall elect one of their number to serve as President of the Commission and one of their number to serve as Vice President of the Commission. The term of each shall be one (1) year from the date of election.

(2) It shall be the duty of the President of the Commission to preside over meetings of the Commission and to generally act as spokesman for the Commission. The President shall also cause a complete record of Commission actions and activities to be kept.

(3) It shall be the duty of the Vice President of the Commission to perform the duties of the President in the event of the President's absence from a meeting, or in the event of the President's death, resignation from the Commission or other permanent incapacity, until such time as a new member is appointed to the Commission and a new president is elected.

(4) In the event of the death, resignation or other incapacity of the President of the Commission, a new President shall be elected in the manner provided for above immediately following the appointment of a new member of the Commission.

(c) Quorum -

Except as hereinafter provided, two (2) members of the Commission shall constitute a quorum for the transaction of business.

(d) Meetings -

The Commission shall meet at the call of the President or any Commissioner.

(e) Records to be Kept by the City Clerk - The City Clerk of the City of Charleston shall be *ex officio* Clerk of the Commission and shall supply to the Commission, without extra compensation, such clerical and stenographic services as may be required by the Commission. The City Clerk shall cause minutes of Commission proceedings, records of examinations, recommendations of applicants received by the Commission or any other person entitled to receive such information, and any other records of the Commission's official acts to be kept as official records of the Commission. All such records shall be kept by the Commission for a period of ten (10) years. With the exception of personnel files, disciplinary proceeding records, recommendations of former employers, psychiatric examination reports, financial information and other personal information deemed by the Commission to be of a confidential nature, all such records shall, subject to reasonable regulation, be open to public inspection.

3.02 Commission Purposes -

The purposes of the Commission shall be:

(a) To provide for employment security for the members of the paid fire department of the City of Charleston by protecting said members from vicissitudes which may be present in the absence of the Civil Service statutes, and

(b) To provide for a complete, all-inclusive and non-discriminatory system for the appointment, promotion, reduction, and reinstatement of members of the Charleston Fire Department, and

(c) To provide for a fair and impartial appeal of disciplinary action taken against any member and for any appeal from a Conduct Review Board established pursuant to West Virginia Code §8-14A-5; and

(d) To provide for an efficient, professional and competent Fire Department to serve the City of Charleston.

3.03 Liberal Construction.

These Regulations shall be liberally constructed to accomplish the objectives and purposes of the Commission.

3.04 Powers and Duties of the Commission.

(a) The Commission shall provide for the implementation of the purposes of the Commission, and, in connection therewith the Commission:

(1) may make investigation, as a body or through a single Commissioner, concerning all matters touching the Commission, and in connection therewith administer oaths and affirmations and take testimony; and

(2) shall hold such hearings as may be required by law or such hearings as it may, in its discretion determine to be necessary, in accordance with these rules and regulations; and

(3) shall have the power to subpoena and require the attendance of witnesses, and the production of books and papers, in accordance with the provisions of West Virginia Code §8-15-15(4); and

(4) shall have the powers to employ legal counsel and other professional services, at City expense, to assist the Commission in its duties; and

(5) shall have the power to initiate legal action in furtherance of the purposes of the Commission; and

(6) shall have all powers expressed in the Code or these Regulations and such other powers as may be fairly implied therefrom.

PART IV - HIRING REGULATIONS

4.01 Application of this part.

Vacancies not filled by reinstatement or non-competitive examination (provisional appointment), shall be filled in accordance with the provisions of this part.

4.02 Commission to be notified by Appointing Officer.

The Appointing Officer shall notify the Commission of any vacancy which he desires to fill by appointment. In conjunction with such notification, the Appointing Officer shall request that the names of three persons eligible for appointment be certified to him by the Commission.

4.03 Procedure upon receipt of request from Appointing Officer.

Upon receipt of request for such names from the Appointing Officer, the Commission may certify to the Appointing Officer the top three names from any existing list of eligibles from

which appointments shall be made. If there are fewer than three names on the eligibility list, Appointing Officer may, but shall not be required to, accept an eligibility list with fewer than three names.

Alternatively, the Commission may terminate any existing list of eligibles for good cause after notice and a hearing, or, if no such list exists, the Commission shall proceed to establish a new list of eligibles in accordance with these rules and regulations and certify names from the new list of eligibles to the Appointing Officer.

4.04 Notice of vacancy and examination.

(a) In order to keep a list of eligibles available at all times, the Commission may establish a list of eligibles at any time, whether a vacancy exists or not. Upon determining to establish a list of eligibles, the Commission shall give public notice of the following:

- (1) The fact that the Commission will establish a list of eligibles; and
- (2) The requirements that must be satisfied in order to be placed on the list of eligibles; and
- (3) The date(s) on which the written and other competitive examinations for the position will be held; and
- (4) Locations at which applications for the position may be obtained; and
- (5) The last date on which applications for the position will be accepted by the Commission.

(b) Each such notice shall be:

- (1) Posted in a conspicuous place at the City Hall and at each Firehouse; and
- (2) Distributed to such groups or organizations and in such a manner as the Fire Department and/or the Commission may direct. The purpose of these additional distributions shall be to make sure a reasonably diverse applicant pool aware that a list of eligibles will be established.

4.05 Application forms.

Application forms, designated as CSC Form 1, which request the data required by West Virginia Code and any other information requested by the Fire Department regarding an applicant's eligibility for appointment, shall be available from the City Clerk, the Fire Department, and the Commission whenever applications are being accepted. This provision does not preclude the distribution of applications by any person or organization other than the City Clerk, the Fire Department or the Commission and it does not preclude distribution at other times. All application forms shall be completed and filed with the City Clerk or the fire Department during the time period included in the published notices.

4.06 Applicant Screening.

The Fire Department may, but shall not be required to, review any application which it receives and check criminal and/or driving history of the applicant to determine whether the applicant is eligible for appointment as a probationary fire fighter. Any applicant who is found to be ineligible, based upon the application, shall be immediately disqualified and the Applicant and the Commission shall be notified of the disqualification by the Chief of the Fire Department by U.S. mail or electronic mail and shall be further notified that he/she is entitled to a hearing before the Civil Service Commission to determine his/her eligibility provided that the applicant requests a hearing within ten (10) business days of notice being sent to the applicant at the address shown on the application. Persons who do not request a hearing, or if after a hearing, are determined to be ineligible, shall not be eligible for further consideration.

4.07 Requirements for applicants for original appointments.

(a) Age requirement - Pursuant to West Virginia Code § 8-15-17, applicants for original appointment shall be not less than 18 years nor more than 35 years of age on the date of his or her application; provided, however, persons qualifying for appointment by reinstatement may be over 35 years of age; and provided further that any applicant who is a member in good standing of a paid Fire Department serving a municipality that has elected to participate in either the West Virginia Municipal Police Officers and Firefighters Retirement System created in §8-22A-1 *et seq.* or the West Virginia Public Employees Retirement System created in §5-10-1 *et seq.* is eligible to apply for and be appointed as a probationary firefighter even though more than 35 years of age.

(b) Education - Applicants for original appointment must have a high school education as evidenced by a diploma or GED.

(c) Written examination - The Commission shall select an appropriate written examination which meets the requirements of West Virginia Code § 8-15-18 and shall cause the same to be administered and promptly scored.

(1) Examination scores will be posted at the office of the City Clerk and each Fire Station.

(2) Unless the Civil Service Commission establishes and announces a different passing score before the written test is begun, the passing score is established as 75 % of the number of questions in each examination. Any applicant who fails to achieve a passing score of 75% will be disqualified from further participation in the application process.

(3) Any applicant who wishes to challenge the accuracy of the scoring of his or her examination shall notify the Commission of his or her challenge within five business days (5) after the results are posted at the office of the City Clerk. Challenges received after five (5) business days will not be considered.

(d) Physical ability examination - Each applicant must achieve a minimum passing score on each element of the Candidate Physical Ability Test ("CPAT") in effect at the time of his or her application.

(1) Each applicant shall have no more than three (3) opportunities to successfully complete the CPAT. The applicant must successfully complete all portions of the CPAT in the same test administration; failure to successfully complete any part of the CPAT on a test administration results in a failure for that administration of the test. An applicant is required to announce in advance of each attempt at the CPAT whether the applicant is training for the CPAT or attempting the CPAT for scoring purposes.

(2) Each applicant shall present a medical clearance and release of liability from his or her personal physician before being admitted to any CPAT practice or examination. Applicants who do not present a medical release may not participate in the examination.

(3) An applicant who does not appear for CPAT testing or who does not successfully complete each element of the CPAT examination shall be eliminated from further consideration for appointment.

(e) The order of competitive examinations and other forms of evaluation used by the Commission shall be as determined by the Commission.

4.08 Reasonable accommodation - Applicants who need to request a reasonable accommodation due to a disability or other reason must notify the Commission of the need for an

accommodation and the specific accommodation requested not less fifteen (15) calendar days before the examination. The Commission will promptly evaluate the request for accommodation and notify the applicant of the Commission's decision concerning the accommodation request.

4.09 Refusal of the Commission to examine.

The Commission may refuse to examine any applicant who does not meet the minimum requirements of this part, based upon information coming into its hands by way of the application, or any other source. Upon determining that an applicant will not be admitted to the examination, the Commission shall send a notice to the applicant at the address listed on his application. The applicant will then have a period of ten (10) business days to request a hearing before the Commission. Failure to request a hearing within ten (10) business days of notice being mailed by regular first class mail to the applicant's address on the application will be deemed a waiver of the applicant's right to contest the decision of the Commission.

4.10 Computation of scores and compilation of list of eligible.

After all challenges to the scoring of the written examination have been heard and determined, the Commission shall establish a list of eligibles. Applicants who have achieved a passing score on the written examination shall be ranked in the order of merit using the following formula:

- (a) Written examination, interpolated so that a perfect score would equal 100 for ranking purposes; plus
- (b) Military service credit, computed according to West Virginia Code § 6-13-1.
- (c) Applicants who pass the written examination and the CPAT and possess a valid and current certification (National Registry and/or State of West Virginia) as a Paramedic will have 5 points added to the written test score.
- (d) Applicants who have an Associate's degree from an accredited college or university will have two points added to their passing score.
- (e) Applicants who have a Baccalaureate or higher degree from an accredited college or university will have five points added to their passing score (not to be combined with any other education credit, - 5 points is the maximum allowed education credit)
- (f) In the event that more than one applicant shall attain the same total score for ranking purposes, the position of each applicant on the list of eligibles shall be determined by coin toss or the drawing of lots.

4.11 Anti-discrimination provision; prohibited inquiry.

No question on the applications or the examinations mentioned in this part, whether oral or written, shall be framed or designed so as to illicit from any applicant information linked to such applicants political or religious opinions or affiliations. No applicant shall be discriminated against on the basis of race, religion, color, nation origin, ancestry, sex, age, blindness, handicap or familial status.

4.12 Commission to establish eligible list.

The Commission shall establish, by comprehensive evaluations and examinations, an eligible list from the number of persons who make application for appointment under provisions of this part. Applicants shall be rank ordered by total score.

The list of eligibles shall continue in full force and effect until: (1) the list is exhausted by appointments therefrom or removal of names for other reasons; (2) the passage of three (3) years' time from the date of the examination; or (3) until termination of the list by Order of the Commission for good cause after notice and a public hearing; whichever period is shorter.

4.13 Background investigation.

The Fire Department shall conduct a personal background investigation of each applicant before the applicant is eligible for consideration for appointment. To be eligible for certification to the Appointing Officer, an applicant must be on a current and valid list of eligibles and:

- (a) Undergo a background investigation which shall at a minimum, inquire into the applicant's criminal and driving history, employment history and character; and
- (b) Cooperate fully in the background investigation.

At the conclusion of each background investigation the Chief of the Fire Department will determine whether the applicant is suitable for appointment. The Chief of the Fire Department will send notice by first class mail to each applicant that is disqualified by the background investigation and report to the Commission the reason(s) that any applicant is disqualified. The applicant shall then have a right to request a review of the decision by requesting a hearing before the Commission not more than ten (10) business days after notice is sent to the applicant's last known address. Failure to request a hearing within the ten (10) day time period shall be deemed a waiver of the applicant's right to challenge the certification issue.

If the applicant requests a review by the Commission, the Commission shall consider the information presented and may certify or refuse to certify an applicant based upon the information available. The Commission may request additional information or further investigation before determining whether or not to certify any applicant.

In the event that the Commission decides that it will not certify an applicant as eligible for appointment based upon the background investigation, the Commission shall send a notice to the applicant at his last known address informing him or her that he or she has been disqualified from further consideration.

4.14 Certification to Appointing Officer.

When requested by the Appointing Officer, the Commission will forward the names of the top three certified applicants in the order in which they appear on the eligible list.

4.15 Conditional Appointment.

From the certified list, the Mayor will conditionally appoint one of the three applicants. The remaining two applicants' names will be returned to his or her position of the list of eligibles. When an applicant has been passed over in favor of a candidate which ranks below that applicant on the eligible list on three occasions, the candidate shall be stricken from the list of eligibles and disqualified from further consideration consistent with the provisions of West Virginia Code § 8-15-20.

4.16 Full Appointment.

An applicant's conditional appointment shall not become a full appointment until he/she meets all additional requirements of the City of Charleston and its Fire Department for full appointment, such as a positive evaluation/recommendation after psychiatric evaluation and/or medical evaluation and otherwise satisfy all state requirements for appointment.

4.17 No Right to Appeal Mayor's Appointment Decisions.

An applicant certified by the Commission but not hired by the City for any reason shall have no right of appeal to this Commission as the Commission has no jurisdiction or authority over ultimate hiring decisions, only certification.

PART V - PROVISIONAL APPOINTMENTS BY NON-COMPETITIVE EXAMINATION

5.01 (a) Applicability of This Part.

This Part shall apply to appointments made by the Commission after individuals are nominated to fill a vacancy provisionally upon non-competitive examination by the Appointing Officer pursuant to West Virginia Code §8-15-21.

(b) Nominations for Provisional Appointment; Form.

(1) Whenever, in the judgment of the Appointing Officer, there are urgent reasons for filling a vacancy provisionally by non-competitive examination, the Appointing Officer may nominate an individual to the Commission for appointment.

(2) Each such nomination shall contain:

- (i) The urgent reasons for nominating such person rather than requesting a list of eligibles;
- (ii) The name of the person nominated;
- (iii) The expected duration of such person's tenure in the vacancy to be filled;
- (iv) A completed CSC Form 1 as an attachment.

(c) Approval of Application by Commission. The Commission may approve the application of the person nominated for provisional appointment by the Appointing Officer if, in its exclusive judgment: there are urgent reasons which justify deviation from the appointment procedures contained in Part IV of these Rules and Regulations; the person nominated is satisfactory to the Commission; and, no eligible list was in effect on the date of the nomination.

(d) Provisional Appointment Procedures. If the application of the person nominated for provisional appointment is approved by the Commission, the nominee's application shall be processed in the manner provided for in Part IV of these Rules and Regulations, except that the testing and evaluation procedures described therein shall only be used to determine the nominee's suitability for appointment and no public notice of such examinations shall be required.

(e) Limitations on Provisional Appointments. No provisional appointment shall continue to be valid for a period in excess of three (3) months from the date the appointment is made by the Appointing Officer, nor shall successive provisional appointments be used to fill the same position.

PART VI – REINSTATEMENT

6.01 Any former member of the Charleston Fire Department may apply to the Commission for appointment by reinstatement.

6.02 An applicant for reinstatement is eligible for consideration of appointment by reinstatement if the applicant

- successfully completed his/her one year probationary period; and
- resigned from the department when there were no charges of misconduct or other misfeasance under investigation or otherwise pending against the applicant; and
- applies within 2 years of his/her resignation; and
- his or her former term of service justifies reinstatement.

6.03 All applicants for reinstatement must:

- complete an application and background investigation questionnaire
 - cooperate in any background investigation requested by the Commission
 - pass the medical test administered to all applicants for original appointment
 - appear before the Civil Service Commission to answer questions related to reasons for leaving and reason for reinstatement if requested by the Commission.
- 6.04 The Civil Service Commission may, in its sole discretion, elect to:
- reinstate the applicant immediately
 - reinstate the applicant to the first vacancy
 - refuse the request for reinstatement.
- 6.05 If reinstated to the Department, the reinstated member shall be the lowest in rank next above the probationers of the Department. The reinstated member shall not be eligible to test for promotion until the completion of two years of service after reinstatement. Service prior to resignation will be credited toward seniority credit for promotion seniority calculation purposes but not to establish eligibility to test for promotion.

PART VII - PROMOTION

7.01 Application of This Part.

Every vacancy in positions on the Fire Department of the City shall be filled in accordance with the provisions of this Part unless otherwise filled by appointment, reinstatement, reduction or non-competitive examination. It shall be the policy of the Commission to, insofar as is possible, fill vacancies by promotion.

7.02 Persons Eligible for Promotion.

No member shall be eligible to test for promotion from the lower grade to the next higher grade until such member shall have completed at least two years of continuous service in the next lower grade in the Department as of the date of the test and completed the apprenticeship and certification program established by West Virginia Code §8-15A-1 *et seq.*

7.03 What Constitutes Promotion.

Promotion means the process whereby persons advance from a given grade, rank or position to a higher one with an increase in base pay/salary. Promotion may also mean a raise in base pay not shared by other members of the same rank, grade or position. The Commission shall, in its discretion, determine whether a change in pay constitutes a promotion.

7.04 Commission to be Notified by Appointing Officer.

The Appointing Officer shall notify the Commission of any vacancy which he/she desires to fill by promotion.

7.05 Procedure Upon Receipt of Request From Appointing Officer.

Upon receipt of a request for a list of eligibles from the Appointing Officer, the Commission may certify to the Appointing Officer any existing list of eligibles from which promotions shall be made. Alternatively, the Commission may terminate any existing list of eligibles for good cause after notice and a public hearing, or, if no such list exists, the Commission shall proceed to establish a new list of eligibles in accordance with these Rules and Regulations.

In the event that the Appointing Officer objects to promoting the highest ranked individual on any promotion eligibility list, the Appointing Officer shall notify the Commission in writing at the time of any request that the Commission certify a list of eligibles for promotion. The Commission shall not certify a list of eligibles until it has provided all interested parties an

opportunity to present evidence to the Commission and the Commission enters an order sustaining or overruling the Appointing Officer's objection.

7.06 Notice of Vacancy and Examinations.

(a) Upon receipt of the request for a list of eligibles from the Appointing Officer and a determination that a new list of eligibles must be constituted, the Commission shall make a reasonable effort to notify members of the Department, at least fifteen calendar days before any examination of the following:

- (1) The fact that the Commission is going to establish a list of eligibles for promotion; and
- (2) The requirements that must be satisfied in order to be placed on the list of eligibles; and
- (3) The date or dates on which written examinations for the position will be held; and
- (4) The last date on which applications for the position will be accepted by the Commission; and
- (5) Locations at which applications for the position may be obtained and returned.

(b) Each such notice shall be:

- (1) Posted in a conspicuous place at City Hall; and
- (2) Posted at various locations throughout each Firehouse to give reasonable notice to all members; and
- (3) Distributed to such groups or organizations and in such manner as the Commission may direct.

7.07 Form of Applications.

Applications for promotion shall be made on a form devised by the Commission, which form shall be designated CSC Form 2. The form and content of CSC Form 2 may be varied from time to time by the Commission.

7.08 Commission to Establish Eligible List.

The Commission shall establish, by comprehensive evaluation and examination, an eligible list from the number of persons who make application for promotion under the provisions of this Part.

The list of eligibles shall be forwarded to the Appointing Officer who shall promote persons to vacant positions in order of their ranking on the list of eligibles. Unless otherwise specified herein, each eligible list shall continue in full force and effect until the list is exhausted, for three years from the date that the exam was administered or until terminated by the Commission for good cause after notice and a public hearing, whichever period is shorter.

The Commission shall use reasonable effort to maintain an active list of eligibles at all times. If a list is exhausted or terminated by the Commission the Commission will make reasonable efforts to administer a promotion examination within three (3) months after any such list of eligibles is exhausted, or terminated by the Commission.

7.09 Testing and Evaluation Required for Promotion.

(a) Every applicant for promotion who meets the preliminary requirements therefore shall be evaluated by use of the following testing and evaluation procedures:

- (1) A competitive written examination testing the applicant's suitability for promotion to the vacancy, and

(2) A qualifying medical examination testing the applicant's general condition of health.

(b) Each test or evaluation shall be conducted in accordance with the provisions of these Rules, and the form and content of examinations and the administering personnel shall be selected or approved by the Commission.

(c) Applicants will be provided the opportunity to review their examinations and answers within five (5) business days after the results is posted. The results will not be certified until the Commission rules on any challenge to the examination.

(d) In accordance with the provisions of these Regulations, promotions shall be made on the basis of a list of eligibles established by the Commission. The list of eligibles established by ranking applicants for promotion in order of merit in accordance with the following formula:

(1) Written examination score (% of questions answered correctly based on a maximum score of 100 points) PLUS

(2) Computation of actual length of service with the Department allowing 0.0041 points for each day of service in the Charleston Fire Department (approximating 1.5 point per year).

(3) The total number of points so calculated, including written test score and seniority, shall constitute each applicant's total score. The minimum passing score to be eligible for promotion shall be 70.

(4) Applicants who have a combined total score of 70 or higher shall be ranked in accordance with their scores and a list of eligibles constructed therefrom. In the event of identical total scores, placement on the list shall be determined by:

(a) seniority in current rank; if still tied;

(b) seniority on the Department; if still tied;

(c) the drawing of lots.

(e) Applicants for promotion have a twenty (20) calendar day period after the Commission's decision on any challenge to seek judicial review in the Circuit Court of Kanawha County.

7.10 Anti-discrimination Provisions; Prohibited Inquiry.

No question on the applications or the examinations mentioned in this Part shall be framed or designed so as to elicit from any applicant information relating to such applicant's political or religious opinions or affiliations. No applicant shall be discriminated against on the basis of race, religion, color, national origin, ancestry, sex, age, handicap or familial status.

7.11 Refusal of the Commission to examine or certify eligible for promotion.

The Commission may refuse to examine, or refuse to certify as eligible for promotion, any applicant who does not meet the minimum requirements of this part, based upon information coming into its hands by way of the application, or any other source. Upon determining that an applicant will not be admitted to the examination, the Commission shall send a notice to the applicant at the address listed on his application. The applicant will then have a period of ten (10) business days to request a hearing before the Commission. Failure to request a hearing within ten (10) business days of notice being mailed by regular first class mail to the applicant's address on the application will be deemed a waiver of the applicant's right to contest the decision of the Commission.

PART VIII - DISCIPLINE

8.01 Conduct Review Board

(a) A Hearing Board has original jurisdiction to decide all cases of punitive action before punitive action is taken. If the proposed action is discharge, suspension or reduction in rank or pay, the punitive action may not be taken until the Accused Member is provided notice of the right to a hearing before a Hearing Board except that the Fire Chief, or his designee, may immediately temporarily suspend from duty any member, pending an investigation, who reports is on duty under the influence of alcohol or controlled substances or apparent emotional or mental distress which would prevent the member from performing his duties.

(b) The Fire Chief may issue a written reprimand or order a transfer for purposes of punishment after providing the member with a notice of the reasons for such action and notice that the member is entitled to a hearing on the issues by a Hearing Board. The punitive action may be imposed immediately with the Member having a right to appeal to the Hearing Board.

(c) The Civil Service Commission has original jurisdiction to determine appeals from Hearing Board Orders, discharging, suspending and reducing a member in rank or pay.

(d) The Civil Service Commission's jurisdiction over written reprimands and transfers for the purpose of punishment is appellate only. Original jurisdiction over these disciplinary sanctions rests solely with the Hearing Board. The Commission will decide such issues based solely on the Hearing Board record.

(e) The standard of review in cases decided on the record before the Hearing Board is substantial deference to the Hearing Board's findings of fact and *de novo* review of the Hearing Board's legal conclusions. In all instances, the burden of proof to sustain the punitive action remains on the Department.

8.02 Civil Service Rules Applicable to Cases of Removal, Discharge, Suspension, Reduction in Rank or Reduction in Pay.

(a) Notice of Charges; Answer -

(1) In every case of removal, discharge, suspension or reduction in rank or pay, notice shall be given to the individual removed, discharged, suspended or reduced of the reasons therefore by the removing officer. A copy of such notice shall also be forwarded to the Commission for filing. Upon the filing of such notice, the affected member may demand, in writing, a hearing within ten (10) business days unless the member desires to file an answer. If the affected member desires to file an answer to the charge against him, he shall do so, in writing, within ten (10) business days of the receipt of such notice from the removing officer. A copy of said answer shall be forwarded to the Commission and to the removing officer. Such answer shall contain a demand for a hearing if the affected member desires a hearing. Failure to request a hearing within the established time frame will be deemed a waiver of the right to a hearing. The Commission will schedule an evidentiary hearing to be held within ten (10) business days unless all parties agree, in advance to a later hearing date.

(b) If the member waives his right to a Hearing Board or upon the filing of an appeal by either party a hearing shall be held in accordance with the provisions of these Rules and Regulations. The party desiring the hearing shall make its written appeal/request within ten (10) business days and the other party may file a written answer/response within ten (10) business days. The Commission will schedule an evidentiary hearing to be

held within ten (10) business days of the filing of the charges in writing and demand for a hearing by the affected member, or the filing of the answer thereto, whichever shall last occur, unless a longer period of time is agreed to by the affected member. The time to hold any hearing may be extended with the consent of the affected parties and the Commission.

(c) Burden and Standard of Proof at Hearing -

At such hearing, the burden of proof shall be upon the removing officer to show just cause for his actions, by a preponderance of the evidence unless the West Virginia Rules of Civil Procedure provide a higher burden for any specific charge such as fraud.

(d) Rules of Evidence -

(1) Irrelevant, immaterial, or unduly repetitious evidence shall be excluded. The rules of evidence as applied in civil cases in the circuit courts of this state shall be used only as a guide. When necessary to ascertain facts not reasonably susceptible of proof under the strict rules of evidence, evidence not admissible thereunder may be admitted, except where precluded by statute, if it is of a type commonly relied upon by reasonably prudent men in the conduct of their affairs. The Commission shall be bound by the rules of privilege recognized by law. Objections to evidentiary offers shall be noted in the record. Any party to any such hearing may vouch the record as to any excluded testimony or other evidence.

(2) All evidence, including papers, records, memoranda and documents in the possession of any party, of which it desires to avail itself, shall be offered and made a part of the record in the case, and no other factual information or evidence shall be considered in the determination of the case. Documentary evidence may be received in the form of copies or excerpts or by incorporation by reference.

(3) Every party shall have the right of cross-examination of witnesses who testify, and shall have the right to submit rebuttal evidence.

(4) The Commission may take notice of judicially cognizable facts. All parties shall be notified either before or during hearing, or by reference in preliminary reports or otherwise, of the material so noticed, and they shall be afforded an opportunity to contest the facts so noticed.

(5) Upon motion in writing served by any party assigning error or omission in any part of any transcript of the proceedings had and testimony taken at any such hearing, the Commission shall settle all differences arising as to whether such transcript truly discloses what occurred at the hearing and shall direct that the transcript be corrected and revised in the respects designated so as to make it conform to the whole truth.

(e) Reinstatement or Other Relief -

If the removing officer fails to show just cause for his action at said hearing, the member removed, discharged, suspended or reduced shall be reinstated with full pay forthwith, without any additional order, for the entire period during which he may have been prevented from performing his usual appointment, and no charges shall be officially recorded against his record. A written record of all testimony taken at such hearing, shall be kept and preserved by the Commission which record shall be sealed and not open to public inspection unless an appeal is taken to the Circuit Court of Kanawha County from the final Order of the Commission.

8.05 Reduction in Size of Department.

If for reasons of economy or other justifiable cause it shall be necessary to reduce the number of persons employed as members of the paid Fire Department of the City, said reduction shall be effected by suspending the last persons, including probationers, appointed to the Department, said removal being accomplished by suspending the number desired in inverse order of their appointment. In the event the Fire Department shall again be increased in authorized strength, members suspended under the terms of this part shall be reinstated in inverse order of their suspension before any new appointment is made.

PART IX - HEARINGS

9.01 Application of this Part.

Unless otherwise specified in these or other rules and regulations, the rules in this section shall govern and apply to hearings conducted by the Commission pursuant to the authority vested in it under the laws of this State or regulations promulgated pursuant thereto.

9.02 Hearings by the Commission; Presiding Officer.

Hearings shall be conducted before the Commission. The Presiding Officer at a hearing shall be designated by the President of the Commission and may be the President of the Commission, one of the Commissioners, or such other person as the President of the Commission may designate.

9.03 Powers of Presiding Officer.

The Presiding Officer at every hearing may, subject to the rules set forth in this section:

- (a) Conduct generally the hearing, and in connection therewith:
 - (1) Cause the administration of oaths and affirmations;
 - (2) Issue subpoenas authorized by law;
 - (3) Rule on offers of proof and receive evidence;
 - (4) Permit evidentiary depositions to be taken and read as in civil actions in the Circuit Courts of this State and discovery depositions with the consent of the Presiding Officer;
 - (5) Regulate the course of the hearing;
 - (6) Dispose of procedural requests or other matters;
 - (7) Hold conferences for the settlement or simplification of the issues with the consent of the parties;
 - (8) Take any other action in connection with such hearing authorized by law or fairly implied in the jurisdiction of the Commission; and
 - (9) With regard to each of these duties and powers, decisions by the Presiding Officer shall be subject to review by the full Commission.
- (b) In all cases, final orders and final decisions shall be made by the Commission and entered by the City Clerk.

9.04 Notice of Hearing; Contents of Notice.

- (a) Unless otherwise specified in these Rules and Regulations, no hearing shall be conducted under these rules or otherwise unless the parties to the proceeding shall have received written notice.
- (b) Each written notice of the hearing shall contain the date, time and place of the hearing and a short and plain statement of matters which are to be the subject of or asserted at the hearing.

(c) Reasonable efforts will be made to schedule hearings by agreement with ten (10) calendar days' notice. Affected persons may agree to a hearing on less than ten (10) days notice for time sensitive issues.

9.05 Place of Hearing.

The date, time and place of each hearing shall be determined by the President of the Commission.

9.06 Representation at Hearings.

At hearings held pursuant to these Rules, any party may represent himself or be represented by an attorney at law admitted to practice before any Circuit Court of this State.

9.07 Waiver of Evidentiary Presentation.

(a) Parties entitled to an evidentiary hearing may waive such right in writing, but unless all parties file timely waivers, a hearing will be conducted. Parties waiving such hearing need not appear.

(b) Any party who desires to submit written pleadings, comments or information in lieu of an evidentiary presentation may submit such documents to the Presiding Officer for consideration by the Commission.

(c) Waivers must be unequivocal and request the Commission to decide the matter at issue on the pleadings and written record in case, including any stipulations the parties might enter.

(d) When a hearing is waived under the provisions of this section, the written record in the case shall be submitted to the Commission for decision.

9.08 Proposed Findings, Conclusions and Orders.

The Commission will prepare Findings of Fact and Conclusions of Law and served its decision and Order on all Parties. Alternatively; the Presiding Officer may request the submission of proposed findings of fact, conclusions of law and Orders, together with a supporting brief. Such proposals and briefs, if submitted, shall be served upon the Commission in an editable text document so that the Commission can modify any proposed Order to accurately reflect its reasoning and findings. Proposed Findings shall be served on all parties and shall contain adequate references to the authorities relied upon. The

9.09 Hearings Not Public Unless Requested.

Hearings conducted under these Rules, except when the context clearly indicates otherwise, are considered personnel matters and are therefore private and not open to the public. If the member who will be affected by the actions of the Commission requests a public hearing, the hearing will be open to the public. The Commission reserves the right to close portions of any hearing to protect confidentiality and other legitimate reasons. Deliberations of the Commission are not public.

9.10 Final Decision by the Commission.

(a) Upon completion of the proceedings provided for in these Rules and Regulations, the Commission shall review, consider and decide the case and enter, where appropriate, a final decision and order.

(b) In cases where any member of the Commission is not present at a hearing, the Presiding Officer shall forward the record in the case to that Commissioner for review, together with such written commentary and recommendations as the Presiding Officer deems appropriate. Such recommendations and commentary, if any, shall be made a part of the record of the case.

PART X - APPEALS

In the event the Commission sustains the action of the removing officer, the member has an immediate right of appeal to the Circuit Court of Kanawha County. In the event that the Commission reinstates the member, the removing officer has an immediate right of appeal to the Circuit Court of Kanawha County. In the event either the removing officer or the member objects to the amount of the attorney fees awarded to the member, the objecting party has an immediate right of appeal to the Circuit Court. Any appeal must be taken within ninety days from the date of entry by the Commission of its final order.

Bill No. 7978

Introduced in Council:

November 21, 2022

Adopted by Council:

Introduced by:

Becky Ceperley

Referred to:

Ordinances & Rules

Bill No. 7978 - A BILL to amend the Municipal Code of the City of Charleston, as amended, by amending and reenacting Section 2-63, relating to updating the quadrennial organization statute to be consistent with the City Charter.

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

That Section 2-63 of the Municipal Code of the City of Charleston, as amended, be amended and reenacted to read as follows:

CHAPTER 2. – ADMINISTRATION.

ARTICLE III. – CITY COUNCIL.

DIVISION 1. – GENERALLY.

Sec. 2-63. – Quadrennial organizational.

(a) ~~At 10:00 a.m. 12:00 noon on the third Monday of June in the year 1999, first Monday of January, unless said Monday is a state holiday, in which case on the Tuesday immediately following said holiday, in the year 2023, and every four years thereafter, the mayor-elect and councilmen-elect councilmembers-elect shall meet in special public session at the council chamber in the city building city hall, or another appropriate location specified by the mayor-elect in the public meeting notice, and shall be called to order by the incumbent city clerk or, in his or her absence, a deputy or assistant city clerk.; and the~~ The mayor-elect and councilmen-elect councilmembers-elect shall then proceed to take the prescribed oath of office, whereupon they shall be deemed to have qualified themselves for the offices to which they, respectively, have recently been elected; provided, that the mayor-elect shall not be deemed to have qualified until he or she shall have given bond as provided in section 25 of the city Charter.

(b) The city council shall then elect a president pro tempore of the council from among the councilmembers, and may then proceed with other business of an organizational nature such as adopting, amending or readopting rules not inconsistent with this Code; filling vacancies in offices for which the appointing authority is the council or the mayor with the approval of the council; the appointment of members of council committees; and other matters relating to the organization of the city government generally. No regular business of city council shall occur at this special

36 public session held once every four years. ~~for the ensuing four-year period.~~

1 **Bill No. 7978 Committee Substitute**

2
3 Introduced in Council:

Adopted by Council:

4
5 November 21, 2022

6
7 Introduced by:

Referred to:

8
9 Becky Ceperley

Ordinances & Rules

10
11 **Bill No. 7978 Committee Substitute** - A BILL to amend the Municipal Code of the City
12 of Charleston, as amended, by amending and reenacting Section 2-63, relating to
13 updating the quadrennial organization statute to be consistent with the City Charter.
14

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

16
17 That Section 2-63 of the Municipal Code of the City of Charleston, as amended, be
18 amended and reenacted to read as follows:

19
20 **CHAPTER 2. – ADMINISTRATION.**

21 **ARTICLE III. – CITY COUNCIL.**

22 **DIVISION 1. – GENERALLY.**

23
24 **Sec. 2-63. – Quadrennial organizational.**

25
26 (a) At 10:00 a.m. 12:00 noon on the ~~third Monday of June in the year 1999~~, first
27 Monday of January, unless said Monday is a state holiday, in which case on the
28 Tuesday immediately following said holiday, in the year 2023, and every four years
29 thereafter, the mayor-elect and ~~councilmen-elect~~ councilmembers-elect shall meet in
30 special public session at the council chamber in ~~the city building~~ city hall, or another
31 appropriate location specified by the mayor-elect in the public meeting notice, and shall
32 be called to order by the incumbent city clerk or, in his or her absence, a deputy or
33 assistant city clerk.; ~~and the The mayor-elect, councilmen-elect councilmembers-elect,~~
34 municipal judge-elect, and treasurer-elect shall then proceed to take the prescribed oath
35 of office, whereupon they shall be deemed to have qualified themselves for the offices
36 to which they, respectively, have recently been elected; provided, that the mayor-elect,
37 municipal judge-elect, and treasurer-elect shall not be deemed to have qualified until he
38 or she shall have given bond as provided in section 25 of the city Charter.

39 (b) The city council shall then elect a president pro tempore of the council from
40 among the councilmembers, and may then proceed with other business of an
41 organizational nature such as adopting, amending or readopting rules not inconsistent
42 with this Code; filling vacancies in offices for which the appointing authority is the
43 council or the mayor with the approval of the council; the appointment of members of
44 council committees; and other matters relating to the organization of the city
45 government generally. No regular business of city council shall occur at this special
46 public session held once every four years. for the ensuing four-year period.

Bill No. 7980

Introduced in Council:

November 21, 2022

Adopted by Council:

Introduced by:

Emmett Pepper and Ben Adams

Referred to:

Ordinance & Rules

Bill No. 7980 - A BILL to amend the Municipal Code of the City of Charleston, as amended, by amending and reenacting Section 65-3 relating to the makeup of the Board of Directors of the Land Reuse Agency.

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

That Section 65-3 of the Municipal Code of the City of Charleston, as amended, is hereby amended and reenacted to read as follows:

**CHAPTER 65. – LAND REUSE AGENCY.
ARTICLE 1. – CREATION ORGANIZATION.**

Sec. 65-3. Board of Directors.

(a) The Charleston Land Reuse Agency shall operate under the control of a board of directors composed of seven members, as follows:

(1) The Mayor, or his or her designee;

(2) The City Manager, or his or her designee;

(3) ~~The City Attorney, or his or her designee;~~

(4) Two members of City Council, appointed by the Mayor, for terms coinciding with their term on City Council; and

~~(5) Two~~ (4) Three members of the general public, who are residents of Charleston, appointed by the Mayor with the advice and consent of City Council.

(b) The ~~two~~ three members of the general public ~~initially~~ appointed to the Board shall serve initial terms of ~~two and four years, respectively. Thereafter, each term shall be for~~ four years.

(c) The ~~two~~ three members of the general public shall each have expertise in one or more of the following areas:

(1) Real estate transactions or financing;

(2) Development of commercial or residential property;

(3) Establishment, development, management, or use of public lands;

(4) Land conservation;

(5) Housing; or

(6) Public safety.

(d) Each member shall continue in office until a successor is duly appointed,

36 except in the event of a member's removal, death, or delivery of written resignation to
37 Council. In the case of such a vacancy, a new member shall be appointed to serve the
38 remainder of the term. If the Mayor or City Manager, ~~or City Attorney~~ no longer holds
39 that position, then the position they or their designee holds on the Board is immediately
40 declared vacant and filled by the person's duly qualified successor.

41 (e) Members of the Board shall serve without compensation. Any member of the
42 Board who is an employee of the City may spend regular work hours on matters related
43 to the Board and receive his or her regular salary, as approved by the employee's direct
44 supervisor.

45 (f) In addition to the voting members of the Board stated in this section, the
46 following persons shall be non-voting *ex officio* members to provide advice to the Board:
47 The City Attorney, the Planning Director, the Building Commissioner, and the Director of
48 the Mayor's Office of Community and Economic Development. The Board may request
49 assistance from any City department or employee, as necessary.
50

Resolution No. 744-22

Introduced in Council:

Adopted by Council:

December 5, 2022

Introduced by:

Referred to:

Joseph Jenkins and Larry Moore

Finance

1 Resolution No. 744-22 - Whereas, the Land and Water Conservation Fund ("LWCF") was
2 established by Congress in 1964 to fulfill a bipartisan commitment to safeguard natural areas,
3 water resources, and cultural heritage, as well as to provide recreation opportunities to all
4 Americans;

5
6 Whereas, the LWCF is a state and federal partnership program benefiting the State of West
7 Virginia and its political subdivisions;

8
9 Whereas, the funding for the program is provided through congressional appropriations to the
10 State & Local Assistance Programs Divisions of the National Park Service;

11
12 Whereas, the LWCF program provides matching grants to states for planning, acquiring,
13 developing, or renovating state and local parks;

14
15 Whereas, the LCWF grant program may be used to renovate athletic fields, including installing
16 synthetic turf;

17
18 Whereas, the City maintains numerous athletic fields that are frequently used by community
19 groups, City Parks & Recreation Department programs, little league organizations, and more;

20
21 Whereas, the City's Administration has identified the North Charleston Community Center
22 football field as a suitable candidate for renovation through turf replacement with the
23 assistance of federal grant funds;

24
25 Whereas, the estimated cost of turf replacement project is approximately \$1.2 million;

26
27 Whereas, the LCWF requires applicants to submit a 50% cash match for any awarded funds; and

28
29 Whereas, the Council finds that proceeding with the grant application, including committing to
30 the 50% cash match requirement, is in the best interests of the City and its residents

31
32 Now, therefore, be it Resolved by the Council of the City of Charleston, West Virginia:
33

1 That the Mayor or City Manager is authorized to submit a grant application to the Land and
2 Water Conservation Fund in the amount of \$1.2 million to perform athletic field turf
3 renovations to the North Charleston Community Center football field. The Mayor or City
4 Manager is further authorized to commit the City to the 50% cash match grant requirement.



Date: September 8th, 2022

PROPOSAL FOR CITY OF CHARLESTON – VERSION 1

NORTH CHARLESTON MULTI-USE FIELD

Turf Alliance is pleased to provide the following:

Project Jonathan Storage City Manager City of Charleston 501 Virginia Street East Charleston, West Virginia, USA 25301 Phone: 304-348-8014 Email: Jonathan.storage@cityofcharleston.org	CITY OF CHARLESTON North Charleston Multi-Use Field 2009 7th Avenue Charleston, West Virginia, USA 25387
Project Details	TACOC-10 – City of Charleston North Charleston Multi-Use Field
Scope of Work Details	Project Budget Breakdown: (100,586 SF Required) X \$ 563,281.60 - A – Construction SOW X \$ 523,851.89 - B – Turf SOW X \$ <u>106,400.00</u> - C – Field Specific SOW * X \$ <u>1,193,533.49</u> - TOTAL * Field Specific Scope of Work – is to be discussed – this cost will be defined by the Sports incorporated – Football / Soccer / Baseball / Lacrosse / Rugby / Field Hockey
Price Per SourceWell Contract #031622-TNA	\$ 1,193,533.49 - USD Any and All Applicable Taxes are Extra (if applicable) All Prices are in USD



TURF ALLIANCE, LLC.

3698 Falling Springs Road, Bonnieville, Kentucky, 42713

Turfalliance.com

800.467.0000





Product Details

Turf Nation, a proven manufacturer of professional quality and premium performance synthetic turf systems, including the **Turf Nation S5** turf system (existing Superdome relocated surface) with the following properties:

Pile Height: 2 ½ inches
Face Weight: 51 oz. – 85oz Total Weight
Infill: 70% Rubber / 30% Rubber
Primary Backing System: Titanium Shield
Balanced Matrix Fiber Spacing and TRUE C8 Resin Fiber

Project Summary

Turf Alliance proposes to install the existing S5 professional grade surface (existing Superdome relocated surface) as outlined in the Detailed Drawings Set (Appendix A) attached. The S5 surface features TRUE-C8 resin fiber, Balanced Matrix and Titanium Shield Backing System as detailed in the attached Product Data Sheet (PDS).

Appendix A – Detailed Drawing Set
Appendix B – Product Data Sheet

Price Includes

The pricing incorporates the options as detailed and selected below:

X \$ 563,281.60 - A – Construction SOW
X \$ 523,851.89 - B – Turf SOW
X \$ 106,400.00 - C – Field Specific SOW *
X \$ 1,193,533.49 - TOTAL

* Field Specific Scope of Work – is to be discussed – this cost will be defined by the Sports incorporated – Football / Soccer / Baseball / Lacrosse / Rugby / Field Hockey



TURF ALLIANCE, LLC.

3698 Falling Springs Road, Bonnieville, Kentucky, 42713

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800.467.0000





Price does not Include

Any aspects not specifically listed in the Scope of Work as summarized above. A list of specifically excluded aspects is listed below, but not meant to be limited to:

- A. Any applicable prevailing wages, union, permits, fees, licensed, bonds or bonding costs
- B. Any addition field markings, lettering or logos not found on the detailed drawing set and listed/selected specifically above.
- C. Any additional sports related equipment – TBD
- D. External design and engineering services
- E. Site security, fencing, lighting and/or site protection

Price Guarantee

Pricing valid and guaranteed for 10 days from date of proposal. All pricing is based upon the current costs of materials and Turf Alliance standard-time labor rates at time of issuance. If in the event prices for raw materials, freight or other manufacturing costs or taxes increase the price will be adjusted to reflect these changes.

Payment

Payment consistent with previous contract – progress draw structure.

Taxes

Any and all applicable/associated taxes (if applicable) will be extra.

Team Contacts

Mark Nicholls-Project Manager	markn@turfalliance.com	905-327-5501
Mike Merrick – Director of Business Development	mikem@turfalliance.com	289-687-8873
Rachael Baumgardner – Director of Brand Development	rachaelb@turfalliance.com	270-404-2603
Ralph Buerger-Director of Administration	ralphb@turfalliance.com	905-941-5504



TURF ALLIANCE, LLC.

3698 Falling Springs Road, Bonnieville, Kentucky, 42713

Turfalliance.com

800.467.0000





Signatures

City of Charleston

Turf Alliance, LLC.

Print Name:_____

Print Name: Mark Nicholls

Date:_____

Date:_____



TURF ALLIANCE, LLC.

3698 Falling Springs Road, Bonnieville, Kentucky, 42713

Turfalliance.com

800.467.0000



Resolution No. 745-22

Introduced in Council:

Adopted by Council:

December 5, 2022

Introduced by:

Referred to:

Chad Robinson, Becky Ceperley, Bruce King,
Joseph Jenkins, Brent Burton, Bobby Reishman
And Courtney Persinger

Finance

1 Resolution No. 745-22 - A Resolution authorizing the acceptance of conservation easements
2 from Graff-Lane Properties, LLC, on lands in the Quarry Creek development on the south side of
3 the Kanawha River (the "Conservation Property"), for the purpose of preserving green spaces
4 and enhancing the scenic backdrop to the State Capitol Building and the City of Charleston.

5
6 WHEREAS, F.T. Graff Jr., J. Thomas Lane, their company, Graff-Lane Properties, LLC, and
7 predecessor companies, have previously imposed conservation easements on their mountain
8 properties extending from Mission Hollow on the east to South Ruffner on the west and
9 providing a scenic backdrop for the State Capitol and City of Charleston and the proposed
10 conservation easements will enhance and supplement the green spaces and scenic property
11 currently existing in the Quarry Creek development; and

12
13 WHEREAS, the State of West Virginia through the Conservation and Preservation Easements
14 Act, W. Va. Code, Chapter 20, Article 12, recognizes the importance and public benefit of
15 conservation easements to protect the natural and scenic resources of the State of West
16 Virginia, and has allowed that such easements may be accepted by municipalities; and

17
18 WHEREAS, the Charleston Land Reuse Agency, and formerly the Charleston Land Trust, as
19 agencies of the City of Charleston were created by ordinance, and are charged with managing
20 and maintaining "public trust lands" for preservation of green space and woodlands, and
21 promoting the preservation of scenic green space areas; and

22
23 WHEREAS, the Charleston Land Reuse Agency has identified the protection of the Conservation
24 Property as desirable to preserve the wooded setting of the Conservation Property in the
25 Quarry Creek development and has recommended that this Resolution be adopted and that the
26 City of Charleston accept the easements;

27
28 THEREFORE, Be It Resolved By The Council Of The City Of Charleston, West Virginia that:

29
30 Subject to review, revision and approval of the deeds by the City Attorney, the acceptance of
31 the Deeds for Conservation Easement from Graff-Lane Properties, LLC, is hereby authorized.

DEED FOR CONSERVATION EASEMENT

THIS Deed for Conservation Easement (“Conservation Deed”) made as of the 25th day of December 2022, by and between and **GRAFF-LANE PROPERTIES, LLC**, a West Virginia limited liability company, hereinafter referred to as “Grantor”, and the **CITY OF CHARLESTON**, hereinafter referred to as “Grantee”;

RECITALS:

WHEREAS, Grantor is the owner of property on the south side of the Kanawha River now known as Quarry Creek, extending from Lick Branch and South Ruffner Road on the west to Mission Hollow and South Park Road on the east in the City of Charleston, Kanawha County, West Virginia; and

WHEREAS, Grantor’s property provides the backdrop and vista for the State Capitol of the State of West Virginia, the downtown area of the City of Charleston and travelers along the Kanawha River and the interstate and other highways through the City of Charleston; and

WHEREAS, Grantor, and its predecessor companies, Graff-Lane Development, Inc., and Graff-Lane Properties, Inc. in developing Quarry Creek imposed protective covenants, restrictions and reservations, by a document dated July 20, 1992, and of record in the Office of the Clerk of the County Commission of Kanawha County, West Virginia, in Deed Book 2299, page 57 (herein, as amended, supplemented and clarified, the “Protective Covenants”) which restrict the use of the property and limit clearing of trees; and

WHEREAS, in addition to the Protective Covenants, Grantor, its owners and its predecessor companies have conveyed to the State and to the Grantee conservation easements on those portions of their property facing the State Capitol and the City and on the old quarry area at the entrance to Quarry Creek and these conservation easements serve to conserve and preserve the wooded areas, natural setting and certain landscaped areas; and

WHEREAS, Grantor wishes to impose a conservation easement on additional properties to continue and expand the scenic easement created and to preserve the wooded and natural setting; and

WHEREAS, the “Conservation and Preservation Easements Act,” West Virginia Code, Chapter 20, Article 12, recognizes the importance and significant public benefit of conservation and preservation easements to protect the natural, historic, open space and scenic resources of the State of West Virginia; and

WHEREAS, the City of Charleston created Charleston Land Reuse Agency and previously the Charleston Land Trust for the purpose of acquiring conservation easements within the City of Charleston which conserve and preserve green spaces and enhance the beauty of the City of Charleston.

NOW, THEREFORE, For valuable consideration and to fulfill the purpose of creating and preserving green spaces and scenic resources and to add to the scenic easements currently existing in Quarry Creek, Grantor does hereby impose upon and does grant to Grantee an easement in perpetuity, as hereinafter described, upon those certain tracts of land situate in the City of Charleston, Charleston South Annex Tax District, Kanawha County, West Virginia, as follows:

Tract 115: Being described as Tract 115, Phase V of QUARRY CREEK, and containing 1.3 acres more or less, as shown and described on that certain map titled: “Quarry Creek Phase V Tracts 103 Through 119”, of record in the Office of the Clerk of the County Commission of Kanawha County, West Virginia, in Map Book 65, page 69; and being the same property conveyed to Grantor by Jay Folse, dated August 19, 2022, and of record in said Clerk’s Office in Deed Book 3140, page 682.

Tract 113: Being described as Tract 113, Phase V of QUARRY CREEK, and containing 1.5 acres more or less, as shown and described on that certain map titled: “Quarry Creek Phase V Tracts 103 Through 119”, of record in the Office of the Clerk of the County Commission of Kanawha County, West Virginia, in Map Book 65, page 69; and being the same property conveyed to Grantor by Graff-Lane Properties, LLC, a Delaware limited liability company, in a Confirmatory Deed, dated November 5, 2014, and of record in said Clerk’s Office in Deed Book 2929, page 37.

Tract 104: Being described as Tract 104, Phase V of QUARRY CREEK, and containing 1.9 acres more or less, as shown and described on that certain map titled: “Quarry Creek Phase V Tracts 103 Through 119”, of record in the Office of the Clerk of the County Commission of Kanawha County, West Virginia, in Map Book 65, page 69; and being the same property conveyed to Grantor by Graff-Lane Properties, LLC, a Delaware limited liability company, in a Confirmatory Deed, dated November 5, 2014, and of record in said Clerk’s Office in Deed Book 2929, page 37.

Tract 100: Being described as Tract 100, Phase IV of QUARRY CREEK, and containing 1.11 acres more or less, as shown and described on that certain map titled: “Map Showing Phase IV of Quarry Creek”, of record in the Office of the Clerk of the County Commission of Kanawha County, West Virginia, in Map Book 62, page 94; and being the same property conveyed to Grantor by G. Russell Rollyson, Jr., Deputy Commissioner of Delinquent and Nonentered Lands of Kanawha County by deed dated _____, 2022, and of record in said Clerk’s Office in Deed Book ____, page ____,

The easement hereby conveyed is for the exclusive purpose of conserving and persevering the land in its natural wooded condition and for such conservation purpose, there is hereby prohibited any construction of buildings, timber clearing, any excavation and any other activity or use which is inconsistent with the conservation purpose of this easement, except only that a single family residence built on an adjacent tract in Quarry Creek may encroach on said Tract 115, a driveway from Quarry Ridge South may be constructed and used to serve such residence on the adjacent property, grass cutting and landscaping may be enhanced and maintained along roads and intersections and there may be such minor clearing as may be permitted by the Protective Covenants.

Grantor reserves the right to maintain all utilities and to construct new utility lines, and easements therefor, including without limitation, water, electric, gas, sewer, telephone, cable, communication, internet and any other lines and services, as necessary to serve Quarry Creek and any tracts in Quarry Creek, to maintain drains and stormwater control facilities, to construct and maintain nature trails, to have the independent right to enforce the prohibitions of this easement, to landscape and beautify the land affected by this easement, to enhance and maintain landscaping

and grass berms along roads and intersections, to construct, replace and maintain street lights and to cut, trim and plant trees and other plants. Grantor specifically acknowledges that it reserves the duty to maintain the properties in a manner consistent with the City of Charleston Building Code and that this Conservation Deed does not place any duty upon the City of Charleston to maintain the properties. The rights reserved by the Grantor must be exercised in a manner consistent with the conversation purpose of this easement and the Protective Covenants.

Grantee shall have the right to enter the easement property at reasonable times for the purpose of inspecting the property to determine if there is compliance with the terms of this donation. Grantee shall also have the right to enforce the conservation easement by appropriate legal proceedings, including, but not limited to, the right to require the restoration of the property to its condition at the time of this Deed for Conservation Easement.

This conveyance is made subject to all restrictions, easements, out-conveyances, gas, electric, sewer, water, telephone, cable and other communication and utility lines and any and all other lines, easements, liens or encumbrances which may exist with respect to the property, whether or not an instrument may appear of record therefor and to any limitations in Grantor's title. In addition, Grantor reserves all minerals and the right to use the subsurface of the property for the development of any minerals.

This conveyance is made to the City of Charleston and, accordingly, is exempt from the transfer tax imposed upon the privilege of transferring an interest in real estate.

IN WITNESS WHEREOF, Grantor has caused this Deed for Conservation Easement to be executed by a member who is duly authorized.

GRAFF-LANE PROPERTIES, LLC, a West Virginia limited liability company

By: _____
J. Thomas Lane
Its: Member

STATE OF WEST VIRGINIA,
COUNTY OF KANAWHA, To-Wit:

I, _____, a Notary Public in and for the State and County aforesaid, do certify that J. Thomas Lane, who signed the writing above, bearing date the 25th day of December, 2022, as a Member of the **GRAFF-LANE PROPERTIES, LLC**, a West Virginia limited liability company, has this day in my said County, before me, acknowledged the said writing to be the act and deed of said limited liability company.

Given under my hand this _____ day of December, 2022.

My commission expires _____.

Notary Public

[NOTARY SEAL]

This instrument prepared by:
Scott Barnette, Esq.
Bowles Rice LLP
Post Office Box 1386
Charleston, West Virginia 25325-1386

Bill No. 7979

Introduced in Council:

November 21, 2022

Adopted by Council:

Introduced by:

Sam Minardi

Referred to:

Finance

Bill No. 7979 - A BILL to amend and reenact Sec. 2-743 of the Municipal Code of the City of Charleston, as amended, relating to expanding the time period within which a person may claim a refund for overpayment of the City Service Fee.

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

That Sec. 2-743 of the Municipal Code of the City of Charleston, as amended, be amended and reenacted to read as follows:

Sec. 2-743. - Protest; administrative decision; appeal.

(a) Anyone who has paid the fee imposed by this article shall file a claim for refund no later than ~~30 days~~ three years after the fee is paid over to the city by written notice of such claim with the city collector setting forth with particularity all objections thereto. The burden of proof shall be upon the aggrieved party to show that the fee was paid and is incorrect and contrary to law, in whole or in part. The city collector shall review the refund claim and provide for any necessary hearing, render a decision on the claim and forthwith either notify the protesting party of such decision in writing or direct that a refund be issued, all within a reasonable time. Said decision shall be issued by certified mail, return receipt requested.

(b) If aggrieved by the decision of the city collector, the protesting party may appeal the decision of the city collector to the Circuit Court of Kanawha County within 30 days after service of the city collector's decision.

(1) The appeal shall be taken by the filing of a petition and notice, which petition and notice shall be served upon or accepted by the city collector as an original notice. When the petition and notice is so served it shall, with the return or acceptance thereon, be filed in the Office of the Clerk of the Kanawha County Circuit Court and docketed as other cases, with the aggrieved party as plaintiff and the city collector as defendant.

(2) The filing of the appeal shall not stay the collection of the fee unless the plaintiff shall file with such clerk a bond for the use of the defendant, with sureties approved by the Clerk of the Circuit Court of Kanawha County, the penalty of the bond to be not less than the total amount of the fee, and accumulated penalties to the date of the appeal, and conditioned that the plaintiff shall perform the orders of the Kanawha County Circuit Court; provided, that the judge of the Kanawha County Circuit Court may

36 stay the collection of the fee, and accumulated penalties without the requirement of a
37 bond, upon a proper showing by the plaintiff that the properties of the plaintiff are
38 sufficient to secure performance of the Kanawha County Circuit Court's orders or that
39 the ends of justice will be served thereby.

40 (3) The Kanawha County Circuit Court shall hear the appeal and determine anew
41 all questions submitted to it on appeal from the decision of the city collector. In such
42 appeal a certified copy of the city collector's fee assessment shall be admissible and
43 shall constitute prima facie evidence of the fee due under the provisions of this article.
44

45 (c) The administrative remedies set forth in this section are exclusive. Failure to
46 timely file a refund claim in accordance with this section shall preclude any right to
47 refund with respect to any fee paid to the city prior to the claim. If no appeal is taken
48 pursuant to this section within 30 days after service of the city collector's decision, said
49 decision shall become final and conclusive and not subject to administrative or judicial
50 review. The amount of the fee and accumulated penalties, if any, due the city under
51 such decision shall be due and payable on the day following the date upon which such
52 decision becomes final.
53

Bill No. 7981

Introduced in Council:

November 21, 2022

Adopted by Council:

Introduced by:

**Emmett Pepper, Keeley Steele
And Naomi Bays**

Referred to:

Finance

Bill No. 7981 - A BILL to amend and reenact Section 110-145 of the Municipal Code of the City of Charleston, as amended, relating to expanding the ability of small businesses to obtain consent from the city collector to pay business and occupation taxes on an annual basis.

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

That Section 110-145 of the Municipal Code of the City of Charleston, as amended, to read as follows:

CHAPTER 110 – TAXATION.

ARTICLE II. – BUSINESS AND OCCUPATION TAX.

DIVISION 3. – PAYMENTS, RETURNS, AND RECORDS.

Sec. 110-145. – Interest and penalties.

(a) The tax imposed by this article shall be in addition to all other licenses and taxes levied by law as a condition precedent to engaging in any business, trade, calling or activity. A person exercising a privilege taxable under this article, subject to the payment of all licenses and charges which are a condition precedent to exercising the privilege tax, may exercise the privilege for the current tax year upon the condition that he they shall pay the tax accruing under this article.

(b) *Computation of tax.*

(1) The taxes levied hereunder shall be due and payable in quarterly installments on or before the expiration of one month from the end of the quarter in which they accrue, except as otherwise provided in this subsection. The taxpayer shall, within one month from the expiration of each quarter, make a return reporting the tax for which he/she is liable for such quarter; sign it and mail it, together with any remittance due, in the form required by section 110-82 of the amount of the tax to the office of the city collector. In reporting and remitting the amount of the tax due for each quarter, the taxpayer may deduct one-fourth of the total exemption allowed for the year. When the total tax for which any person is liable under this article does not exceed the sum of ~~\$200.00~~ \$2,500.00 in any year, the taxpayer may pay the tax quarterly as aforesaid or, with the consent in writing of the city collector in the manner prescribed by regulations promulgated pursuant hereto, on an annual basis at the end of the month next following

36 the close of the tax year.

37 (2) The city collector, if ~~he deems~~ they deem it necessary, based upon past
38 experience with a taxpayer, based on the past practices of a taxpayer, based on the
39 financial condition of the taxpayer, or based on the size of the contract, in order to
40 insure payment of the taxes levied hereunder, may require return and payment under
41 this section for other than quarterly periods. Furthermore, if the city collector deems it
42 necessary to insure payment of the business and occupation tax, ~~he~~ they may require a
43 deposit to be paid by the taxpayer prior to when the taxes accrue and are otherwise
44 payable. The amount of the deposit shall be determined and/or based upon the
45 taxpayer's projected gross income or gross proceeds of sale for the applicable tax
46 period. This deposit shall be paid to the office of the city collector, at a date and time,
47 and in a manner determined by the city collector.

48 (3) Every contractor whose principal business location is outside of the city, shall
49 register with the city collector prior to engaging in the performance of a contract in this
50 city, and the city collector, if ~~he~~ they deems it necessary, based on the past experience
51 with a taxpayer, based on the past practices of a taxpayer, based on the financial
52 condition of the taxpayer, or based on the size of the contract, in order to insure
53 payment of the taxes levied hereunder, may also require the following:

54 (A) At the time of registration, each contractor shall deposit with the city collector
55 six percent of the amount the contractor is to receive for the performance of the contract,
56 which sum shall be held within a contractor's use tax fund pending the completion of the
57 contract.

58 (B) In lieu of the six percent deposit, each contractor may request the approval of
59 the city collector to provide, in the alternative, a corporate surety bond to be approved
60 by the city collector as to form, sufficiency, value, amount, stability, and other features
61 necessary to provide a guarantee of payment of the tax due the city.
62

Bill No. 7977

Introduced in Council

Passed by Council

December 5, 2022

Introduced By

Referred To:

Mary Beth Hoover

**Municipal Planning Committee
Planning, Streets, and Traffic**

Bill No. 7977 – A Bill amending the Municipal Planning Commission’s rules of procedures and policy by adding a section relating to ex parte communications. Rules and procedures may be adopted by the Municipal Planning Commission and approved by City Council pursuant to Section 8A-2-11 of the State Code, Section 90-36 of the City Code and Section 34-20 of the Zoning Ordinance.

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

1. The rules and procedures for the Municipal Planning Commission are hereby amended as follows:

1. Establishment of the Rules of Procedure and Policy

1.1 Name

The name of the Commission shall be the Municipal Planning Commission of the City of Charleston, hereinafter referred to as “Commission.”

1.2 Purpose

The purpose of these rules of procedure and policy are to provide for the conduct of Commission business in a responsible and orderly manner.

1.3 Authority

These rules of procedure and policy have been adopted by the Commission pursuant Section 8A-2-11 of the State Code, Section 90-36 of the City of Charleston Code, and Section 28-030 of the Zoning Ordinance of the City of Charleston.

1.4 Amendments

These rules of procedure and policy may be amended or altered by a majority vote of the Commission and affirmed by the Charleston City Council.

2. General Rules

2.1 Open Meetings

All official meetings of the Commission and its Committees shall be open to the public and the news media. The minutes of the proceedings shall be open to the public.

2.2 Ex Parte Communications

Commission members shall avoid ex parte communications when the Commission is adjudicating a matter in its quasi-judicial role. The Commission is acting in a quasi-judicial role when it hears zoning map amendment petitions, addresses proposed text amendments, and reviews applications. For purposes of these rules, ex parte communications mean any communication that takes place outside of a Commission meeting with an individual who has an interest in the outcome of the quasi-judicial decision.

2.23 Quorum

The Commission must have a quorum to conduct a meeting. A majority of the members constitutes a quorum. Commissioners may attend a meeting and vote on items in person, by telephone, or by video conference.

2.34 Voting

No action of the Commission is official unless authorized by a majority of the members present in person, by telephone, or by video conference. Commissioners may not vote by proxy.

2.45 Parliamentary Procedure

The Commission may refer to the applicable provision of Roberts Rules of Order for guidance for items not addressed by these Rules of Procedure and Policy

2.56 Recording of Minutes

Commission meetings are recorded electronically. As a matter of general policy, the proceedings are not transcribed. Anyone wishing a legal transcription must provide a court reporter at his/her own expense. Copies of recordings and minutes of Commission meetings shall be furnished upon written request. There will be a charge as necessary to recover the cost of making such copies. (Note: Commission minutes are not final until approved by the Commission at the subsequent meeting).

2.67 Planning Department Staff

The Planning Department staff, hereinafter referred to as "Staff," assists the Commission in carrying out their duties and responsibilities by: accepting applications for items to be reviewed by the Commission; preparing the Commissions agenda; publishing legal advertisements; posting notices on the subject property; taking minutes of the meetings; maintaining custody and preservation of all papers and documents of the Commission and their proceedings; preparing, publishing and distributing reports, ordinances and other material relating to the activities of the Commission; and enforcing the Commission's decisions.

2.78 Officers

At the first regular meeting following the appointment and re-appointment of members, the Commission shall elect from its members a president and vice president. The vice president shall have the power and authority to act as president of the Planning Commission during the absence or disability of the president.

2.89 Attendance

Should a Commissioner fail to attend four (4) or more regular meetings of the Commission per calendar year, that office may be declared vacant and a new Commissioner may be appointed by the Mayor and affirmed by the Charleston City Council.

91
92 **3. Meetings**

93 **3.1 Regular Meetings**

94 The Commission will meet regularly on the Wednesday following the first Monday of
95 each month and shall begin its meetings at 3:00 p.m. which will be held at the place as
96 noted on the agenda.

97
98 **3.2 Special Meetings**

99 Notice for a special meeting must be in writing, include the date, time and place of the
100 special meeting, and be sent to all Commissioners at least two (2) days before the
101 special meeting

102
103 Written notice of a special meeting is not required if the date, time and place of the
104 special meeting were set during a regular meeting.

105
106 **3.3 Study Sessions**

107 The Commission may meet informally in study sessions (open to the public) at the
108 request of a majority of the Commission or Staff, to review forthcoming requests of the
109 City, to receive progress reports on current programs or projects, or to receive other
110 similar information from the City Administration, provided that all discussions and
111 conclusions thereon shall be informal.

112
113 **4. Order of Business and Agenda**

114 **4.1 Order of Business**

115 The general rule as to the order of business in regular meetings shall be as follows,
116 unless modified by the Commission or the Staff pursuant to the provisions below:

- 117
118 Call to Order
119 Unfinished Business
120 New Business
121 Subdivisions
122 Rezoning
123 Developments of Significant Impact
124 Major Developments of Significant Impact
125 Temporary Permits
126 Street and Alley Closings
127 Text Amendments
128 Other Items
129 Approval and or Correction to Minutes of the Previous Meeting
130 Announcements
131 Adjournment

132
133 If there is more than one request pertaining to a particular project or property, the
134 requests may be arranged consecutively on the agenda.

135
136 **4.2 Agenda**

137 Items may be placed on the agenda by either the President or Staff. Requests for
138 rezonings, text amendments, developments of significant impact, major developments of
139 significant impact and subdivisions must be filed with staff on or before the appropriate

filing deadline. All other requests must be filed in writing at least four (4) calendar days prior to the hearing.

4.3 Request for Continuance

Prior to the hearing, any request for continuance must be made in writing at least seven (7) calendar days prior to the hearing. Staff will send notices to the adjacent property owners by U.S. mail stating that the request has been delayed. A request for continuance after the seven (7) day deadline requires a majority vote of the Commission at the hearing.

4.4 Request for Withdrawal

Requests for withdrawal must be made in writing prior to the hearing. A new application and associated filing fees must be resubmitted before the item is placed on a future agenda.

5. Meeting Procedures

5.1 Speaking Order

After the President announces a case, the testimony shall be made in the following order:

- Applicant or his/her agent
- Staff Report
- Other Persons in Favor
- Persons in Opposition
- Rebuttal by the Applicant

Except for a spokesperson that is coordinating presentations, no one may speak a second time until all other persons wishing to speak have been heard. Once the applicant, staff and all persons in favor of and in opposition to the application have been heard, the President shall close the case for public comment. The Commission may then hold discussion on the application. Following the discussion, the President shall ask for a motion, second on the motion and a hand count.

5.2 Applicant and Staff Responsibilities

It shall be the applicant's responsibility to prepare and present their case to the Commission. Staff shall not be expected to present or influence an application for either side but shall be expected to exercise independent and professional judgment when presenting the staff report.

5.3 Time Limits

There shall be a five (5) minute time limit for all parties that address the Commission as either the applicant or parties speaking in favor or opposition to a case. The Commission may, at their discretion and upon a majority vote of the members present, extend the time limit.

5.4 Addressing the Commission

Formal rules of evidence do not apply at the Commission meetings. Anyone may appear and speak at a hearing. However, no person may speak until recognized by the President of the hearing.

5.5 Manner of Addressing the Commissions

Each person addressing the Commission shall speak clearly into the microphone located at the lectern and give his/her name and address for the record. All testimony shall be addressed to the Commission or President of the hearing.

5.6 Personal and Slanderous Remarks

The President may declare out of order and terminate testimony that is repetitious, irrelevant, abusive or not within the Commission's jurisdiction.

5.7 Evidence

After a hearing is completed, no further evidence shall be received, unless (a) the evidence is specifically requested by the Commission; or (b) the hearing is re-opened by the Commission and opportunity is provided to other persons to respond.

5.8 Submitting Evidence

Persons wishing to submit reports or studies relating to a matter before the Commission should submit sufficient copies to staff for public inspection and distribution to Commission members at least two weeks prior to the hearing. This allows time for the study or report to be mailed to the Commissioners for their review. Otherwise, it may be necessary for the Commission to continue the hearing to another date. However, the Commission will not allow the late filing of material to be used as a delay tactic that infringes upon the rights of people on the opposite side of an issue.

5.9 Failure to Appear

The Commission, upon a majority vote, may open a hearing for public comment if the applicant or his/her agent fails to appear at the meeting. The public comments shall be recorded and made part of the file.

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