

CHARLESTON CITY COUNCIL

Regular Meeting

June 5, 2023

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. 6-5-2023

COMMUNICATIONS

1. 6-5-2023

REPORTS OF STANDING COMMITTEES

PLANNING, STREETS AND TRAFFIC

1. Bill No. 7986 - A BILL to amend the Zoning Ordinance by adding a Section relating to off-premise electronic message boards.
2. Bill No. 7989 - A bill amending the Zoning Ordinance by rezoning from an R-O district to a C-8 district, that certain parcel of land identified as 4415 MacCorkle Ave SE, Charleston, WV, 25304
3. Bill No. 7990 - A Bill to repeal and replace Chapter 91, Article II of the City Code relating to updating

the floodplain regulations.

4. Bill No. 7993 - A Bill to Amend and reenact Ordinance 7371 by establishing two-hour parking from 8:00am to 5:00pm, Monday through Saturday on the northerly side of Bigley Avenue amending the Traffic Control Map and Traffic Control File.

FINANCE

1. Resolution No. 811-23 - Authorizing the Mayor or City Manager to enter into a contract with Mountwest Community and Technical College to provide 4 semesters of paramedic training courses for 18 members of the Charleston Fire Department.
2. Resolution No. 812-23 - Authorizing the Mayor or City Manager to submit an application to the West Virginia Division of Highways for a Transportation Alternatives Program grant for the Elk River Trail Project.
3. Resolution No. 813-23 - Authorizing the Mayor or City Manager to purchase 174 Glock 17 Gen5 MOS handguns for the Police Department from AmChar Wholesale, Inc., where the funds come from the Estate of Norma Shuck Levy in memory of former Charleston police officer Edgar N. Shuck.
4. Resolution No. 814-23 - Receiving the Work Plan Summary of the City Center Business Improvement District, approving the proposed budget of the City Center Business Improvement District for the 2023-2024 fiscal year, and maintaining the same levying rate of annual fees for the City Center Business Improvement District on each private for-profit property owner within the District.
5. Resolution No. 815-23 - Authorizing the Mayor or City Manager to enter into a contract with Martin Marietta Materials, Inc., to purchase various classes and sizes of aggregate stone.
6. Resolution No. 816-23 - Authorizing the Mayor or City Manager to approve and execute Change Order No. 1 for the purchase and install of three additional H4 Video Intercom security cameras for the Charleston Coliseum and Convention Center, to incorporate into the existing contract with Electronic Specialty Company.
7. Resolution No. 817-23 - Authorizing the Mayor or City Manager to enter into a contract for asphalt street paving construction services with West Virginia Paving, Inc., where the contract price was determined through a competitive bidding process.
8. Resolution No. 818-23 - Authorizing the Mayor or City Manager to enter into an agreement with Ed's Home and Commercial Improvement to repair and replace the roof of the Cato Park Recreation Center and Administrative Building.
9. Resolution No. 819-23 - Authorizing the Charleston Coliseum & Convention Center / Municipal Auditorium Board ("Board") to sign the First Addendum to the ongoing 5-year management agreement with the OVG Facilities, LLC ("OVG"), to allow for the hiring of City employees at their managed facilities rather than OVG employees in certain circumstances and only with the Board's recommendation and City approval.
10. Resolution No. 820-23 - Adopting the proposed Fiscal Year 2023-2024 Parking System budget.

11. Resolution No. 821-23 - Authorizing approval of Amendment No. 7 of the FY 2022-2023 General Fund Budget.
12. Resolution No. 822-23 - Authorizing the Mayor or City Manager to enter into a contract with McClanahan Construction Company, LLC. to perform concrete street repair construction services.
13. Bill No. 7994 - A BILL to amend the Municipal Code by adding thereto a new section relating to the West Virginia Jobs Act and its procedures.

REPORTS OF OFFICERS

1. 6-5-2023

NEW BILLS

1. 6-5-2023

UNFINISHED BUSINESS AND/OR MISCELLANEOUS BUSINESS

REMARKS BY MEMBERS

ROLL CALL

ADJOURNMENT

THE NEXT REGULAR MEETING OF COUNCIL WILL BE WEDNESDAY JUNE 21, 2023 AT 7:00 PM.

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

**EXECUTIVE DEPARTMENT
CITY OF CHARLESTON
PROCLAMATION**

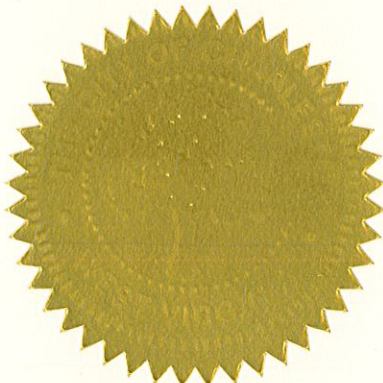
- WHEREAS:** Pride Month commemorates the demonstrations, led by transgender women of color, that took place more than 50 years ago at the Stonewall Inn the morning of June 28, 1969—fueling a worldwide civil rights movement for lesbian, gay, bisexual, transgender and queer (LGBTQ+) people; and
- WHEREAS:** Pride Month celebrates the many decades of hard work and progress toward equity for all LGBTQ+ community members; and
- WHEREAS:** It is imperative, during this time of celebration, we also acknowledge the challenges currently being faced by LGBTQ+ citizens – including advocacy on behalf of transgender and transgender youth community members; and
- WHEREAS:** We have the unique opportunity—as members of the LGBTQ+ community and as allies—to advocate, celebrate, and create spaces where everyone is welcome – ensuring diverse lived experiences are encouraged and celebrated; and
- WHEREAS:** All people in our community—regardless of sexual orientation, gender expression or gender identity—should be supported, protected, and empowered by their peers, educators and community leaders; and
- WHEREAS:** The City of Charleston reaffirms its commitment to being a welcoming and inclusive community for all Charlestonians and stands with our LGBTQ+ community members.

NOW THEREFORE, I, Amy Shuler Goodwin, Mayor of the City of Charleston, do hereby recognize June 2023 as

Pride Month

In Charleston, West Virginia and recognizes the valuable contributions our LGBTQ+ community members have made in our City, State and Nation.

IN WITNESS WHEREOF, I have set my hand and caused the Seal of the Executive Department to be affixed this 5th day of May 2023.



Amy Shuler Goodwin, Mayor



PLANNING, STREETS AND TRAFFIC COMMITTEE

Mary Beth Hoover, Chair

COMMITTEE REPORT

To: Miles Carey, City Clerk
From: Council's Committee on Planning, Streets and Traffic
Date: May 22, 2023
Subject: Bill No. 7986

The Committee on Planning, Streets and Traffic has had under consideration bill no. 7986 attached hereto and an made a part thereof.

The Committee finds:

1. The amendment will encourage a reduction in the number of nonconforming billboards while requiring performance standards that ensure quality aesthetics and addresses distracted driver concerns.

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

Mary Beth Hoover
Chair
J. J. Prew
K. J. Prew
Rebecca C. Cipeley
Pamela L. Burka
JL — NO

Bill No. 7986

Introduced in Council:

May 1, 2023

Introduced by:

Mary Beth Hoover

Adopted by Council:

Referred to:

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

Bill No. 7986 - A BILL to amend the Zoning Ordinance of the City of Charleston, as amended, by adding Section 24-100-11 relating to off-premise electronic message boards.

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

That Section 24-100-11 of the Zoning Ordinance for the City of Charleston, as amended, is hereby added to read as follows:

Sec. 24-100-11 Off-Premise Electronic Message Board

Off-premise electronic message boards may only be erected if the applicant for the proposed new sign removes and/or uninstalls other active nonconforming off-premise signs in their possession whose square footage equals at least double the square footage of the proposed new sign's total square footage.

Existing off-premise signs may be converted to an off-premise electronic message board only if an amount equaling the square footage of the converted sign's total square footage is removed from other active nonconforming off-premise signs in the applicant's possession. The conversion to an off-premise electronic message board may include structural changes but shall not increase the degree of nonconformity beyond that of the original sign.

For the purpose of this section, an active nonconforming off-premise sign is one that meets the following criteria within the past twelve (12) months:

1. has not been abandoned,
2. has had its copy face changed, or
3. has received income on the copy face.

Electronic message boards shall be static and nonanimated and shall remain fixed for a minimum of 8 seconds. Messages must transition instantly, with no transition graphics. The luminance may not exceed 5,000 nits (candela per square meter) between sunrise and sunset or 250 nits during nighttime hours.



PLANNING, STREETS AND TRAFFIC COMMITTEE

Mary Beth Hoover, Chair

COMMITTEE REPORT

To: Miles Carey, City Clerk

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

Date: May 22, 2023

Subject: Bill No. ~~7982~~ 7989

The Committee on Planning, Streets and Traffic has had under consideration bill no. ⁷⁹⁸⁹~~7982~~ attached hereto and an made a part thereof.

The Committee finds:

1. The rezoning is a minor expansion of the C-8 district which will make the entire block uniform. Therefore the request is not a spot rezoning and is in conformity with the Comprehensive Plan.
2. Approximatley one third of the parcel is zoned C-8 while the other two thirds is zoned R-O, the rezoning will make the zoning uniform across the development parcel and thus permit a resonable use of land.

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

Mary Beth Hoover
Chair

J. Z. Plunk

K. F. Piro

Rebecca C. Caperley

Pamela L. Burha

JL

Bill No. 7989

Introduced in Council

Passed by Council

May 1, 2023

Introduced by

Referred to

Pam Burka

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

Bill No. 7989 – A bill amending the Zoning Ordinance of the City of Charleston, West Virginia, enacted the 1st day of January 2006, as amended, and the map made a part thereof, by rezoning from an R-O district to a C-8 district, that certain parcel of land identified as 4415 MacCorkle Ave SE, Charleston, WV, 25304

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

1. The Zoning Ordinance of the City of Charleston, West Virginia, enacted the 1st day of January 2006, as amended, is hereby amended by rezoning from an R-O district to a C-8 district the whole of the following described parcel of land:

a) Parcel No. 123 as shown on Kanawha City Tax Map No. 16. Subject parcel legally described as "LTS 13-14-15-16 BK 98 MCCORKLE AVE 4417". Said tax map is of record in the Planning Office.

2. The Zoning Map, attached to and made a part of said Zoning Ordinance, is hereby amended in accordance with Article 27 of this ordinance.

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

**PETITION TO REZONE FROM R-4 TO C-10
THE LAND AT
1801 BIGLEY AVENUE
320 ALETHA STREET
1804 ODELL AVENUE
1803 BIGLEY AVENUE
1805 BIGLEY AVENUE

CHARLESTON, WEST VIRGINIA**

TO THE MAYOR AND COUNCIL OF THE CITY OF CHARLESTON, WEST VIRGINIA:

I

Petitioner is the contract/purchaser of the property situate at 1801 Bigley Avenue, 320 Aletha Street, 1804 Odell Avenue, 1803 Bigley Avenue and, 1805 Bigley Avenue, Charleston, Kanawha County, West Virginia (collectively "the property").

II

Petitioner proposes to remove the blighted structures on the property and develop additional fenced storage for Sunbelt Rentals currently located at 1717 Bigley Avenue.

III

Petitioner wishes to have the property rezoned from an R-4 use to a C-10 use, said property described as follows: All of Parcel Nos. 25, 26, 27, 28 and, 29 as shown upon Charleston West Tax Map No. 30. Said property being commonly known as 1801 Bigley Avenue, 320 Aletha Street, 1804 Odell Avenue, 1803 Bigley Avenue and, 1805 Bigley Avenue, Charleston, West Virginia. The above-mentioned tax map is as of record in the Charleston Planning Department.

IV

The property is located between Bigley Avenue and I-64, across Aletha Street from Sunbelt Rentals. The entire area between Bigley Avenue and I-64 has experienced a gradual and steady decline in residential population over the years, being replaced by businesses which benefit from interstate exposure and accessibility. The development of the property for Sunbelt Rentals would be a continuation of this natural transition. Further, the development of the property would enhance the ability of Sunbelt Rentals to generate additional B & O tax revenue for the City while also eliminating non-productive and blighted structures. Sunbelt Rentals is a low-impact, neighbor-friendly, commercial business perfectly suited for this location.

V

Attached hereto is a Bill to accomplish the requested rezoning, a list of property owners who own property within 250 feet of the subject property, a map of the subject property, and a \$125.00 filing fee.

Respectfully submitted this _____ day of
December, 2022.

By: _____

George M. Smith, Attorney

On Behalf of,
O.V. Smith & Sons of Big Chimney, Inc.
4510 Pennsylvania Avenue
Charleston, WV 25302

Phone: (304) 965 3481



PLANNING, STREETS AND TRAFFIC COMMITTEE

Mary Beth Hoover, Chair

COMMITTEE REPORT

To: Miles Carey, City Clerk

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

Date: May 22, 2023

Subject: Bill No. 7990

The Committee on Planning, Streets and Traffic has had under consideration bill no. 7990 attached hereto and an made a part thereof.

The Committee finds:

1. The adoption of updated map dates is necessary for federal compliance and insurance purposes, and
2. Bringing the City's floodplain ordinance into parity with the model State ordinance updates the code to the latest best practices in floodplain management.

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

Mary Beth Hoover
Chair

J. J. Blanton

Scott F. Fiero

Rebecca C. Caperley

Amelia L. Kurka

J. C.

Bill No. 7990

Introduced in Council:

May 1, 2023

Introduced by:

Mary Beth Hoover

Adopted by Council:

Referred to:

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

Bill No. 7990 - A Bill to repeal and replace Chapter 91, Article II of the Code of the City of Charleston, as amended, relating to updating the floodplain regulations.

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

That Chapter 91, Article II of the Code of the City of Charleston, West Virginia, be repealed and replaced, all to read as follows:

CHAPTER 91. - ZONING

ARTICLE II. - Floodplain Ordinance

DIVISION 1. - IN GENERAL

Sec. 91-11 Intent.

The intent of this Ordinance is to:

- (a) Promote the general health, welfare, and safety of the Community.
- (b) Encourage the utilization of appropriate minimum construction practices to prevent or minimize flooding damage.
- (c) Minimize danger to public health and safety by protecting the water supply and sanitary sewage disposal in cooperation with the City Sanitarian, and to protect natural drainage.
- (d) Assure the County Assessor obtains information concerning improvement of real property as required by WV Code §11-3-3a.
- (e) Assure all E-911 addresses are obtained and kept current to maintain the established emergency response dispatch systems.
- (f) Reduce financial burdens imposed on the residents, real property owners and its governmental units by preventing the unwise design and construction of development in areas subject to flooding.

36 **Sec. 91-12 Abrogation and Greater Restrictions.**

37
38 This ordinance supersedes any other conflicting provisions which may be in effect
39 in identified floodplain areas. However, any other ordinance provisions shall remain in
40 full force and effect to the extent that those provisions are more restrictive. If there is
41 any conflict between any of the provisions of this Ordinance, the more restrictive shall
42 apply.

43
44 **Sec. 91-13 Applicability.**

45
46 It shall be unlawful for any contractor, person, partnership, business, or corporation
47 to undertake or cause to be undertaken, any development, new construction,
48 substantial improvement, repair of substantial damage, other repairs, or the placement
49 or relocation of any structure (including manufactured homes) in the Special Flood
50 Hazard Area within the City of Charleston unless a floodplain determination has been
51 made from the Floodplain Administrator, a floodplain permit application has been
52 completed, and a permit has been issued by the Floodplain Administrator. In addition,
53 where land is partially or fully in the Floodplain is to be developed, subdivided, utilized
54 for a manufactured home park or subdivision, or otherwise developed, a site plan with
55 elevation data must be submitted to, and approved by, the Floodplain Administrator
56 prior to any development.

57
58 Provision of all other codes, ordinances, and regulations shall be applicable insofar
59 as they are consistent with the provisions of this Ordinance and the City's need to
60 minimize the hazards and damage resulting from flooding.

61
62 **Sec. 91-14 Matters not provided for specifically.**

63
64 Where conditions are encountered that are not specifically provided for herein, the
65 Floodplain Administrator shall determine the applicability of the provisions of this
66 Ordinance in accordance with its intent and shall require the applicant to take
67 appropriate measures pursuant to such determination.

68
69 **DIVISION 2. - INTERPRETATIONS AND DEFINITIONS**

70
71 **Sec. 91-21 Definitions**

72
73 Unless specifically defined below, words and phrases used in this Ordinance shall
74 be interpreted to give this Ordinance its most reasonable application.

75
76 *Adjacent property* includes any surface tract, regardless of whether such surface
77 tract is entirely within the City of Charleston, so long as a portion of said surface tract is
78 located within the City of Charleston, which shares an immediate and common
79 boundary up or down stream to the property that is the subject of the application for
80 Floodplain Permit. Adjacent property also includes all other property that may be
81 affected by flooding.

82
83 *Advisory flood height* means the water surface elevation (WSEL), in feet, of the 1%
84 annual chance (100-year) flood at a given location, as determined using hydrology and
85 hydraulics (H&H) analysis and the best available elevation data.

86
87 *Adversely affect adjacent properties* means to adversely affect a property the
88 increase in the elevation of the 100-year base flood elevation must be more than 1 foot
89 at any point. Stated conversely, if the effect is that the 100-year flood base flood
90 elevation rises 1 foot or less the property is not “affected”. This standard does not apply
91 to the Floodway. If prior permit(s) has/have been approved in the same area of the
92 Floodplain, the above definition would include the cumulative impact to the base flood
93 elevation.

94
95 *Appurtenant structure* means a secondary structure on the same parcel of property
96 as the principal structure, the use of which is incidental and shall not be habitable but
97 shall be used only for storage in association with the principal structure on said
98 property. This does not include a gas or liquid storage tank.

99
100 *Base flood* means the flood having a one percent (1%) chance of being equaled or
101 exceeded in any given year.

102
103 *Base Flood Elevation (BFE)* means the water surface elevation of the base flood in
104 relation to the datum specified on the City’s Flood Insurance Rate Map. For the
105 purposes of this Ordinance, the one hundred (100) year flood or 1% or greater chance
106 of flooding in any given year. (See 100-year flood also)

107
108 *Basement* means any area of the building having its floor sub grade (below ground
109 level) on all sides.

110
111 *Certificate of Floodplain Compliance* means a certification that the entire
112 development, including the elevation of fill or the lowest floor of a structure is in
113 compliance with all the provisions of this Ordinance.

114
115 *Compensatory storage* means an artificially excavated, hydraulically equivalent
116 volume of storage within the special flood hazard area used to balance the loss of
117 natural flood storage when artificial fill or structures are placed within the special flood
118 hazard area.

119
120 *Contractor* means a person who in any capacity for compensation, other than as an
121 employee of another, undertakes, offers to undertake, purports to have the capacity to
122 undertake, or submits a bid to construct, alter, repair, add to, subtract from, improve,
123 move, wreck or demolish any building, highway, road, railroad, structure or excavation
124 associated with a project, development or improvement, or to do any part thereof,
125 including the erection of scaffolding or other structures or works in connection therewith,
126 where the cost of undertaking is two thousand five hundred dollars or more. Contractor

includes a construction manager who performs management and counseling services on a construction project for a professional fee.

Contractor does not include:

- (1) One who merely furnishes materials or supplies without fabricating or consuming them in the construction project;
- (2) A person who personally performs construction work on the site of real property which the person owns or leases whether for commercial or residential purposes;
- (3) A person who is licensed or registered as a professional and who functions under the control of any other licensing or regulatory board, whose primary business is real estate sales, appraisal, development, management and maintenance, who acting in his or her respective professional capacity and any employee of such professional, acting in the course of his or her employment, performs any work which may be considered to be performing contracting work;
- (4) A pest control operator licensed under the provisions of W.Va. Code §19-16A-7(a) to engage in the application of pesticides for hire, unless the operator also performs structural repairs exceeding one thousand dollars on property treated for insect pests; or
- (5) A corporation, limited liability corporation, partnership, or sole proprietorship whose primary purpose is to prepare construction plans and specifications used by the contractors defined in this section and who employs a full-time registered architect licensed to practice in this State or a registered professional engineer licensed to practice in this State. Contractor also does not include employees of such corporation, partnership, or sole proprietorship.

Critical facility means any facility in which even a slight chance of flooding is too great a threat.

Typical critical facilities include hospitals, fire stations, police stations, storage of critical records, and similar facilities. These should be given special consideration when formulating regulatory alternatives and floodplain management plans. A critical facility should not be located in a special flood hazard area if at all possible. If a critical facility must be located in a special flood hazard area it should be provided a higher level of protection so that it can continue to function and provide services during a flood.

Development means any man-made change to improved or unimproved real property, including but not limited to buildings or other structure, mining, dredging, filling, grading, paving, excavation or drilling operations, oil/gas well sites, pads, pits, retention ponds or storage of equipment or materials.

Flood means a general and temporary inundation of water in an area of normally dry land.

Flood Insurance Rate Map (FIRM) means the official map on which the Federal Emergency Management Agency has delineated both the special flood hazard areas and the risk premium zones applicable to the City of Charleston. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).

Flood Insurance Study (FIS) means the official report in which the Federal Emergency Management Agency has provided flood profiles, floodway information, and water surface elevations.

Floodplain means a relatively flat or low land area adjoining a river, stream, or watercourse which is subject to partial or complete inundation. An area subject to the unusual and rapid accumulation or runoff of surface waters from any source.

Floodplain Administrator means the person charged with enforcing the provisions of this ordinance. The Floodplain Administrator may also be identified as the Floodplain Manager. Pursuant to W.Va. Code §15-5-20(a) the Floodplain Administrator is required to complete six hours of training in floodplain management annually to maintain good standing with the West Virginia Division of Emergency Management.

Floodway means the channel of a river or other watercourse and the adjacent land area that must be reserved to discharge the base flood without increasing the water surface elevation of that flood more than one foot at any point.

Flood proofing (NON-RESIDENTIAL ONLY) means any combination of structural and non-structural additions, changes or adjustments to structures which reduce or eliminate flood damage to real property or improved real property, water and sanitary facilities, structures, and its contents.

Freeboard means a factor of safety usually expressed in feet above a flood level or BFE for purposes of floodplain management. Freeboard tends to compensate for unknown factors that may contribute uncertainty to flood heights of any given flood and floodway condition, such as wave action, blockage at stream crossings, and increased runoff from urbanization of the watershed.

Highest Adjacent Grade (HAG) means the highest natural elevation of the ground surface immediately adjacent to the development or structure foundation. This is primarily used for purposes of insurance rating in approximated floodplains.

Historic structure means any structure that is:

- (1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the

Secretary of the Interior as meeting the requirements for individual listing in the National Register;

(2) Certified or preliminarily determined by the Secretary of Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

(3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or,

(4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

a. By an approved state program as determined by the Secretary of the Interior; or,

b. Directly by the Secretary of Interior in states without approved programs.

Interested person or party includes (1) the applicant; (2) the owner(s) of the subject property; (3) at least one adult residing in any residence on the subject property at the time the Floodplain Permit Application is filed; (4) owners of any adjacent property; and (5) at least one adult residing in any residence on the adjacent property at the time the Floodplain Permit Application is filed.

Licensed manufactured home dealer means a business licensed to sell manufactured homes in the State of West Virginia as set forth in the West Virginia Code.

Licensed manufactured home installer means a contractor licensed to install manufactured homes in the State of West Virginia as set forth in the West Virginia Code.

Licensed professional surveyor means any person licensed by the West Virginia State Board of Examiners of Land Surveyors to engage in the practice of land surveying as defined in the West Virginia Code.

Lowest Adjacent Grade (LAG) means the lowest natural elevation of the ground surface immediately adjacent to the proposed development or structure foundation. The primary use of the LAG is to determine whether the structure is located within a special flood hazard area by comparing it to the base flood elevation.

Lowest floor means the lowest floor of the lowest enclosed area (including basement). An unfinished enclosure constructed with flood resistant materials as defined in FEMA Technical Bulletin 2-93 (FIA-TB-2) and usable solely for parking of

vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; Provided, that such enclosure has proper flood openings and is not built so as to render the structure in violation of the applicable non-elevation design requirements of this Ordinance.

Manufactured home means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

New construction means structures for which the start of construction as herein defined commenced on or after June 15, 1983, and including any subsequent improvements to such structures.

One-Hundred (100) Year Flood means a flood that has one chance in one-hundred or a one percent or greater chance of being equaled or exceeded in any given year. (See Base Flood Elevation also)

Person means any individual or group of individuals, corporation, limited liability corporation, partnership, association, or other entity, including State and Local governments and agencies.

Practice of engineering means any service or creative work, as described in West Virginia Code §30-13-1 et seq., the adequate performance of which requires engineering education, training and experience in the application of special knowledge of the mathematical, physical, and engineering sciences to such services or creative work as consultation, investigation, evaluation, planning and design of engineering works and systems; planning the use of land and water; teaching of advanced engineering subjects, engineering surveys and studies; and the review of construction for the purpose of assuring compliance with drawings and specifications any of which embraces such services or work, either public or private, in connection with any utilities, structures, buildings, machines, equipment, processes, work systems, projects and industrial or consumer products or equipment of a mechanical, electrical, hydraulic, pneumatic or thermal nature, insofar as they involve safeguarding life, health or property, and including such other professional services as may be necessary to the planning, progress and completion of any engineering services. Engineering surveys include all survey activities required to support the sound conception, planning, design, construction, maintenance, and operation of engineered projects.

Any person who practices any branch of the profession of engineering or who, by verbal claim, sign, advertisement, letterhead, card or in any other way represents himself to be a Registered Professional Engineer, or by using another title implies that he is a Registered Professional Engineer or that he is registered under West Virginia Code, §30-13-1 et seq. or who holds himself out as able to perform, or who performs any engineering service or work or any other service designated by the practitioner which is recognized as engineering, is considered to practice or offer to practice engineering

within the meaning and intent of West Virginia Code §30-13-1 et seq.

Principally above ground means where at least 51 percent of the Actual Cash Value of a structure, less land value, is above ground. [44 Code of Federal Regulations §59.1]

Professional means any “professional” including but not limited to a “contractor”, “developer”, “engineer”, “architect”, “hydrologist”, “land surveyor”, etc., acting in any capacity with respect to this Ordinance, must be licensed by the State of West Virginia, when certification or licensure from the State of West Virginia is so required.

Reasonably safe from flooding means that during the base flood, or any other known flooding by the Floodplain Administrator, water should not damage structures and any subsurface waters related to the base flood and should not damage existing or proposed structures. Ways of determining Reasonably Safe from Flooding may be 3 feet above Highest Adjacent Grade, above high water marks from historic flooding, using topographic extrapolation from contour lines or utilizing the advisory flood height data on the WV Flood Tool.

Recreational Vehicle means a vehicle which is:

- (1) built on a single chassis;
- (2) 400 square feet or less when measured at the largest horizontal projection;
- (3) Designated to be self-propelled or permanently towable by a light duty truck; and
- (4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Registered professional engineer means a person who has been duly registered or licensed as a registered professional engineer by the West Virginia State Board of Registration for Professional Engineers as required by W.Va. Code §30-13-13 et seq.

Remedy a violation means to bring a structure or other development into compliance with the requirements of this Ordinance, or if full compliance is not possible, to reduce the adverse impact of the non-compliance to the greatest extent feasible.

Special Flood Hazard Area (SFHA) means the land in the Floodplain Area subject to a one percent or greater chance of flooding in any given year. Special flood hazard areas are designated by the Federal Emergency Management Agency in Flood Insurance Studies and on Flood Insurance Rate Maps as Zones A, AE, AO, A1-30, and A99. The term includes areas shown on other flood hazard maps that are specifically listed or otherwise described in this Ordinance.

357 *Start of construction* means the date the Floodplain Permit was issued, including
358 Floodplain Permit for substantial improvement or repair of substantial damage provided
359 the actual start of construction, repair, reconstruction, rehabilitation, addition,
360 placement, or other improvement was within 180 days of the Floodplain Permit date.
361 The actual start means either the first placement of permanent construction on a site,
362 such as the pouring of slabs or footings, the installation of piles, the construction of
363 columns, or any work beyond initial excavation, or the placement of a manufactured
364 home on a foundation. Although a Floodplain Permit must be obtained prior to
365 beginning, permanent construction does not include land preparation, such as clearing,
366 grading and filling, nor does it include the installation of streets and/or walkways, nor
367 does it include excavation for a basement, footings, piers or foundations or the erection
368 of temporary forms, nor does it include the installation on the property of accessory
369 buildings, such as garages or sheds not occupied as dwelling units or not part of the
370 main structure. For an alteration, the actual start of construction means the first
371 alteration of any wall, ceiling, floor, or other structural part of a building, whether or not
372 that alteration affects the external dimensions of the building.

373
374 *State Coordinating Office* means the West Virginia Division of Homeland Security
375 and Emergency Management.

376
377 *Stream* means as defined in West Virginia Code §7-1-3u, any watercourse, whether
378 natural or man-made, distinguishable by banks and a bed, regardless of its size,
379 through which water flows continually or intermittently, regardless of its volume.

380
381 *Structure* means a walled and roofed building, including a gas or liquid storage tank
382 that is principally above ground, as well as a manufactured home.

383
384 *Subdivision means* development that includes a creation of individual land parcels
385 for future sale. It does not include development where rights-of-way or easements are
386 obtained and recorded.

387
388 *Subject property* includes the surface tract(s) upon which the proposed
389 development is planned and for which the Floodplain Permit Application is submitted.

390
391 *Substantial damage* means damage of any origin sustained by a structure whereby
392 the cost of restoring the structure to its before damage condition would equal or exceed
393 50 percent of the fair market value of the structure before the damage occurred.

394
395 *Substantial improvement* means any repair, reconstruction, rehabilitation, addition,
396 or other improvement of a structure, the cost of which equals or exceeds 50 percent of
397 the fair market value of the structure before the start of construction of the improvement.

398
399 This term includes structures, which have incurred “substantial damage”, as defined
400 herein regardless of the actual repair work performed. The term does not, however,
401 include any project for improvement of a structure to correct existing violation(s) of State
402 or Local Health, Sanitary or Safety Code Specifications which have been identified by

the Local Code Enforcement Official and which are the minimum necessary to assure safe living conditions.

Historic structures undergoing repair or rehabilitation that would constitute a substantial improvement as defined above, must comply with all Ordinance requirements that do not preclude the structure's continued designation as a historic structure.

Documentation that a specific Ordinance requirement will cause removal of the structure from the National Register of Historic Places, or the State Inventory of Historic Places must be obtained from the Secretary of the Interior or the State Historic Preservation Officer. Any exemption from Ordinance requirements will be the minimum necessary to preserve the historic character and design of the structure.

Improvement is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences whether or not the alteration affects the external dimensions of the structure.

Top of bank means the lines depicted on the FIRM maps delineating each side of a stream indicate the top of the bank. In the field a professional familiar with fluvial geomorphology should document the top of the bank. When a professional is not employed, the top of the bank will be considered to be the top of the first significant slope landward of the water's edge when it is followed by at least 50 feet of relatively flat land.

Variance means a grant of relief by a community from the terms of a floodplain management regulation.

Violation means the failure of any structure or development to be fully compliant with all requirements of this Ordinance. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required by this Ordinance is presumed to be in violation until such time as the documentation is provided. No future improvements or developments can be made to structures found to be in violation unless the development is to bring the structure into compliance with the current ordinance.

DIVISION 3. – ESTABLISHMENT OF THE SPECIAL FLOOD HAZARD AREA

Sec. 91-31 Identification.

- (a) The identified special flood hazard area shall be those areas of the City of Charleston which are subject to a one percent or greater chance of flooding in any given year as shown on the Flood Insurance Rate Map (FIRM) and described in the Flood Insurance Study (FIS) prepared for the City of Charleston by the Federal Emergency Management Agency (FEMA) dated August 1, 2023 or the most recent revision thereof including all digital data developed as part of the FIS.

- (b) The identified special flood hazard area shall also be those special flood hazard areas which have been identified as flood hazard areas by the City of Charleston by use of historic or other technical data and shown on an officially recognized “FIRM or the West Virginia Flood Hazard Determination Tool Specifically Advisory Flood Height data”. These areas shall be designated as appropriate with the level of technical data described below and shall be managed accordingly.

Sec. 91-32 Descriptions of Special Flood Hazard Areas.

The identified special flood hazard area shall consist of the following four specific areas:

- (a) The Floodway Area shall be those areas of AE zone identified as Floodways in the FIS and as shown on the FIRM. The term shall also include any floodway areas delineated by developers in the approximated floodplain and designated as such by the community.
- (b) The AE Area Without Floodway shall be those areas identified as an AE Zone on the FIRM included in the FIS prepared by FEMA for which 100-year flood elevations have been provided but no Floodway has been delineated.
- (c) The Approximated floodplain shall be those areas identified as an A Zone on the FIRM included in the FIS prepared by FEMA and for which no one hundred (100) year flood elevations have been provided.
- (d) Advisory Flood Heights
This information is displayed on the WV Flood Hazard Determination Tool. This data may be used (when available) by the Floodplain Administrator to determine if a property is in the Special Flood Hazard Area, and to assist in determining the height in which to elevate the structure as a permitting tool and is acceptable data to FEMA for a Letter of Map Amendment (LOMA).

The AO and AH floodplain those areas identified as Zones AO and AH on the FIRM and in the FIS. These areas are subject to inundation by 1-percent-annual-chance shallow flooding where average depths are between one and three feet. In Zones AO and AH, drainage paths shall be established to guide floodwaters around and away from structures on slopes.

Sec. 91-33 Changes in Designation of Area.

- (a) Where natural or man-made changes have occurred and/or where more detailed studies have been completed by a qualified government agency, private entity, or qualified individual who can sufficiently document the necessity for such changes; the process to revise the delineation of the identified special flood hazard area may be recommended by the Floodplain Administrator and executed by the City of

Charleston. However, prior to any such change, approval must be obtained from the Federal Emergency Management Agency.

- (b) Base flood elevations may increase or decrease resulting from physical changes affecting flooding conditions. As soon as practical but, not later than six months from the date such information becomes available, the City shall notify FEMA of the changes by submitting technical or scientific data.

- (c) The City of Charleston may identify and regulate new flood hazard or ponding areas. These areas shall be delineated on a "Local Flood Hazard Map" using best available topographic data and locally derived information such as flood of record, historic high-water marks and/or approximate study methodologies.

Sec. 91-34 Elevations Prevail.

- (a) If the lowest natural grade adjacent to proposed development is *above* the Base Flood Elevation, and the following is provided to the Floodplain Administrator:
 - (1) elevation information certified by a Licensed Professional Surveyor or Engineer and a site plan demonstrating that all proposed development will occur above the Base Flood Elevation or,
 - (2) a Letter of Map Amendment (LOMA) from FEMA removing the site from the SHFA then the site shall be considered to be outside the Floodplain Area and shall not be required to conform to the provisions of this Ordinance at the discretion of the Floodplain Administrator.
- (b) If the lowest natural grade adjacent to proposed development is *below* the Base Flood Elevation, the site shall be considered to be within the Floodplain Area and the proposed structure shall be required to conform to all appropriate provisions of this Ordinance.

Sec. 91-35 Boundary Disputes.

Should a dispute concerning any Floodplain boundary arise, an initial determination shall be made by the Floodplain Administrator and any party aggrieved by this decision may appeal to the Board of Zoning Appeals sitting as the "Floodplain Appeals Board". The burden of proof shall be on the appellant/applicant.

DIVISION 4. – UTILIZATION OF THE SPECIAL FLOOD HAZARD AREA

Sec. 91-41 Floodway.

Within any Floodway Area (F1), no encroachments, including fill, new construction, substantial improvements, or other development shall be permitted unless it has been demonstrated through hydrologic and hydraulic analysis performed in accordance with

standard engineering practice that the proposed encroachment would not result in any increase in flood levels during the occurrence of the base flood discharge. The resultant engineering study shall include a cover letter, signed, and sealed by the responsible professional, providing a statement of findings in basic terms. In addition, studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough technical review by the Floodplain Administrator.

Because Floodways present increased risk to human life and property due to their relatively faster and deeper flowing waters the Floodways shall be preserved to the greatest extent possible.

- (a) New development shall not be permitted in the Floodway where reasonable alternatives exist elsewhere as determined by Floodplain Administrator. In addition to the requirements below the applicant shall demonstrate that there are no reasonable alternatives other than the Floodway encroachment before a permit is issued.
- (b) When the Floodway is the only reasonable alternative the applicant shall demonstrate that the Floodway encroachment is the minimum necessary to accomplish the project.
- (c) All permitted uses, activities, and development shall be undertaken in strict compliance with the flood proofing and related provisions contained herein, and in all other applicable Federal and State Law, Ordinances and Regulations.
- (d) When small, single lot development (not incorporating significant amounts of fill) is proposed in a special flood hazard areas for which no regulatory floodway has been designated, a regulatory floodway may, at the discretion of the Floodplain Administrator, be determined to be a width equal to the channel of the stream and the adjacent land areas to a distance of one-half the width of the special flood hazard area as measured from the top of the bank nearest the site to the upland limit of the 1% annual chance special flood hazard area boundary.

Sec. 91-42 AE Zone Without Floodway Area.

Within any AE Zone Without Floodway Area, no new construction or development shall be allowed unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the elevation of the 100-year flood more than one (1) foot at any point.

Sec. 91-43 Approximated Floodplain (Zone A).

Within any Approximated Floodplain Area:

- 583 (a) The Floodplain Administrator shall use elevation and floodway information from
584 Federal, State, or other acceptable sources when available to determine the
585 elevation above which development will be reasonably safe from flooding.
586
- 587 (b) When data from an acceptable source is not available, the Floodplain Administrator
588 shall review, or shall cause to be reviewed; all proposed development to determine
589 (1) the amount being invested and (2) the specific flood risk at the site. The
590 Floodplain Administrator shall then require the applicant to determine the elevation
591 above which the development and adjacent properties including but not limited to
592 existing buildings will be reasonably safe from flooding using hydrologic and
593 hydraulic analyses or other techniques. When hydrologic and hydraulic analyses
594 are required, they shall only be prepared by a registered professional engineer who
595 shall certify that the methods used correctly reflect currently accepted technical
596 concepts. The resulting study shall include a cover letter, signed by the responsible
597 professional, providing a statement of findings in basic terms. In addition, studies,
598 analyses, computations, etc. shall be submitted in sufficient detail to allow a
599 thorough technical review by the Floodplain Administrator.
600
- 601 (c) Any development and/or use of land shall be permitted provided that all such uses,
602 activities and/or development shall be undertaken in strict compliance with this
603 floodplain ordinance and related provisions contained herein and in all other
604 applicable Federal and State Laws, Ordinances and Regulations.
605
- 606 (d) Within any approximated Floodplain Zone (Zone A) without Floodway Area, no new
607 construction or development shall be allowed unless it is demonstrated that the
608 cumulative impact of the proposed development, when combined with all other
609 existing and anticipated development, will not increase the elevation of the 100-
610 year flood more than one (1) foot at any point.
611
- 612 (e) When Advisory Flood Height Data is available, this data will be utilized to assist in
613 permitting and regulating development within the Special Flood Hazard Area.
614

615 **Sec. 91-44 Alteration or relocation of a stream.**
616

- 617 (a) Whenever a developer intends to alter or relocate a stream within the special flood
618 hazard area the developer shall notify in writing, by certified mail, the City of
619 Charleston's Floodplain Administrator, the State Coordinating Office, any adjacent
620 communities, and any adjacent property owners of all such intended activities prior
621 to the alteration or relocation of the stream. Copies of all required notifications must
622 be submitted to the Federal Emergency Management Agency. In addition, prior to
623 issuing the local permit the Floodplain Administrator shall require copies of all
624 necessary permits from those governmental agencies from which Federal or State
625 Law requires approval.
626
- 627 (b) The developer shall also assure the City of Charleston in writing that the flood
628 carrying capacity within the altered or relocated portion of the stream will be

maintained. The Floodplain Administrator may require the applicant to demonstrate that the altered or relocated portion of stream will provide equal or greater conveyance than the original stream segment. If hydrologic and hydraulic analyses are required, they shall only be undertaken by a registered professional engineer, who shall certify that the methods used correctly reflect currently accepted technical concepts. The resulting study shall include a cover letter, signed by the responsible professional, providing a statement of findings in basic terms. In addition, studies, analyses, and computations shall be submitted in sufficient detail to allow a thorough technical review by the Floodplain Administrator.

- (c) Alteration of a stream includes placement of temporary or permanent culverts, bridges, or other stream crossings. The Floodplain Administrator may require the use of certain "best practice" techniques in the construction of bridges, culverts, or stream crossings to prevent damage, loss of stream crossings and localized flooding caused by blockage. These techniques may include, but are not limited to, wing walls, trash grates or requiring openings to be of sufficient size to pass debris and/or anticipated future increases in flood heights.
- (d) All new and replacement bridges, culverts and other stream crossings shall adhere to the relevant anchoring requirements contained in this Ordinance.
- (e) The developer is required to provide the City a legal agreement detailing all scheduled inspections and maintenance to be performed on altered or relocated watercourses including culverts, bridges, and other stream crossings. It shall be the responsibility of the applicant to transfer the agreement to the purchaser when the land associated with the watercourse alteration is transferred. A copy of all new agreements shall be provided to the Floodplain Administrator. Failure to transfer the agreement and provide a signed copy to the Floodplain Administrator shall subject the violator to the penalties set forth in Section 91-84 of this Ordinance.
- (f) When any watercourse alteration has occurred, the applicant must submit any maps, computations or other material required by the Federal Emergency Management Agency (FEMA) to revise the Flood Insurance Study (FIS) and/or Flood Insurance Rate Maps (FIRM), when notified by the Floodplain Administrator, and must pay any fees or other costs assessed by FEMA for this purpose.

DIVISION 5. – CRITERIA FOR BUILDING AND SITE PLAN APPROVAL

Sec. 91-51 General.

A Permit is required to determine whether all new construction or substantial improvements are:

- (a) Located in an identified Floodplain, Floodway, or other special flood hazard area.

- (b) Designated (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
- (c) Constructed with material and utility equipment resistant to flood damage as outlined in FEMA Technical Bulletin 2-93 (FIA-TB-2) or the most recent revision thereof.
- (d) Constructed by methods and practices that minimize flood damage.
- (e) Constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located to prevent water from entering or accumulating within the components during flooding.
- (f) To comply with West Virginia Code §11-3-3a concerning County Assessor "Building or Real Property Improvement Notice".
- (g) Approved by County Health Department for Well, Septic, and other permits to assure facilities are designed and located in compliance with the flood damage reduction requirements of this Ordinance.

Sec. 91-52 Basic Format.

The basic format of the permit shall include the following:

- (a) Name and address of applicant.
- (b) Name and address of owner of land on which proposed development is to occur.
- (c) Applicant shall provide names, addresses, and valid West Virginia license numbers of all contractors working at the building site, or affidavits stating that work is being performed by individuals exempt from contractor licensing as set forth in Title 28, Series 2, section 3.9(b) of the West Virginia Code of State Regulations or the most recent revision thereof, if known at the time the Permit Application is submitted. If not known, applicant shall provide the information within 14 days of execution of a contract with its contractor(s) prior to beginning construction.
- (d) A description of site location sufficient to locate the proposed development including district, tax map and parcel numbers and most recent deed book and page number.
- (e) A standard site plan showing size and location of the proposed development as well as any existing buildings or structures. The site plan shall also show all adjacent roads and watercourses with direction of flow, the lowest adjacent grade to the proposed foundation and/or toe of fill, the Base Flood Elevation, and the location of the Floodway boundary when applicable.

- 720
- 721 (f) An acknowledgement that the applicant agrees to pay any and all fees associated
- 722 with the permitting process as set forth in Division 7, Sections 91-73 and 91-79 of
- 723 this Ordinance.
- 724
- 725 (g) An acknowledgement that the applicant agrees to allow The Floodplain Administrator
- 726 and authorized representatives of floodplain management programs access to the
- 727 development to inspect for compliance.
- 728

729 **Sec. 91-53 Elevation and Flood Proofing Information.**

730

731 All applicants are encouraged to exceed the minimum elevation requirements

732 contained herein. Flood insurance rates can be lowered significantly by increasing the

733 elevation of the lowest floor above the freeboard height required by this Ordinance.

734

735 Depending on the type of structure involved, the following information shall also be

736 included in the application for work within the Special flood hazard area:

737

- 738 (a) All structures, ductwork and electrical connections shall be elevated two feet above
- 739 the Base Flood Elevation and:
- 740
- 741 (1) A plan showing the size of the proposed structure and its relation to the lot
- 742 where it is to be constructed.
- 743
- 744 (2) A determination of elevations of the Base Flood, existing ground, proposed
- 745 finished ground and lowest floor, certified by a registered professional engineer
- 746 or licensed professional surveyor.
- 747
- 748 (3) Plans showing the methods of elevating the proposed structure including
- 749 details of proposed fills, pile structures, retaining walls, foundations, erosion
- 750 protection measures, etc. When required by the Floodplain Administrator, a
- 751 registered professional engineer or architect shall prepare the plans.
- 752
- 753 (4) Plans showing the methods used to protect utilities (including sewer, water,
- 754 telephone, electric, gas, etc.) from flooding to two feet above the Base Flood
- 755 Elevation at the building site.
- 756
- 757 (5) During construction, as soon as the basic elements of the lowest floor are in
- 758 place and before further vertical construction, it is highly recommended that the
- 759 applicant check for error by obtaining elevation data completed by a registered
- 760 professional engineer or licensed professional surveyor certifying the height of
- 761 the lowest floor. If a mistake in elevation has been made this is the best time to
- 762 correct the error.
- 763
- 764 (6) A finished construction elevation certificate must be prepared by a licensed
- 765 professional surveyor or others of demonstrated qualification. The elevation

certificate must confirm the structure in question together with attendant utilities are elevated in compliance with permit conditions.

(7) A Non-Conversion Agreement shall be signed by the applicant whenever the Floodplain Administrator determines that the area below the first floor could be converted to a non-conforming use (generally applies to enclosed areas below base flood elevation that are 5 ft. high or more). This agreement shall state:

a. The area below Base Flood Elevation shall not be converted for use other than for parking, building access or for allowable storage as detailed in this Ordinance.

b. The applicant agrees to notify prospective purchasers of the existence of the Non-Conversion Agreement. It shall be the responsibility of the applicant to transfer the agreement at closing to the purchaser through notarized signature, a copy of all new Non-Conversion Agreements shall be provided to the Floodplain Administrator. Failure to transfer the Non-Conversion Agreement and provide a signed copy to the Floodplain Administrator shall subject the violator to the penalties set forth in Section 91-84 of this Ordinance.

(b) All structures shall be flood proofed to two feet above the Base Flood Elevation (nonresidential structures only):

All applicants shall meet or exceed the minimum flood proofing requirements contained herein. Flood insurance rates can be lowered significantly by increasing the level of flood proofing above the height required by this Ordinance. To obtain an "elevation credited" flood insurance rate on dry flood proofed buildings, flood proofing must extend at least one foot above the Base Flood Elevation.

(1) Plans showing details of all flood proofing measures, prepared by a registered professional engineer, showing the size of the proposed structure and its relation to the lot where it is to be constructed.

(2) A determination of elevations of the Base Flood, existing ground, proposed finished ground, lowest floor, and flood proofing limits, certified by a registered professional engineer or licensed professional surveyor.

(3) A Flood Proofing Certificate, FEMA 81-65, as revised by FEMA, shall be prepared by the registered professional engineer who prepared the plans in (1) above, stating the structure in question, together with attendant utility and sanitary facilities are designed so that:

a. The structure is watertight with walls substantially impermeable to the passage of water from the lowest structural element to two feet above the Base Flood Elevation.

- 812
- 813 b. The structure will withstand the hydrostatic, hydrodynamic, buoyant,
- 814 impact, and other forces resulting from the flood depths, velocities,
- 815 pressures, and other factors associated with the Base Flood.
- 816
- 817 (c) For Appurtenant structures constructed of flood resistant materials – used solely for
- 818 parking of vehicles, or limited storage (Appurtenant Structures only)
- 819
- 820 (1) A site plan prepared by a licensed professional surveyor or others of
- 821 demonstrated qualifications showing elevation of existing ground, proposed
- 822 finished ground and lowest floor. The plan shall also show details of proposed
- 823 flood resistant materials usage and the size of the proposed structure and its
- 824 relation to the lot where it is to be constructed. The location of the Floodway
- 825 boundary shall be represented on the plan when a Floodway is present on the
- 826 site.
- 827
- 828 (2) An Elevation Certificate, based on finished construction, must be prepared by a
- 829 licensed professional surveyor or others of demonstrated qualifications. This
- 830 certificate or report must confirm that the structure in question, together with
- 831 attendant utilities is designed so that:
- 832
- 833 a. Flood resistant materials as detailed in FEMA Technical Bulletin 2-93 (FIA-
- 834 TB-2) are used in the construction of the structure from the lowest
- 835 structural element to two feet above the Base Flood Elevation and that all
- 836 utilities are located at least two feet above the Base Flood Elevation.
- 837
- 838 b. Hydrostatic flood forces on exterior walls are equalized by allowing for
- 839 automatic entry and exit of floodwaters. Designs for meeting this
- 840 requirement must either be certified by a registered professional engineer
- 841 or architect or meet or exceed the following minimum criteria:
- 842
- 843 1. A minimum of two openings having a total net area of not less than
- 844 one square inch for every square foot of enclosed area subject to
- 845 flooding shall be provided.
- 846
- 847 2. The bottom of all openings shall be no higher than one foot above
- 848 grade.
- 849
- 850 3. Openings may be equipped with screens, louvers, valves or other
- 851 coverings or devices provided that they permit the automatic entry
- 852 and exit of floodwaters.
- 853
- 854 (3) In addition, the applicant shall sign a Non-Conversion Agreement and notify
- 855 prospective purchasers of the existence of the Non-Conversion Agreement. It
- 856 shall be the responsibility of the applicant to transfer the Non-Conversion
- 857 Agreement to any purchaser at closing through notarized signature. A signed

copy of the transferred Non-Conversion Agreement shall be provided to the Floodplain Administrator. Failure to transfer the Non-Conversion Agreement and provide a signed copy to the Floodplain Administrator shall subject the violator to the penalties set forth in Section 91-84 of this Ordinance.

Sec. 91-54 Site Plan Criteria.

Site plans are required for all development, new construction and substantial improvements determined to be in a special flood hazard area and all proposed subdivisions and manufactured home parks. These proposals shall be reviewed by the Floodplain Administrator to assure that they are consistent with the need to minimize flood damage.

The owner or developer shall submit a preliminary site plan to the Floodplain Administrator that includes the following information:

- (a) Name of registered professional engineer, licensed professional surveyor, or other qualified person responsible for providing the information required in this section.
- (b) A map showing the location of the proposed subdivision and/or development with respect to Floodplain Areas, proposed lot sites, and fill areas.
- (c) Where the subdivision or manufactured home park lie partially or completely in the special flood hazard areas, the plan map shall include detailed information giving the location and elevation of proposed roads, utilities and building sites. All such maps shall also show contours at intervals of two (2) or five (5) feet depending upon the slope of the land and identify accurately the boundaries of the special flood hazard areas. A registered professional engineer or licensed professional surveyor must certify the site plan.
- (d) All subdivision proposals and other proposed new developments which are proposed to take place either fully or partially within the Approximated Floodplain Area (F4) and which are greater than ten (10) lots or two (2) acres, whichever is the lesser, shall include Base Flood Elevation data and shall delineate the Floodway.
 - (1) When a Flood Insurance Study (FIS) is available from FEMA, the data contained in that study must be used to substantiate the Base Flood Elevation.
 - (2) If a FEMA Flood Insurance Study is not available the required data may be available from an authoritative source, such as the U.S. Army Corps of Engineers, U.S. Geological Survey, Natural Resource Conservation Service or State and Local Water Resource Department.
 - (3) If the required data is not available from other sources the applicant shall develop the technical data using detailed methodologies comparable to those contained in a Flood Insurance Study. This data shall be prepared and certified

by a registered professional engineer, who shall certify that the methods used correctly reflect currently accepted technical concepts.

Where the subdivision or other development site lies partially in the special flood hazard area and all proposed development including fill will take place on natural grade a significant vertical distance above the Approximated Floodplain Area (Zone A) boundary depicted on the map, development of detailed Base Flood Elevation data may not be necessary. In these cases, the site plan for the proposed development must show contours at intervals of two (2) or five (5) feet depending on the slope, and clearly delineate the area to be developed and the location of the special flood hazard boundary as scaled from the FEMA map. A registered professional engineer, licensed professional surveyor, or others of demonstrated qualifications must certify the site plan.

Sec. 91-55 – Restrictions to Subdivision of land in special flood hazard areas.

Subdivision of land in the special flood hazard area shall result in lots that include a buildable portion outside of the special flood hazard area and be served by streets within the proposed subdivision having surfaces at or above the base flood elevation of the line defining the special flood hazard area limits. All new structures shall be sited on the portion of the subdivided lot that is located outside of the special flood hazard area.

DIVISION 6. – SPECIFIC REQUIREMENTS

Sec. 91-61 Design and Construction Standards.

To prevent excessive damage to buildings, structures, and related utilities and facilities, the following restrictions apply to all development, subdivision proposals, manufactured home parks, new construction and to construction of substantial improvements, and the repair of substantial damage, to existing structures occurring in the Special flood hazard area.

(a) Basements and Lowest Floors

- (1) Residential Structures – All new construction, relocation, substantial improvements, including repair of substantial damage, of residential structures must have the lowest floor, including basement, ductwork, and utilities, elevated to two feet above the Base Flood Elevation.
- (2) Non-residential Structures – All new construction, relocation, substantial improvements, including repair of substantial damage, of non-residential structures must have the lowest floor, including basement, ductwork and utilities, elevated to two feet above the Base Flood Elevation; or, together with attendant utility and sanitary facilities, be designed so that the structure is water tight with walls substantially impermeable to the passage of water from the lowest structural element to two feet above the Base Flood Elevation.

(3) Openings – For all new construction, relocation, substantial improvements, and repair of substantial damage, those fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or meet or exceed the following minimum criteria:

- a. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding, shall be provided;
- b. The bottom of all openings shall be no higher than one foot above grade;
- c. Openings may be equipped with screens, louvers, valves, or other coverings or devices if they permit the automatic entry and exit of floodwaters.

(4) A Non-Conversion Agreement shall be signed by the applicant on all flood-proofed structures and any elevated structures when the Floodplain Administrator determines that the area below the first floor could be converted to a non-conforming use (generally applies to the enclosed areas below base flood elevation that are 5 ft. high or more). This agreement shall state:

- a. The area below the Base Flood Elevation shall not be converted for use other than for parking, building access or for allowable storage as detailed in this Ordinance;
- b. The applicant agrees to notify prospective purchasers of the existence of the Non-Conversion Agreement. It shall be the responsibility of the applicant to transfer the Non-Conversion Agreement at closing to the purchaser through notarized signature. A copy of a Non-Conversion Agreement shall be provided to the Floodplain Administrator. Failure to transfer the Non-Conversion Agreement and provide a signed copy to the Floodplain Administrator shall subject the violator to the penalties set forth in Section 91-84 of this Ordinance.

(b) Manufactured Home Placement

Certain unique characteristics of manufactured homes installed in special flood hazard areas pose an elevated risk of substantial damage to property. Therefore, it is required that:

All manufactured homes to be installed within the special flood hazard areas of the City of Charleston shall be installed by a contractor possessing a valid West

Virginia Manufactured Home Installer's License. The installer shall use an installation design engineered to withstand flood hazards specific to the particular home site. Manufactured homes to be installed or substantially improved within the special flood hazard areas shall be installed in accordance with the following standards:

- (1) The lowest floor, ductwork and utilities including HVAC/heat pump shall be elevated two feet above the Base Flood Elevation.
- (2) Elevation shall be on reinforced piers on a permanent foundation or other foundation elements of at least equivalent strength engineered for use in a flood hazard area. Installation designs incorporating dry stacked block piers shall not be used in special flood hazard areas.
- (3) All manufactured homes shall be securely anchored to an adequately anchored foundation system in accordance with the Code of Federal Regulations, Title 44 Chapter (1) Subpart (B) Section 60.3(b)(8). All manufactured homes to be placed within Zone A on a community's FHBM or FIRM shall be installed using methods and practices which minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.
- (4) Permanently attached rigid skirts and perimeter wall skirts of brick or block must have openings to prevent collapse and damage to supporting piers. The openings must be designed to automatically equalize hydrostatic flood forces by allowing for entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or meet or exceed the following minimum criteria:
 - a. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
 - b. The bottom of all openings shall be no higher than one foot above grade.
- (5) Openings may be equipped with screens, louvers, valves, or other coverings or devices if they permit the automatic entry and exit of floodwaters.
- (6) Any additions to a manufactured home shall be similarly anchored and vented.
- (7) Flexible Skirting and rigid skirting not attached to frame or foundation of a manufactured home are not required to have openings.

- (8) The licensed West Virginia manufactured home installer installing the unit shall perform a site inspection and certify in writing that the manufactured home has been installed to the standards set forth in this Ordinance.

(c) Appurtenant Structures

- (1) When possible, appurtenant structures shall be located out of the special flood hazard area.
- (2) Where appurtenant structures not connected to the principal structure are to be located on sites below the Base Flood Elevation, the following flood damage reduction provisions apply:
 - a. Use of the structure shall be restricted to parking or limited storage.
 1. Structures shall be no more than 600 square feet in size and valued at less than \$10,000 (Ten thousand dollars).
 2. Floors shall be at or above grade on at least one side.
 3. Structures shall be located, oriented, and constructed to minimize flood damage.
 4. Structures shall be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
 5. Flood resistant materials as detailed in FEMA Technical Bulletin 2-93 (FIA-TB-2) shall be used in the construction of the structure from the lowest structural element to two feet above the Base Flood Elevation.
 6. Machinery, electric devices or appliances, and all utilities shall be located at least two feet above the Base Flood Elevation.
 7. Opening requirements:

Hydrostatic flood forces on exterior walls are equalized by allowing for automatic entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:

 - (i) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.

(ii) The bottom of all openings shall be no higher than one foot above grade.

(iii) Openings may be equipped with screens, louvers, valves or other coverings or devices if they permit the automatic entry and exit of floodwaters.

- b. In addition, a Non-Conversion Agreement shall be signed by the applicant stating that the use of the appurtenant structure or detached or attached garage shall not be changed from the use permitted, acknowledging that the structure may be subject to greater flood risk and that higher flood insurance premiums may be possible, and that a change in use may require full compliance with this Ordinance. The applicant agrees to notify prospective purchasers of the existence of the Non-Conversion Agreement. It shall be the responsibility of the applicant to transfer the Non-Conversion Agreement at closing to the purchaser through notarized signature. A copy of the Non-Conversion Agreement shall be provided to the Floodplain Administrator. Failure to transfer the Non-Conversion Agreement and provide a signed copy to the Floodplain Administrator shall subject the violator to the penalties set forth in Section 91-84 of this Ordinance.

(d) Recreational Vehicle Placement

Recreational vehicles to be placed within any special flood hazard area shall either:

- (1) Be installed in accordance with the manufactured home placement requirements and all other flood reduction requirements contained in this Ordinance; or
- (2) Both:
- i. Be on site for fewer than 180 consecutive days; and
- ii. Be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnected utilities, security devices, and has no permanently attached additions.

(e) Fill

The City of Charleston officially recognizes the beneficial functions the Floodplain Area serves in storage and transportation of water during floods. Placement of fill in the special flood hazard area is discouraged and should be minimized.

1134 Placement of fill in other areas of the special flood hazard area shall be restricted to
1135 functional purposes such as elevating a structure. Fill shall only be permitted in the
1136 same permit with the related structure or other functional purpose. Placement of fill
1137 to dispose of spoil from excavation or to elevate yards, parking lots, or fields will not
1138 generally be considered a functional purpose. The Floodplain Administrator may
1139 require the developer to provide compensatory storage before permitting fill.

1140
1141 No fill shall be permitted in the Floodway unless it has been demonstrated through
1142 hydrologic and hydraulic analyses performed in accordance with currently accepted
1143 technical standards that the proposed fill will not result in any increase in the Base
1144 Flood Elevation.

1145
1146 All fill placed in the special flood hazard area shall meet or exceed the following
1147 standards:

- 1148
1149 (1) Fill shall be used only to the extent to which it does not adversely affect the
1150 subject property and adjacent properties. The Floodplain Administrator may
1151 require the applicant to demonstrate through engineering reports that proposed
1152 fill would not adversely affect the subject property and adjacent properties.
1153 When required, hydrologic and hydraulic analyses shall be undertaken only by
1154 a professional engineer who shall certify that the technical methods used
1155 correctly reflect currently accepted technical concepts. The resulting study
1156 shall include a cover letter, signed, and sealed by the responsible professional,
1157 providing a statement of findings in basic terms. In addition, studies, analyses,
1158 computations, etc., shall be submitted in sufficient detail to allow a thorough
1159 technical review by the Floodplain Administrator. During permit review the
1160 Floodplain Administrator shall consider the following issues that have the
1161 potential to cause adverse impact to the subject property and adjacent
1162 properties:
- 1163
1164 a. Unacceptable increases in flood heights.
 - 1165
1166 b. Blocking drainage from the subject property and adjacent properties.
 - 1167
1168 c. Deflection of floodwaters onto adjacent existing structures.
 - 1169
1170 d. Increases to stream velocity initiating or exacerbating erosion problems.
 - 1171
1172 e. Other unique site conditions may be considered when determining
1173 whether fill will cause adverse impact to the subject property and adjacent
1174 properties including, but not limited to, subsidence areas, karst
1175 topography, stream blockages, and steep topography adjacent to the
1176 channel.
 - 1177

- (2) Fill shall be used only to the extent to which it does not adversely affect the capacity of channels or floodways of any tributary to the main stream, drainage ditch, or any other drainage facility or system.
- (3) A Fill Site must be contoured to drain properly (avoid ponding) consistent with pre-construction conditions. This provision does not apply to properly constructed impoundments which comply with the remainder of this Ordinance, and which are properly permitted by the West Virginia Department of Environmental Protection.
- (4) Fill shall extend beyond a structure for a sufficient distance to provide acceptable access. For residential structures, fill shall extend laterally fifteen (15) feet beyond the building line from all points before the start of sloping required in subsection 5 below. For non-residential structures, fill shall be placed to provide access acceptable for intended use.
- (5) At grade access, with fill extending laterally fifteen (15) feet beyond the building line shall be provided to a minimum of twenty-five (25) percent of the perimeter of a non-residential structure.
- (6) Fill shall consist of soil or rock material only. Sanitary landfills shall not be permitted; no trash or woody debris shall be buried on site.
- (7) Fill material shall be compacted to provide the necessary stability and resistance to erosion, scouring or settling. Fill compaction standards must be appropriate to proposed post fill use, particular attention is necessary when fill is being used to elevate a structure.
- (8) Fill slopes shall be no steeper than one (1) vertical on two (2) horizontal, unless substantiating data justifying steeper slopes are submitted to and approved by the Floodplain Administrator.
- (9) Fill site and fill must be protected from erosion.
- a. Fill slopes exposed to flood waters with expected velocities during the occurrence of the base flood of five feet per second or less will be protected from erosion by covering them with grass, vines, weeds, or similar vegetative undergrowth.
- b. Fill slopes exposed to flood waters with expected velocities during the occurrence of the base flood of greater than five feet per second will be protected from erosion by armoring them with stone or rock slope protection.
- (10) All applicants placing fill in a special flood hazard area shall obtain a Conditional Letter of Map Revision (CLOMR-F) from FEMA when directed to

do so by the Floodplain Administrator before a permit can be issued. After fill is finished the applicant shall convert the CLOMR-F to a Letter of Map Revision based on Fill (LOMR-F) before a Certificate of Floodplain Compliance/Occupancy can be issued. The Floodplain Administrator is hereby appointed as the designated official to approve a request for a (CLOMR-F) or (LOMR-F), and shall cooperate with the applicant with respect to any requirements of FEMA for requesting a (CLOMR-F) or (LOMR-F), which includes, but is not necessarily limited to, approving said request and executing Form 1, "Overview & Concurrence Form" or other form as may be required by FEMA.

- (11) The applicant shall submit any maps, computations or other material required by the Federal Emergency Management Agency (FEMA) to revise the Flood Insurance Study (FIS) and/or Flood Insurance Rate Maps (FIRM), when notified by the Floodplain Administrator, and shall pay any fees or other costs assessed by FEMA for this purpose.

(f) Placement of Structures and other development

All structures and other development shall be constructed and placed on the property to offer the minimum obstruction to the flow of water and shall be designed to have a minimum obstruction effect upon the flow and height of floodwater.

- (1) Whenever possible, structures and other development shall be constructed with the longitudinal axis parallel to the direction of flood flow and,
- (2) In so far as practicable, structures and other development shall be placed approximately on the same flood-flow lines as those of adjoining structures or development.

(g) Anchoring

- (1) All structures and other development including stream crossings shall be firmly anchored in accordance with accepted engineering practices to prevent flotation, collapse, and lateral movement, thus reducing the threat to life and property and decreasing the possibility of the blockage of bridge openings and other restricted sections of the watercourse.
- (2) All air ducts, large pipes, swimming pools, above ground gas and storage tanks located at or below the Base Flood Elevation shall be firmly anchored to resist flotation or lateral movement.

(h) Flood Protection Setback

- (1) A Flood Protection Setback equal to twice the width of the watercourse channel measuring from the top of one bank to the top of the opposite bank of

50 feet, whichever is less, shall be maintained from the top of the banks of all watercourses. Specifically, as for oil and gas wells and well pads, no well pad may be prepared or well drilled within 100 feet from any perennial stream, natural or artificial lake, pond, reservoir, or wetland. [See W.Va. Code §22-6A-12(b)]. To reduce erosion, natural vegetation shall be maintained in this area. Where natural vegetation does not exist along the watercourse and conditions for replanting are suitable, high priority shall be given to planting vegetation in the setback area to stabilize banks and enhance aquatic resources.

(2) Necessary public works and temporary construction may be exempted from this subsection at the discretion of the Floodplain Administrator.

(3) At the discretion of the Floodplain Administrator the Flood Protection Setback requirement can be waived in whole or part if the applicant demonstrates that it is impossible to allow any development without encroachment into the Flood Protection Setback Area. The conditions shall be the minimum necessary and shall be made only after due consideration is given to varying other siting standards, such as side, front, and back lot line setbacks.

(i) Storage

(1) No materials that are buoyant, flammable, explosive, or in times of flooding could be injurious to human, animal, or plant life, shall be stored below Base Flood Elevation except for mineral storage properly and wholly within the ground in compliance with other State environmental agency(ies) requirements.

(2) Storage of other material or equipment may be allowed if not subject to substantial damage by floods and firmly anchored to prevent flotation or readily removable from the area within the time available after flood warning.

(3) Due to the potential of masking the natural elevation and making it more difficult to enforce this Ordinance, material that resembles "fill" material shall not be considered "storage" material for purposes of this subsection.

(j) Utility and Facility Requirements

(1) All new or replacement water systems whether public or private, shall be designed to minimize or eliminate infiltration of floodwaters into the systems.

(2) All new or replacement sanitary disposal systems, whether public or private, shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters.

(3) All other new or replacement public or private utilities and facilities shall be located and constructed to minimize or eliminate flood damage.

(4) Onsite waste disposal systems shall be located to avoid impairment to the system or contamination from the system during flooding.

(k) Drainage

Adequate drainage shall be provided to reduce exposure to flood hazard areas as well as around structures on slopes within zones AH and AO to guide floodwaters around and away from proposed structures.

(l) Backflow Preventers

Back flow prevention valves should be used for all enclosed structures with sewage or drainage facilities located in the special flood hazard area Floodplain Area.

DIVISION 7. – ADMINISTRATION

Sec. 91-71 Designation of Floodplain Administrator.

The Floodplain Administrator is vested with the responsibility, authority and means to implement the commitments made herein. Upon appointment of a new Floodplain Administrator, the City shall give notice to The State Coordinating Office and FEMA. Within one year of his or her appointment, the new Floodplain Administrator shall attend the State/FEMA sponsored NFIP Class 273 entitled “Managing Floodplain Development” and remain current with State required continuing education annual training per W.Va. Code §15-5-20a. In the absence of a formally appointed Floodplain Administrator, the duties set forth in this Ordinance for the Floodplain Administrator shall be temporarily fulfilled by the Planning Director or his or her designee.

The Floodplain Administrator shall administer and implement this Ordinance by granting or denying floodplain development permits in accordance with its provisions. The Floodplain Administrator shall also be responsible for submitting all required reports to FEMA concerning participation in the National Flood Insurance Program.

Sec. 91-72 Development Permits and Site Plan Approvals Required.

It shall be unlawful for any contractor, person, individual, partnership, estate, trust, association, business, limited liability company, joint venture, or corporation to undertake or cause to be undertaken, any development or the new construction, substantial improvement, repair of substantial damage, the placement or relocation of any structure (including manufactured homes) within the City of Charleston unless a permit application and standard site plan has been completed, and a permit has been obtained from the Floodplain Administrator. In addition, where land that is either partially or fully in the special flood hazard area is to be subdivided, utilized for a manufactured home park or subdivision, or otherwise developed, a detailed site plan must be submitted to, and approved by, the Floodplain Administrator prior to any development.

1362
1363 **Sec. 91-73 Approval of Permits and Plans.**
1364

- 1365 (a) The Floodplain Administrator shall review, or shall cause to be reviewed, all permit
1366 applications and plans within 90 days (from the Permit Application submission date)
1367 to determine whether the proposed development is reasonably safe from flooding.
1368 Further, the Floodplain Administrator shall review all objections, comments, protest
1369 letters and other writings submitted in opposition of said Floodplain Permit
1370 Application and give due consideration to the same before granting or denying said
1371 Permit.
1372
- 1373 (b) All permits and plans shall be approved only after it has been determined that the
1374 proposed work to be undertaken will be in conformance with the requirements of
1375 this Ordinance, State and Federal Laws, Ordinances and Regulations.
1376
- 1377 (c) The City of Charleston shall not issue a permit to any person who does not possess
1378 a valid contractor's license when a contractor's license is required by West Virginia
1379 Code.
1380
- 1381 (d) The City of Charleston, before issuance of the permit, shall require the applicant to
1382 furnish satisfactory proof that such person is duly licensed as a contractor under the
1383 provisions of West Virginia State Code.
1384
- 1385 (e) The Floodplain Administrator shall require and keep on file copies of any
1386 documentation pertaining to the permit from any other governmental agencies.
1387

1388 After the filing of an Application for a Floodplain Permit and receiving a properly
1389 and timely filed objection to the issuance of a Floodplain Permit Application, but prior to
1390 the Floodplain Administrator's decision to grant or deny the same, the Floodplain
1391 Administrator may, in his or her sole discretion, hold a public meeting wherein evidence
1392 can be taken or given by interested persons or parties. Said meeting shall record all
1393 testimony and receive all exhibits and evidence. Said meeting notice shall be mailed by
1394 certified mail return receipt requested to the Permit Applicant and the objecting person
1395 or entity and placed upon the agenda of a regularly scheduled Board of Zoning Appeals
1396 meeting announcing the date, time, and place of said meeting not prior to 10 calendar
1397 days from official announcement. The meeting transcript and exhibits presented shall be
1398 filed in the official Floodplain Application Permit File.
1399

1400 **Sec. 91-74 Application Procedures.**
1401

1402 Application for a permit and/or site plan approvals shall be filed, in writing, in
1403 duplicate, on the forms supplied by the City of Charleston and shall include all
1404 information stipulated under Division 5 of this Ordinance.
1405

1406 **Sec. 91-75 Changes.**
1407

After the issuance of a Floodplain Permit or site plan approval by the Floodplain Administrator or Floodplain Appeals Board, no changes of any kind shall be made to the application, permit, or any of the plans, specification or other documents submitted with the application without the written consent and approval of the Floodplain Administrator.

Sec. 91-76 Permit Placards.

The City of Charleston shall issue a permit placard, which shall be prominently displayed on the subject property during the time development is in progress. This placard shall show the number of the permit and the date of its issuance.

Sec. 91-77 Start of Construction.

Work on the proposed development shall begin within 180 days after the date of issuance of the Floodplain Permit or the Floodplain Permit shall expire unless a time extension request made in writing to the Floodplain Administrator and filed in the official Floodplain Permit Application File by the Floodplain Administrator is granted, in writing, by the Floodplain Administrator after a showing by the applicant of “justifiable delay” not caused by the negligence or lack of due diligence of the applicant. Any extension of the 180 day Start of Construction timeframe shall only be granted if the permit holder can demonstrate compliance with this Floodplain Ordinance, FIRM and/or FIS in effect at the time the extension is granted. All work on the proposed development must be completed within 18 months of permit issuance, at which time the permit shall expire, unless a time extension made in writing to the Floodplain Administrator and filed in the official Floodplain Permit File by the Floodplain Administrator is granted in writing by the Floodplain Administrator. The request for a time extension shall be in writing and shall state the reasons for the extension. When considering an extension, the Floodplain Administrator shall consider the following criteria:

- (a) Has the applicant diligently pursued the completion of the proposed development during the 18 months?
- (b) Will the granting of the extension be detrimental to public safety, health, or welfare or injurious to other property?

Sec. 91-78 Stop Work Orders, Inspections and Revocations.

(a) Stop-Work Orders

- (1) The Floodplain Administrator shall issue, or cause to be issued, a “Stop Work Order Notice” for any development found ongoing without having obtained a Floodplain Permit. Disregard of a Stop Work Order Notice shall subject the violator to the penalties described in Section 91-84 of this Ordinance.
- (2) The Floodplain Administrator shall issue, or cause to be issued, a “Stop Work Order Notice” for any development found non-compliant with the provisions of

1454 this Ordinance and/or the conditions of the Floodplain Permit. Disregard of a
1455 Stop Work Order notice shall subject the violator to the penalties described in
1456 Section 91-84 of this Ordinance.

- 1457
- 1458 (3) If the Floodplain Administrator issues a Stop Work Order Notice, the Floodplain
1459 Permit shall be stayed pending a determination of whether a violation actually
1460 occurred and/or abatement of the alleged violation, whichever occurs first.
- 1461
- 1462 (4) In the event of an Appeal on a Floodplain Permit, the Floodplain Administrator
1463 shall immediately issue a Stop Work Order Notice that shall remain in effect
1464 until a resolution of said Appeal.

1465

1466 (b) Inspections and Revocations

1467

- 1468 (1) During the development period, the Floodplain Administrator or other
1469 authorized City, State or Federal Government Officials may inspect the
1470 premises to determine that the work is progressing in compliance with the
1471 information provided on the Floodplain Permit Application, this Ordinance and
1472 with all applicable Federal, State and City laws, Regulations and Ordinances.
- 1473
- 1474 (2) If the Floodplain Administrator discovers that the work does not comply with
1475 the Floodplain Permit Application, this Ordinance, or that there has been one
1476 or more false statements or misrepresentations by any applicant in the
1477 permitting process, the Floodplain Administrator shall issue a "Stop Work
1478 Order Notice", revoke the permit, and request a temporary injunction in the
1479 Circuit or Magistrate Court of Kanawha County. The Floodplain Administrator
1480 shall notify any appropriate agency or authority if the Floodplain Administrator
1481 finds a violation of any non-Floodplain Law, Regulation or Ordinance.
- 1482
- 1483 (3) The Floodplain Administrator or other authorized City, State or Federal
1484 Government Officials may inspect any development covered by this or
1485 previous Floodplain Ordinances to determine whether any portion of the
1486 development has been altered to be non-compliant with the requirements of
1487 this or other Ordinances.

1488

1489 **Sec. 91-79 Certificate of Floodplain Compliance.**

1490

- 1491 (a) In the special flood hazard area it shall be unlawful to occupy, or to permit the
1492 occupancy, of any building or premises, or both, or any part thereof hereafter
1493 created, erected, installed, changed, converted or wholly or partly altered or
1494 enlarged in its use or structure until a Certificate of Floodplain Compliance has
1495 been issued by the Floodplain Administrator stating that the building or land
1496 conforms to the requirements of this Ordinance. Occupying or using a building or
1497 premises in violation of this section shall subject the violator to the penalties
1498 described in Section 91-84 of this Ordinance.
- 1499

- (b) In the special flood hazard area, it shall be unlawful to inspect and approve a permanent utility connection to any building or premises, or both, or any part thereof hereafter created, erected, installed, or rebuilt until the utility inspector is in possession of a copy of the Certificate of Floodplain Compliance issued by the Floodplain Administrator stating that the particular development being inspected conforms to the requirements of this Ordinance. Inspection and approval of utilities in violation of this section shall subject the violator to the penalties described in Section 91-84 of this Ordinance.
- (c) In the special flood hazard area, it shall be unlawful to install a permanent utility connection to any building or premises, or both, or any part thereof hereafter created, erected, installed, or rebuilt until a Certificate of Floodplain Compliance has been issued by the Floodplain Administrator stating that the development conforms to the requirements of this Ordinance. Installation of utilities in violation of this section shall subject the violator to the penalties described in Section 91-84 of this Ordinance.
- (d) A Certificate of Floodplain Compliance shall be issued by the Floodplain Administrator upon satisfactory completion of all development in the special flood hazard.
- (e) Issuance of the Certificate of Floodplain Compliance shall be based upon the inspection conducted as prescribed in this Ordinance and any finished construction elevation certificate, hydraulic data, flood proofing certificate, or encroachment analyses which may have been required as a condition of the Floodplain Permit approval process.

DIVISION 8. – APPEALS AND PENALTIES

Sec. 91-81 Appeals.

Whenever a person or entity is aggrieved by a decision of the Floodplain Administrator with respect to the provisions of this Ordinance, it is the right of that person or entity to appeal to the Board of Zoning Appeals sitting as the Floodplain Appeals Board. Such appeal must be filed with the Floodplain Administrator in writing, within thirty (30) days. Said Appeal shall be served by the aggrieved person by regular mail on all interested parties on the date that said Appeal is filed. Upon receipt of such appeal, the Floodplain Appeals Board shall set a time, date, and place not less than ten (10) nor more than sixty (60) calendar days for the purpose of hearing the appeal. Notice of the time, date and place of the hearing shall be given to all interested parties by placing an announcement of said hearing date, time, and place on the agenda of the next regularly scheduled Board of Zoning Appeals meeting notice and to announce the date, time and place of the appeal hearing not sooner than 10 calendar days from said announcement date, at which time all may appear and be heard. The determination by the Floodplain Appeals Board shall be final in all cases, subject to any Appeal to the Circuit or Magistrate Court of Kanawha County, West Virginia, or any other Court of

competent jurisdiction.

In the event an Appeal is filed wherein a Floodplain Permit grant has been ruled by the Floodplain Administrator, the Floodplain Administrator shall immediately issue a Stop Work Order Notice that shall remain in effect until a resolution of said appeal.

Sec. 91-82 Appeal Review Criteria.

Only appeals contesting the cumulative substantial damage requirement, the flood protection setback requirement, or the freeboard requirements, may be handled at the discretion of the Floodplain Appeals Board.

Sec. 91-83 Variances.

If compliance with any of the requirements of this Ordinance would result in an exceptional hardship to a prospective builder, developer or landowner, the City of Charleston may, upon request, grant relief from the strict application of the requirements.

Considerations for the issuance of Variances to this Ordinance shall adhere to the following criteria:

- (a) A decision granting or denying the variance request shall only be issued by the Floodplain Appeals Board upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the permit would result in exceptional hardship to the applicant, and (iii) a determination that granting the permit will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing laws, regulations or ordinances;
- (b) An affirmative decision granting a variance shall be issued only upon determination that it is the minimum necessary, considering the Special Flood Hazard Area, to afford relief. Financial hardship, used as sole criteria, shall not be considered sufficient justification to grant a variance;
- (c) An affirmative decision granting a Floodplain variance shall be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure; and
- (d) The Floodplain Appeals Board shall notify the applicant in writing and signed by a majority of the Floodplain Appeals Board that (i) the issuance of a decision to allow construction of a structure below the Base Flood Elevation will result in increased premium rates for flood insurance, and (ii) such construction below the Base Flood

Elevation increases risk to life and property. Such notification shall be maintained with a record of all decisions as required in this Ordinance.

The Floodplain Appeals Board shall (i) maintain a record of all decisions including justification for the decisions, and (ii) report such decisions issued in its biannual report to the Federal Emergency Management Agency.

An affirmative decision shall not be granted for issuance of a Floodplain variance for any construction, development use or activity within any Floodway Area that would cause any increase in the Base Flood Elevation.

Sec. 91-84 Penalties.

Any violation of this ordinance shall constitute a zoning violation and is subject to Article 37 of the Zoning Ordinance of the City of Charleston, as amended.

DIVISION 9. – GOVERNMENT ACTIONS

Sec. 91-91 Annexation.

- (a) Upon annexation, the provisions of this ordinance shall immediately go into effect.
- (b) All plats or maps of annexation shall show the Floodplain boundaries, Base Flood Elevation and location of the Floodway where determined.
- (c) In accordance with the Code of Federal Regulations, Title 44 Subpart (B) Section 59.22(a)(9)(v) all Federal Emergency Management Agency participating governments must notify the State Coordinating Office and Federal Insurance Administration in writing whenever the boundaries of the governments have been modified by annexation or the governments has otherwise assumed or no longer has authority to adopt and enforce floodplain management regulations for a particular area. A detailed map showing the boundary change shall accompany the notice.
- (d) NFIP participating governments must notify the State Coordinating Office in writing whenever the boundaries of the governments have been modified by annexation or the government has otherwise assumed or no longer has authority to adopt and enforce floodplain management regulations for a particular area. A copy of a map of the government boundaries suitable for reproduction, clearly delineating the new boundaries or new area for which the government has assumed or relinquished floodplain management regulatory authority must be included with the notification.

Sec. 91-92 Permits for Governmental Entities.

Unless specifically exempted by law, all public utilities and Municipal, County, State and Federal entities are required to comply with this Ordinance and obtain all necessary

permits. Any entity claiming to be exempt from the requirements of this Ordinance must provide a written statement setting forth the rationale for exemption and file the same with FEMA. In addition, the entity claiming exemption shall provide copies of all relevant legal documentation demonstrating the exemption.

DIVISION 10. – SEVERABILITY AND MUNICIPAL LIABILITY

Sec. 91-101 Liability.

The granting of a permit or approval of a subdivision, development plan in an identified Special Flood hazard Area, shall not constitute a representation, guarantee, or warranty of any kind by the City of Charleston or by any official or employee thereof of the practicability or safety of the proposed use, and shall create no liability upon the City of Charleston. This Ordinance does not create a private cause of action. All applicants proposing construction in or near a Floodplain Area are urged to locate construction as far away from, and as high above, all flooding sources as possible.



PLANNING, STREETS AND TRAFFIC COMMITTEE

Mary Beth Hoover, Chair

COMMITTEE REPORT

To: Miles Carey, City Clerk

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

Date: May 22, 2023

Subject: Bill No. ~~7990~~ 7993

The Committee on Planning, Streets and Traffic has had under consideration:

Bill No. 7993 - A Bill to Amend and reenact Ordinance 7371 by establishing two-hour parking from 8:00am to 5:00pm, Monday through Saturday on the northerly side of Bigley Avenue from a point 43 feet west of Cora Street to a point 165 feet west of Cora Street and amending the Traffic Control Map and Traffic Control File, established by the code of the City of Charleston, West Virginia, two thousand and three, as amended, Traffic Laws, Section 263, Division 2, Article 4, Chapter 114, to conform therewith.

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

Mary Beth Hoover
Chair

J. K. Blair

K. R. Fane

Rebecca C. Capley

Pamela L. Kurba

J. R.

Bill No. 7993

Passed by Council:

Introduced in Council

May 1, 2023

Introduced by:

Referred to:

Beth Kerns

Planning, Streets and Traffic

Bill No. 7993 - A Bill to Amend and reenact Ordinance 7371 by establishing two-hour parking from 8:00am to 5:00pm, Monday through Saturday on the northerly side of Bigley Avenue from a point 43 feet west of Cora Street to a point 165 feet west of Cora Street and amending the Traffic Control Map and Traffic Control File, established by the code of the City of Charleston, West Virginia, two thousand and three, as amended, Traffic Laws, Section 263, Division 2, Article 4, Chapter 114, to conform therewith.

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

Section 1. A Bill to Amend and reenact Ordinance 7371 by establishing two-hour parking from 8:00am to 5:00pm, Monday through Saturday on the northerly side of Bigley Avenue from a point 43 feet west of Cora Street to a point 165 feet west of Cora Street

Section 2. The Traffic Control Map and Traffic Control File, established by the code of the City of Charleston, West Virginia, two thousand and three, as amended, Traffic Laws, Section 263, Division 2, Article 4, Chapter 114, shall be and hereby are amended, to conform to this Ordinance.

Section 3. All prior Ordinances, inconsistent with this Ordinance are hereby repealed to the extent of said inconsistency.

Resolution No. 811-23

Introduced in Council:

June 5, 2023

Adopted by Council:

Introduced by:

Joseph Jenkins

Referred to:

1 Resolution No. 811-23 - Authorizing the Mayor or City Manager to enter into a contract with
2 Mountwest Community and Technical College in the amount of \$108,000 to provide four
3 semesters of paramedic training courses for 18 members of the Charleston Fire Department.
4

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

7 That the Mayor or City Manager is authorized to enter into a contract with Mountwest
8 Community and Technical College in the amount of \$108,000 to provide four semesters of
9 paramedic training courses for 18 members of the Charleston Fire Department.



INSTRUCTIONS: This form must be submitted to the City Manager's Office for any purchase of materials or supplies costing **\$2,500 or more**. A minimum of **3** quotes is required for this form.

CITY OF CHARLESTON
Purchase Request

Date: 5/10/2023

To: CITY MANAGER,

I request permission to purchase the following materials and/or supplies: _____

Paramedic class for 18 CFD staff members.

Summer 2023, Fall 2023, Spring 2024, & Summer 2024

Purchase justification: _____

Required training to have qualified Paramedics on CPD staff.

If approved, the total purchase price will be: **\$108,000**

(Check One)

- ☐ The price is less than the \$25,000 permitted for purchases without advertising for bids and needing approval from City Council. I have not purposefully split the purchase request to keep the purchase under the \$25,000 threshold and have not favored a particular vendor. I have not shared competitive information with any vendor(s).
- ☐ The proposed vendor is a sole source provider for the materials/supplies requested. (Skip to **ITEM A** on page 2.)

I have contacted the following responsible vendors and have attached their written quotes for the requested item(s): (Minimum of 3 Quotes Required)

1.

Mountwest Community and Technical College

Price Quote: \$108,000
2.

Price Quote: \$
3.

Price Quote: \$
4.

Price Quote: \$
5.

Price Quote: \$

The apparent low-bid vendor *meeting specifications* is: Mountwest Community and Technical College

AND

☐

The low-bid vendor is not delinquent on any financial obligations owed to the City of Charleston according to the City Collector’s records, and I recommend authorizing the purchase through the low-bid vendor.

OR

☐

I recommend not contracting with the lowest bidder meeting specifications and instead recommend contracting with because:

Additionally, the recommended vendor is not delinquent on any financial obligations owed to the City of Charleston according to the City Collector’s records.

ITEM A (For Sole Source Procurements ONLY)

Explain what is unique about this vendor/brand and why your department must purchase this product:

Identify at least 1 independent third party who has verified the vendor is a sole source for the item(s) requested to be purchased, and submit his/her written opinion regarding the vendor’s sole source status:

(Name & Phone Number)

REQUESTOR'S DECLARATION

I declare that I have fully complied with the letter and intent of the City Code as it pertains to procurement and have exercised reasonable precaution to procure the item(s) requested above at the lowest price, consistent with good service and quality.

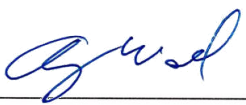
I also declare that I have no personal or business relationship with the listed vendor(s) that would be considered a conflict of interest, except as follows:

(List Actual, Potential, or Perceived Conflicts of Interest) _____

Request Submitted By: ^{L.F.} Lisa Fisher for CFD Department: City Manager's Office

Is this purchase being paid with grant funds? ☐ Yes ☒ No

Council Approval Required

Funds Approval:  Date: 5/17/2023
Authorized Financial Officer

Account Number: 001-706-00-000-2-221 (budgeted)

City Manager Approval: _____ Date: _____

CITY OF CHARLESTON, West Virginia
Purchase Order Request Form
CHARLESTON FIRE DEPARTMENT

Purchase Order #: _____

Date: 05/15/23 Account Number#: _____

Vendor: Mountwest Vendor# _____

Contact: Ed Bays Phone# _____

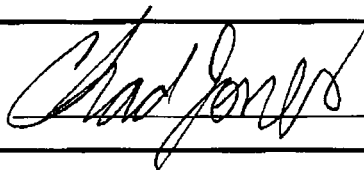
Address: _____
(Street, City, State, Zip)

Quantity	Description	Unit Price	Total Price
18	Summer 2023 Tuition for Paramedic Class	500.00	9,000.00
18	Fall 2023 Tuition for Paramedic Class	2,000.00	36,000.00
18	Spring 2024 Tuition for Paramedic Class	2,500.00	45,000.00
18	Summer 2024 Tuition for Paramedic Class	1,000.00	18,000.00
			0.00
			0.00
			0.00
			0.00
TOTAL			108,000.00

Requested By: Dave Hodges

Purpose of Request: Paramedic Class Tuition

Operations Chief:
☐ Denied ☐ Approved _____ Date: _____

Administrative Chief:  _____ Date: 5/15/2023

Fire Chief:
☐ Denied ☐ Approved _____ Date: _____



May 18, 2023

Memorandum of Understanding

This Memorandum of Understanding is between Mountwest Community and Technical College (MCTC) in Huntington, West Virginia and Charleston Fire Department located in Charleston, West Virginia. Since there is a demonstrated need and desire for a paramedic program in the area, and since MCTC is an accredited institution of Higher Learning in West Virginia to provide paramedic education, MCTC agrees to provide administrative oversight and assistance to Charleston Fire Department. This agreement is for the period starting June 1, 2023 through July 15, 2024 and renewable yearly beyond that date.

Administrative and Clinical Oversight by MCTC will include the following:

1. Final clearance of students for eligibility to sit for the National Registry Paramedic Exam. Note: before eligibility will be granted, the student must have achieved a 75% or greater for each component of the Paramedic Program and score a 70% or better on the Paramedic Exam administered through Fisdap (Internet based skills tracking, scheduling, and testing program).
2. Reporting and paperwork required by the Committee on Accreditation of Educational Programs for the Emergency Medical Services Professions and/or the West Virginia Office of EMS.
3. Monitoring of student's academic process in each course.
4. Approve all faculty teaching in the paramedic program and keep files of all related credentials.
5. Maintaining current clinical agreements.
6. Purchasing/ordering of Clinical Uniforms for students.
7. Scheduling of drug screens.
8. Purchasing of the Fisdap accounts for each student. Fisdap scheduler and skills tracker will be purchased initially, student accounts will be upgraded to include the assessment package as student's successfully progress.
9. Scheduling NREMT Psychomotor exams.
10. Hiring and paying for all faculty for EME/PAR courses in the program.
11. Scheduling and providing laboratory instruction of the paramedic curriculum in accordance with the approved curriculum.

Charleston Fire Department responsibilities will include:

1. Arranging field internship sites for students.
2. Provide textbooks for the students.
3. Pay for the student's NREMT Exams.

Clarification of billing and fees.

Billing for courses for year one will be as follows:

1. Semester 1 (Summer 2023) - \$500 per student
2. Semester 2 (Fall 2023) - \$2,000 per student
3. Semester 3 (Spring 2024) - \$2,500 per student
4. Semester 4 (Summer 2024) - \$1,000 per student

Charleston Fire Department will be invoiced separately for each semester based on the number of students registered on the first day of class each semester. Payment is due 60 days from invoice date. A late payment fee of 10% will be added to payments made after 60 days but before 75 days. If payment is not made before 75 days from invoice date, students will be dropped from registration and no certification/credit will be awarded nor grades provided. Charleston Fire Department will still be responsible for payment after the 75 day drop.


Authorized Signature
Mountwest CTC

Authorized Signature
Charleston Fire Department

Resolution No. 812-23

Introduced in Council:

Adopted by Council:

June 5, 2023

Introduced by:

Referred to:

Joseph Jenkins

Finance

Resolution No. 812-23 - Authorizing the Mayor or City Manager to submit an application to the West Virginia Division of Highways for a Transportation Alternatives Program grant in the total amount of \$862,516 that includes the required 20% cash match of \$172,503 if awarded. The City will utilize these funds for the Elk River Trail Project.

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

That the Mayor or City Manager is hereby authorized to submit an application to the West Virginia Division of Highways for a Transportation Alternatives Program grant in the total amount of \$862,516 that includes the required 20% cash match of \$172,503 if awarded.

Elk River Trail Project

WEST VIRGINIA DEPARTMENT OF TRANSPORTATION
DIVISION OF HIGHWAYS

TRANSPORTATION ALTERNATIVES PROGRAM ELECTRONIC INTENT-TO-APPLY FORM

PROJECT IDENTITY

Fiscal Year: 2023

Is your proposed project for the Recreational Trails Program (RTP): ☐ Yes ☒ No

Intent is to apply for funding as: Construction Phase Only

Select the project type applicable to your proposed project: Construction, planning and design of on-road and off-road trail facilities for pedestrians, bicyclists and other nonmotorized forms of transportation including sidewalks, bicycle infrastructure, pedestrian and bicycle signals, traffic calming techniques, lighting and other safety-related infrastructure and transportation projects to achieve compliance with the Americans with Disabilities Act of 1990.

Congressional District(s): 1st District

County(ies): Kanawha

Project Name: Elk River Trail Project

Date of Application: 5/13/2023 3:44:06 PM

Project Short Description:

FUNDING INFORMATION

Approximate amount of Federal funds you will be requesting: 690,013

Federal funds may be reimbursed up to 80% of the total project cost.

Construction costs should be computed using Davis-Bacon and/or West Virginia Prevailing Wages, as applicable, and if the project will be let for contract (i.e., the sponsor will advertise for bids to perform the actual construction of the project). Should Force Account (upon WVDOH Commissioner approval) or In-kind (for the RTP only) labor, materials and equipment be proposed for construction of the proposed project, then please adjust the amount accordingly.

NOTE: Should Force Account be requested, please provide a cost estimate using Davis-Bacon and/or West Virginia Prevailing Wages, as applicable, as well as Force Account, as there is no guarantee that Force Account will be permissible for the project. Force Account must first be justified and approved by the Commissioner of the WVDOH based on a WVDOH approved cost analysis illustrating that Force Account work is both permissible and more cost effective than hiring a contractor.

Is the required 20% match available? ☒ Yes ☐ No

The 20% minimum Sponsor's match must be available at the time of application unless choosing the 'pay as you go' option or using In-kind services (for RTP only) to meet the required match.

If "No," please explain:

How will the minimum 20% match be met?

☒ Cash

If cash, do you intend to pay the match up front and submit a check to the WVDOH upon return of the project agreement?

☒ Yes ☐ No

☐ Pay-as-you-go (i.e., Sponsor pays all invoices at 100%, and then submits invoices to the WVDOH for reimbursement of 80% of the total invoiced).

☐ In-kind. In-kind is defined as donated time, materials or equipment used for design and/or construction of an RTP funded project that can be used as the minimum 20% match.

Independent Project Estimate:

Should your project be awarded/selected, the project Sponsor must have an independent project estimate for guidance in the negotiation of fee with the consultant chosen by a WVDOH certified consultant selection process. The estimate must be performed and verified by a WV licensed Professional Engineer (PE). The estimate must include the complete scope of work as detailed in the project agreement. The development of an independent project estimate to assist with the consultant selection process, if included in the scope of work in the project agreement, is a work element eligible for reimbursement. (Do not do this until you are notified of the grant being selected).

What if the Sponsor has an engineer/consultant/firm on retainer?

If the project Sponsor is planning on using an engineer/consultant/firm on retainer or under existing contract, the Sponsor must be capable of producing evidence that the engineer/consultant was selected using a certified consultant selection process. Furthermore, the contract/agreement between the Sponsor and engineer/consultant/firm must include the elements of work outlined in the project agreement (i.e., if applying for sidewalk construction, the contract must include specific language regarding the design of sidewalks as part of the existing contract/agreement). The contract/agreement must be submitted to the WVDOH for approval prior to any reimbursable work elements being performed.

SPONSOR INFORMATION

Project Sponsor: [City Of Charleston](#)

DUNS#: [068128198](#)

NOTE: For Local Public Agency (LPA) administered projects, regulations require that the person(s) serving as Project Manager/Responsible Charge is a full time employee of the Sponsor and meet the following criteria:

Does the project Sponsor have a full time public employee(s) who can perform the following duties and functions?

- 1 Administers inherently governmental project activities, including those dealing with cost, time adherence to contract requirements, construction quality and scope of Federal-aid projects;
- 1 Maintains familiarity of day to day project operations, including project safety issues;
- 1 Makes or participates in decisions about changed conditions or scope changes that require change orders or supplemental agreements;
- 1 Visits and reviews the project on a frequency that is commensurate with the magnitude and complexity of the project;
- 1 Reviews financial processes, transactions and documentation to ensure that the safeguards are in place to minimize fraud, waste, abuse;
- 1 Directs project staff, agency or consultant, to carry out project administration and contract oversight, including proper documentation,
- 1 Is aware of the qualifications, assignments and on-the-job performance of the agency and consultant staff at all stages of the project.

☒ Yes ☐ No

(If no, the applying Sponsor may be ineligible as a project Sponsor upon review by WVDOH staff).

Who will be the primary Project Manager (Responsible Charge) on behalf of the Sponsor should this project be awarded/selected?

NOTE: The Project Manager/Responsible Charge may differ from the primary and secondary point of contact, requested below, on behalf of the Sponsor so long as the below referenced duties and functions can and will be performed by the person designated as Project Manager/Responsible Charge. The duties/requirements of Project Manager/Responsible Charge may be distributed between multiple full time employees of the Sponsor so long as the above referenced duties and functions are kept on a day to day basis including maintaining a daily diary/log of activities and proof that the duties/requirements are being met. Although the duties and functions can be performed by more than one full time employee, please list the primary Project Manager/Responsible Charge designated by the Sponsor below:

Name: [Chris Knox](#)

Title: [City Engineer](#)

Street Address: [114 Dickinson Street](#)

City: [Charleston](#)

State: [WV](#)

Zip Code: [25301](#)

Phone Number: [304-348-8000 x326](#)

Email Address: Chris.Knox@CityofCharleston.org

CONTACT INFORMATION:

Name of Sponsor's Organization: [City Of Charleston](#)

Primary Point of Contact Information

Contact Person: [Ben Mishoe](#)

Contact Person Title: [City Manager](#)

Street Address Line 1: [City Hall, 501 Virginia Street East](#)

Street Address Line 2:

City: [Charleston](#) State: [WV](#) Zip: [25301](#)

Primary Phone Number: [304-348-8014](#) Alternate Phone Number: [304-348-8000 ext: 104](#)

Fax Number: [304-348-8157](#) E-mail Address: ben.mishoe@cityofcharleston.org

Secondary Point of Contact Information

Contact Person: [Matt Ward](#)

Contact Person Title: [Project consultant](#)

Street Address Line 1: [200 Massachusetts Avenue, NW](#)

Street Address Line 2: [Suite 380](#)

City: [Washington](#) State: [DE](#) Zip: [20001](#)

Primary Phone Number: [202-422-2411](#) Alternate Phone Number:

Fax Number: E-mail Address: Matt.Ward@StrategiesDC.com

PROJECT INFORMATION

Is this a continuation of a project previously approved for funding? ☐ Yes ☒ No

RTP Only:

Please check the one (1) description that best fits your proposed project:

☐ Motorized ☐ Non-motorized ☐ Combination of both motorized and non-motorized ☐ Equipment purchase

Does your proposal include land acquisition? ☐ Yes ☒ No

If 'Yes,' is it from a willing seller/lessor? ☐ Yes ☐ No

Please identify all seller(s)/lessor(s) if the proposed project will require land or property acquisition:

Has an appraisal been prepared? ☐ Yes ☐ No

If 'Yes,' what is the appraisal amount:

When was the appraisal performed?

Does your proposed project impact a historic and/or archaeological site? ☐ Yes ☒ No

Please summarize the proposed project (see Application Process Step #1): [The City of Charleston will create a quarter-mile \(1,300 LF\) pedestrian and bicycle pathway from existing trail facilities at the confluence of the Kanawha and Elk Rivers, along the eastern shore of the Elk River, to the Charleston Coliseum & Convention Center. This Elk River Trail will transform what is now a barren and blighted area owned by the local government, into a wonderful waterfront recreation and community amenity. Trail amenities will include benches, bike racks, viewfinders, seat walls, bollard lighting, pedestrian lighting, fencing, trash receptacles, and landscaping with trees, shrubs, perennials, and ornamental grasses.](#)

Please identify the public benefit and the relationship to transportation of this project including economic and tourism development. Indicate if this project contributes to existing or proposed transportation/community development plans:

This TAP project will complement and enhance the “Charleston Capital Connector” RAISE Grant project to remake Kanawha Boulevard and Greenbrier Street from Magic Island to the State Capital complex a premier thoroughfare and destination for both West Virginians and tourists.

As most West Virginians know, the Charleston Coliseum & Convention Center is "at the center of it all". Located in the capital city of West Virginia, the venue is located at the confluence of three major interstates – I-77, I-64 and I-79 and just five minutes from Yeager Airport with daily flights to several major hubs. Over 1,200 Hotels Rooms are within walking distance of the Convention Center, who could use this Elk River Trail. The campus includes the 13,500 seat Coliseum, the newly renovated 100,000 net sq. ft. Convention Center with 25 meeting rooms and conference spaces, the 3,483 seat Municipal Auditorium and a 738-seat Theater. The Charleston Coliseum and Convention Center is the state's premier entertainment and meeting destination hosting concerts, family shows, sporting events, conventions, corporate events, exhibitions, and much more. This complex is essential to the economy, jobs and economic wellbeing of Charleston. This facility also employs 67 people at all skill levels. The City invested \$97 million in an upgrade and expansion to the Coliseum & Convention Center, completed in 2018.

Resolution No. 813-23

Introduced in Council:

Adopted by Council:

June 5, 2023

Introduced by:

Referred to:

Joseph Jenkins

Finance

Resolution No. 813-23 - Authorizing the Mayor or City Manager to purchase One Hundred and Seventy-Four (174) Glock 17 Gen5 MOS handguns for the Police Department from AmChar Wholesale, Inc., with customized engraving commemorating the 150th anniversary of the Charleston Police Department, for a total cost of \$42,136 after trade-in of 174 existing duty weapons, where the funds come from a gift devised to the Charleston Police Department from the Estate of Norma Shuck Levy in memory of her father, former Charleston police officer Edgar N. Shuck. This is a direct purchase authorization pursuant to section 2-486 of the Municipal Code due to AmChar being one of only two Glock authorized law enforcement distributors in the State of West Virginia, which ensures the lowest possible price per unit, and due to AmChar providing specialized and high-quality custom engraving that is difficult or impossible to bid.

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

That the Mayor or City Manager is authorized pursuant to section 2-486 of the Municipal Code to direct purchase One Hundred and Seventy-Four (174) Glock 17 Gen5 MOS handguns for the Police Department from AmChar Wholesale, Inc., with customized engraving for a total cost of \$42,136 after trade-in of 174 existing duty weapons, because it is in the City's best interest to purchase from AmChar in order to ensure the lowest possible price per unit and high-quality custom engraving.



Quotation

Quotation # 20221020-02

100 Airpark Drive
Rochester, NY 14624
Phone (800) 333-0695 Fax (585) 328-3749
Mobile (240) 620-2604
Email Barry.Witt@amchar.com

Date 05/24/23
Expires 08/22/23
Days 90

Quotation For: Charleston Police Department

Contact Name: Major John Garten
Email: john.garten@charlestonwvpolice.org
Phone: 304-421-1894
Fax:

Ship to:
501 Vi501 Virginia St E
Charleston, WV 25301

Prepared by: Barry Witt Ext: 159 Email: Barry.Witt@amchar.com

SALESPERSON	CUSTOMER ID	SHIP DATE	SHIP VIA	F.O.B. POINT	TERMS
BW		120 Days ARO	PPD		Net 30

QUANTITY	DESCRIPTION	UNIT PRICE	DISCOUNT	AMOUNT
174	GLOGLAWPA175S202MOS GLOCK 17 G17 GEN 5 HGA 9MM 4.49 IN BBL FS BLACK 3 17RD MAGS 5LB TRIGGER FRONT SERRATIONS MOS	\$429.00		\$74,646.00
174	ENGRAVING 2 IMAGES, TOP AND SIDE	\$60.00		\$10,440.00
1	DESIGN, SET-UP FEE, PRODUCTION OF SAMPLES	\$250.00		\$250.00
We need a exemption certificate so we can send you this product federal excise tax exempt.				SUBTOTAL \$85,336.00
				SHIPPING \$300.00
				TOTAL DISCOUNT
				TOTAL \$85,636.00

All Quotes subject to factory price stability and may change without notice. Prices quoted are contingent to signed acceptance of this quotation

To accept this quotation, sign here and return By Fax:

THANK YOU FOR YOUR BUSINESS!



West Virginia

Please send a copy of your GLOCK quote to each of the distributors listed below to receive competitive distributor quotes.

Distributors are listed in alphabetical order:

Amchar Wholesale
100 Airpark Dr
Rochester, NY 14624
Bill Hackett – bill@amchar.com – 800-333-0695 ext. 124

Markl Supply Company
904 Perry Hwy
Pittsburgh, PA 15229
Lee Markl – lemarkl@marklsupply.com – 412-358-9660

Glock Inc. District Manager for West Virginia is:

Scott "LJ" Littlejohn
LE District Manager (DC, TN, VA, WV)
GLOCK, Inc.
Mobile: 804-263-1877
E-mail: scott.littlejohn@glock.us
3101 Lee Hwy, Suite 18, #150
Bristol, VA 24202

Glock, Inc.
6000 Highlands Parkway
Smyrna, GA 30082-USA
Tel: +1 (770) 432-1202
Fax: +1 (770) 433-8719

City Center Business Improvement District

Fiscal Year 2024 Work Plan Summary and Budget

July 1, 2023 – June 30, 2024



Assessment:

Maintain the current assessment formula consisting of building square footage @ .03325 + land square footage @ .075.

Based on the current square footage data, the assessment should generate a total of \$94,383. We have budgeted \$92,500 to allow for outstanding receivables.

BID board has adopted a policy for outstanding receivables: After one quarter, a phone call to the property owner; after second consecutive quarter, issue an official letter from the City of Charleston and; after three quarters and more, coordinate with City of Charleston attorney to initiate legal action.

Work Plan Summary

Organizational:

Maintain an efficient and effective Board of Directors.

Continue to seek additional funding sources.

Continue contract with Charleston Area Alliance for part time professional staff support.

Continue to fund one full time BID Ambassador through the partnership with the City of Charleston.

Marketing:

Implement image and branding plan from the Master Plan and Economic Analysis study.

Collaborate with the Charleston Creative Connector group and City of Charleston on events in Slack Plaza.

Collaborate with Downtown Charleston Association on holiday event.

Planning and beautification:

Complete the Master Plan and Economic Analysis being funded by a federal Economic Development Administration grant managed by the Charleston Area Alliance.

Prioritize projects outlined in the Master Plan and Economic Analysis. Using Congressionally Directed Spending HUD funding, begin to implement prioritized projects such as planters, street lighting and public art.

Strategize a beautification initiative with private property owners.

Maintain all needed equipment for the BID Ambassador to use for light landscaping, trash collection, sidewalk cleaning, Slack Plaza events, etc.

Safety/Security:

Collaborate with the City of Charleston in training and guiding the BID Ambassador.

Research and strategize other safety and security initiatives for the BID

Budget on next page



City Center Business Improvement District Fiscal Year 2024 Budget

Page 3

	Assessments	Mayor's Office Seed Funding	HUD grant thru CURA	Charleston Area Alliance/EDA	TOTAL
Revenues:					
Assessments - FY 24 (less ~2% uncollectible)	\$92,500	\$50,000			\$142,500
Grant - HUD - Congressionally Directed Spending			\$ 500,000		\$500,000
Grant - EDA Master Planning				\$ 74,000	\$74,000
Reimbursement - Ambassador Salary correction	\$20,000				\$20,000
Other resources (GKVF, Garden club, etc)				\$ 30,000	\$30,000
TOTAL	\$112,500	\$50,000	\$ 500,000	\$ 104,000	\$766,500
Expenses:					
Branding, marketing, outreach	\$10,000			\$ 11,000	\$21,000
BID Ambassador - city salary/benefits	\$65,000				\$65,000
BID Ambassador equipment and supplies	\$2,500	\$14,000			\$16,500
EDA Master Plan completion (less FY 23 expenditures)				\$ 74,000	\$74,000
Master Plan implementation (less FY 23 expenditures)	\$20,000	\$36,000	\$ 500,000	\$ 19,000	\$575,000
Professional staff management (CAA via MOU)	\$15,000				\$15,000
TOTAL	\$112,500	\$50,000	\$ 500,000	\$ 104,000	\$766,500

Resolution No. 814-23

Introduced in Council:

Adopted by Council:

June 5, 2023

Introduced by:

Referred to:

Joseph Jenkins

Finance

Resolution No. 814-23 - Receiving the Work Plan Summary of the City Center Business Improvement District, approving the proposed budget of the City Center Business Improvement District for the 2023-2024 fiscal year, and maintaining the same levying rate of annual fees for the City Center Business Improvement District on each private for-profit property owner within the District.

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

That the Work Plan Summary of the City Center Business Improvement District is received; that the proposed budget of the City Center Business Improvement District for the 2023-2024 fiscal year, as attached as Exhibit A hereto, is approved; and that, and the rate of annual fees for the City Center Business Improvement District on each private for-profit property owner within the District remains levied at the equation of $(\text{total land lot size square footage} \times .075) + (\text{total building square footage} \times .03325)$.

Resolution No. 815-23

Introduced in Council:

Adopted by Council:

June 5, 2023

Introduced by:

Referred to:

Joseph Jenkins

Finance

Resolution No. 815-23 - Authorizing the Mayor or City Manager to enter into a contract with Martin Marietta Materials, Inc., to purchase various classes and sizes of aggregate stone at the prices listed in Exhibit A, attached hereto, pursuant to a competitive bidding process, where the prices will remain fixed for one year.

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

That the Mayor or City Manager is authorized to enter into a contract with Martin Marietta Materials, Inc., to purchase various classes and sizes of aggregate stone at the prices listed in Exhibit A, attached hereto, pursuant to a competitive bidding process, where the prices will remain fixed for one year.

		West Virginia Paving, Inc.		Martin Marietta	
Item	Quantity	Price	Extension	Price	Extension
BID AND PROPOSAL FORM (2 OF 3)					
River Gravel # 57 - PER TON	1.00	\$35.80	\$35.80	\$0.00	\$0.00
Masonry Sand - PER TON	1.00	\$33.40	\$33.40	\$30.25	\$30.25
Dry Bed - PER TON	1.00	\$31.20	\$31.20	\$22.65	\$22.65
Limestone #2 - PER TON	1.00	\$0.00	\$0.00	\$0.00	\$0.00
Limestone #3 - PER TON	1.00	\$33.20	\$33.20	\$31.85	\$31.85
Limestone #57 - PER TON	1.00	\$33.20	\$33.20	\$31.85	\$31.85
Limestone #67 - PER TON	1.00	\$34.00	\$34.00	\$0.00	\$0.00
Limestone 1 1/2" Crusher Run - PER TON	1.00	\$32.70	\$32.70	\$27.25	\$27.25
Limestone #467 - PER TON	1.00	\$33.20	\$33.20	\$31.58	\$31.58
Limestone 4" x 6" - PER TON	1.00	\$35.30	\$35.30	\$40.35	\$40.35
10 Items	Totals				

Resolution No. 816-23

Introduced in Council:

Adopted by Council:

June 5, 2023

Introduced by:

Referred to:

Joseph Jenkins

Finance

Resolution No. 816-23 - Authorizing the Mayor or City Manager to approve and execute Change Order No. 1 in the amount of \$6,443.94 for the purchase and install of three additional H4 Video Intercom security cameras for the Charleston Coliseum and Convention Center, to incorporate into the existing contract with Electronic Specialty Company in the amount of \$214,936.53 previously approved by Res. No. 728-22 on October 17, 2022, raising the total contract amount to \$221,380.47, and further authorizing the Mayor or City Manager to execute future change orders, if any, up to the full \$250,000 grant funding that was secured for this project.

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

That the Mayor or City Manager is authorized to approve and execute Change Order No. 1 in the amount of \$6,443.94 for the purchase and install of three additional H4 Video Intercom security cameras for the Charleston Coliseum and Convention Center, to incorporate the contract with Electronic Specialty Company in the amount of \$214,936.53 previously approved by Res. No. 728-22 on October 17, 2022, raising the total contract amount to \$221,380.47, and further authorizing the Mayor or City Manager to execute future change orders, if any, up to the full \$250,000 grant funding that was secured for this project.



1325 DUNBAR AVENUE • P.O. BOX 400 • DUNBAR, WV 25064
PHONE 304-766-6277 • Cell 304-993-1302 • FAX 304-766-6270
bill.miller@electronicspecialty.com

Charleston Coliseum & Convention Center

Attn: Wes Smith

wesley.smith@charlestonwvciviccenter.com

200 Civic Center Drive

Charleston WV 25301

DATE: May 20, 2023 (*Our 76th Year*)

QUOTATION NO: 232005-BM3

Price per existing contract

Security System (3) Video Intercom Add**Cost for equipment, installation, and professional services:**

Total..... \$6,443.94

Add Tax as applicable

Approved date _____ PO# _____

Authorized Signature _____

Terms for the above:

- Invoice upon completion, net 30 days each invoice - 2% interest late fee per month thereafter
- Above order can be placed using valid purchase order/change order from City of Charleston.
- Add 2.5% to the above if paying with Credit Card

Notes & Exclusions:

- City to provide PoE switches or PoE midspan injector as needed to power new Video Intercom Units
- ** Work to be performed on site and during normal working hours unless otherwise specified 8 am to 5 pm.

Scope of Work:

- Install 3 replacement video intercoms and integrate into Avigilon VMS and ACC for remote release
- Train end-users on use
- Owner to provide speakers and mic for each user as needed
- Use 3 existing spare camera licenses

Bill of Materials: As per Bid contract price for adds

Model	Quantity	Description	Cost Per	Subtotal
3.0C-H4VI-RO1-IR	3	3.0 MP, H4 Video Intercom, WDR, LightCatcher, Day/Night, 1.83mm f/2.4, Integrated IR, Recessed Mount	\$1,260.00	\$3,780.00
H4VI-AC-RELY1	3	Safety Relay	\$114.71	\$344.13
H4VI-MT-SURF1	3	Surface mount adapter for H4 Video Intercom for pedestal	\$207.10	\$621.31
	1 lot	installation labor and materials, programming, shipping	\$1,698.50	\$1,698.50
		Total	\$3,280.31	\$6,443.94

Warranty:

- (3) Year factory sponsored equipment warranty for Avigilon manufactured equipment from date of purchase
- (1) Year factory sponsored equipment warranty for all other equipment
- (1) Year on-site labor warranty

LIFE SAFETY • SECURITY • PROFESSIONAL AUDIO/VIDEO • NURSE CALL • CRITICAL COMMUNICATIONS • INSPECTION & REPORTING
SERVICE/SALES LOCATIONS: DUNBAR, WV • MORGANTOWN, WV • ASHLAND, KY

Since 1947 Electronic Specialty Company has provided quality life safety & critical communication systems

ELECTRONIC SPECIALTY COMPANY

FOB: Project Site

Authorized by: Bill Miller

TERMS: 30 days, Each Invoice

DCJS – 99-243170

This quotation is offered for your acceptance within 60 days

Resolution No. 817-23

Introduced in Council:

Adopted by Council:

June 5, 2023

Introduced by:

Referred to:

Joseph Jenkins

Finance

Resolution No. 817-23 - Authorizing the Mayor or City Manager to enter into a contract for asphalt street paving construction services, where the contract price was determined through a competitive bidding process.

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

Following City Council's rejection of Resolution No. 809-23 on May 15, 2023, and the mutually agreed upon withdrawal of its bid by Mr. Asphalt Inc, the Mayor or City Manager is hereby authorized to enter into a contract with West Virginia Paving, Inc., in the total amount of \$3,697,100 to perform asphalt street paving construction services, where the contract price was determined through a competitive bidding process.

Submitted Bids for E40523-149U Resurfacing City Streets

Business	Opened at	Status	Bid Total	Submitted at	Signed by	Local Vendor Preference
Mr. Asphalt	05/09/2023 10:00 AM EDT	Withdrawn	\$3,628,750.00		5/9/2023 Greg Boggess	(\$5,000.00) \$3,623,750
WV Paving	05/09/2023 10:00 AM EDT	Responsive	\$3,697,100.00		5/9/2023 Chet Rodabaugh	(\$5,000.00) \$3,692,000

Resolution No. 818-23

Introduced in Council:

Adopted by Council:

June 5, 2023

Introduced by:

Referred to:

Joseph Jenkins

Finance

Resolution No. 818-23 - Authorizing the Mayor or City Manager to enter into an agreement with Ed's Home and Commercial Improvement in the amount of \$91,464.58 with optional additional improvements totaling \$5,317.90 for a total maximum expenditure of \$96,782.48, to repair and replace the roof of the Cato Park Recreation Center and Administrative Building, where the contract amount was the result of a competitive bidding process.

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

That the Mayor or City Manager is authorized to enter into an agreement with Ed's Home and Commercial Improvement in the amount of \$91,464.58 with optional additional improvements totaling \$5,317.90 for a total maximum expenditure of \$96,782.48, to repair and replace the roof of the Cato Park Recreation Center and Administrative Building, where the contract amount was the result of a competitive bidding process.

		WESLEE	Ed's Home and Commercial Improvement	A-1 Roofing
Item	Quantity	Total Contract	Total Contract	Total Contract
Cato Park Administration Building Roof	1.00	\$165,000.00	\$91,464.58	\$172,940.57
Local Vendor Preference		Did Not Apply	4% (\$3,658.58)	Did Not Apply
Total		\$165,000.00	\$87,806.00	\$172,940.57
		1 Items		

Resolution No. 819-23

Introduced in Council:

Adopted by Council:

June 5, 2023

Introduced by:

Referred to:

Joseph Jenkins

Finance

Resolution No. 819-23 - Authorizing the Charleston Coliseum & Convention Center / Municipal Auditorium Board ("Board") to sign the First Addendum to the ongoing 5-year management agreement with the OVG Facilities, LLC ("OVG"), to allow for the hiring of City employees at their managed facilities rather than OVG employees in certain circumstances and only with the Board's recommendation and City approval.

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

That the Charleston Coliseum & Convention Center / Municipal Auditorium Board ("Board") to sign the First Addendum to the ongoing 5-year management agreement with the OVG Facilities, LLC ("OVG"), to allow for the hiring of City employees at their managed facilities rather than OVG employees in certain circumstances and only with the Board's recommendation and City approval.



**MANAGEMENT AGREEMENT BETWEEN
CHARLESTON COLISEUM & CONVENTION CENTER /
MUNICIPAL AUDITORIUM BOARD OF DIRECTORS
AND OVG FACILITIES, LLC
FIRST ADDENDUM**

Pursuant to Article 18 Section 18.11 of the MANAGEMENT AGREEMENT executed by and between the Charleston Coliseum & Convention Center / Municipal Auditorium Board of Directors and OVG Facilities, LLC or its designated Affiliate (collectively the “Parties”), the Parties declared the following modifications:

1. Article 6, Sections 6.1 and 6.2 are hereby amended to read as follows:

Section 6.1 Generally. Other than Client Personnel as described in Sections 6.2 and 6.6 below, Complex employees and those serving in Designated Manager Positions shall be engaged or hired by Manager, and shall be employees, agents or independent contractors of Manager (or an Affiliate thereof), and not of Client (collectively, “**Manager Personnel**”). With respect to the Designated Manager Positions, the timing of their engagements shall be subject to mutual agreement with Client (other than the General Manager, which shall serve throughout the Term). Manager shall designate the number of positions, functions, and qualifications for all Manager Personnel, subject to Client’s approval, which shall not be unreasonably withheld, conditioned or delayed. The compensation structure of such Manager Personnel will be designated by Manager, subject to the Operating Budget. Manager shall control the terms and conditions, including without limitation, termination of such employment.

Section 6.2 Client Personnel. Notwithstanding Section 6.1 above, Manager agrees that those persons who work at the Complex and that are current employees of Client (“**Client Personnel**”) (including employees furloughed as a result of the COVID-19 pandemic) shall continue to be Client’s employees and may retain their positions at the Complex, subject to Manager’s approval of each such Client Personnel’s position, function and qualifications, not to be unreasonably withheld, conditioned or delayed. To the extent that Manager determines that an individual is unqualified for his/her position or the position is redundant or not needed, Client shall use commercially reasonable efforts (in accordance with applicable civil service regulations, Client policies, and local, state and federal laws) to reassign such Client Personnel from the Complex, to the extent a position in City service is available, the individual is qualified for said position, and reassignment will not result in a loss of pay for a nonexempt employee. As any Client Personnel leaves employment at the Complex (whether due to termination, retirement, reassignment, etc.), Manager shall have the right to fill such positions in accordance with Section 6.1 and any newly retained employee will be Manager Personnel, unless the position is filled by the Client subject to the hiring process outlined in Section 6.6. The compensation structure of such employees will be mutually agreed to by Client and Manager, subject to the Operating Budget.

2. Article 6, Section 6.6 is created and reads as follows:

Section 6.6 Hiring New Client Personnel. Notwithstanding Sections 6.1 and 6.2, Manager may in its discretion desire to designate certain positions or vacancies to be filled with Client Personnel from time to time in accordance with varying Complex needs. In such case, Manager shall notify the Charleston Coliseum & Convention Center/Municipal Auditorium Board of Directors to request that such new position(s) or vacancy(ies) be filled with Client Personnel. Should the Manager request such position(s) be filled with Client Personnel, and the Board of Directors approves the request, the City retains final discretion to approve or deny hiring new personnel as Client Personnel, and as to the identity of the person to be hired. The compensation structure of such employees will be mutually agreed to by Client and Manager, subject to the Operating Budget.

This addendum shall take effect on this _____ day of _____, 2023. This addendum amends only the above referenced paragraphs. All sections contained in the Management Agreement not referenced in this addendum are preserved as previously agreed upon by the parties. By the duly-authorized signatures below, the Charleston Coliseum & Convention Center / Municipal Auditorium Board of Directors and OVG Facilities, LLC or its designated Affiliate hereby agree and accept the terms set forth in this addendum as modifying the above referenced paragraphs and acknowledge that they are freely signing this addendum after reading and understanding the entire addendum and the Management Agreement for which it amends.

WITNESS the following signatures:

**CHARLESTON COLISEUM &
CONVENTION CENTER /
MUNICIPAL AUDITORIUM
BOARD OF DIRECTORS**

**OVG FACILITIES, LLC
OR ITS DESIGNATED AFFILIATE**

Signature

Signature

Title

Title

Resolution No. 820-23

Introduced in Council:

June 5, 2023

Introduced by:

Joseph Jenkins

Adopted by Council:

Referred to:

Finance

- 1 Resolution No. 820-23 – Adopting the proposed Fiscal Year 2023-2024 Parking System budget
- 2 as indicated within the attached document.
- 3
- 4 Be it Resolved by the Council of the City of Charleston, West Virginia:
- 5
- 6 That the proposed Fiscal Year 2023-2024 Parking System budget as indicated within the
- 7 attached document is approved.

**City of Charleston
MUNICIPAL BUDGET
July 1, 2023 - June 30, 2024**

Section 9

Parking System Revenue Fund

**City of Charleston
Municipal Budget
FY 2024
Parking System Revenue Summary**

Rev. Code	Description	Actual FY 2022	Original FY 2023	FY 2023 YTD Amendments	Current FY 2023	FY 2023 YTD April	Estimated FY 2024
Parking Building Revenues							
Building #1 - City Service Center							
343-01-0809	Meter - SMART - Credit Card	2,086	1,500		1,500	1,416	1,900
343-01-0810	Meter - SMART - Park Mobile	1,019	1,100		1,100	845	1,000
343-01-0811	Meter - SMART - Coin	1,623	1,500		1,500	1,575	1,800
343-01-0812	Meter - Mechanical - Park Mo	1,960	2,500		2,500	1,292	1,800
343-01-0813	Meter - Mechanical - Coin	1,375	2,600		2,600	1,145	1,400
343-01-0802	Monthly	277,145	300,000		300,000	230,593	276,900
343-01-0805	Commercial	146,172	146,100		146,100	123,902	147,400
343-01-0808	Special Rates	-	800		800	-	-
	Total Building #1	431,380	456,100	-	456,100	360,768	432,200
Building #2 - Washington							
343-02-0801	Daily	11,611	16,900		16,900	11,419	12,700
343-02-0813	Meter - Mechanical - Coin	40	-		-	-	-
343-02-0802	Monthly	63,478	116,800		116,800	49,383	61,400
343-02-0803	Theatre Parking	15,000	11,300		11,300	12,510	15,000
343-02-0805	Commercial	75,934	76,700		76,700	63,312	76,000
343-02-0807	Theatre Override	5,004	5,004		5,004	5,004	5,004
343-02-0808	Special Rates	61	200		200	(130)	(100)
	Total Building #2	171,128	226,904	-	226,904	141,497	170,004
Building #5 - Shanklin							
343-05-0809	Meter - SMART - Credit Card	4,984	6,300		6,300	5,040	5,500
343-05-0810	Meter - SMART - Park Mobile	3,308	3,100		3,100	3,976	4,100
343-05-0811	Meter - SMART - Coin	15,334	15,200		15,200	13,648	15,900
343-05-0812	Meter - Mechanical - Park Mo	2,433	3,000		3,000	1,884	2,400
343-05-0813	Meter - Mechanical - Coin	4,228	5,900		5,900	3,498	4,200
343-05-0802	Monthly	179,265	177,900		177,900	115,735	159,100
343-05-0808	Special Rates	79,642	85,800		85,800	64,489	78,500
	Total Building #5	289,194	297,200	-	297,200	208,271	269,700
Building #6 - Summers							
343-06-0809	Meter - SMART - Credit Card	19,540	17,500		17,500	18,947	21,100
343-06-0810	Meter - SMART - Park Mobile	30,638	22,100		22,100	20,664	27,700
343-06-0811	Meter - SMART - Coin	13,906	11,600		11,600	13,704	15,200
343-06-0812	Meter - Mechanical - Park Mo	9,576	9,500		9,500	8,570	9,900
343-06-0813	Meter - Mechanical - Coin	14,264	13,700		13,700	11,599	14,100
343-06-0802	Monthly	415,430	476,800		476,800	326,353	403,500
343-06-0808	Special Rates	1,145	100		100	261	700
	Total Building #6	504,498	551,300	-	551,300	400,098	492,200
	Total Building Revenue	1,396,201	1,531,504	-	1,531,504	1,110,634	1,364,104

**City of Charleston
Municipal Budget
FY 2024
Parking System Revenue Summary**

Rev. Code	Description	Actual FY 2022	Original FY 2023	FY 2023 YTD Amendments	Current FY 2023	FY 2023 YTD April	Estimated FY 2024
Other Parking Revenue							
327-01-0000	Residential Permit Parking	5,325	5,800		5,800	4,470	5,600
342-00-0000	Meter - SMART - Credit Card	135,237	137,800		137,800	92,133	121,100
342-01-0000	Meter - SMART - Park Mobile	80,303	72,900		72,900	81,679	84,200
342-02-0000	Meter - SMART - Coin	178,027	198,500		198,500	168,740	187,300
342-03-0000	Meter - Mechanical - Park Mo	61,354	55,400		55,400	45,135	51,300
342-04-0000	Meter - Mechanical - Coin	146,679	168,600		168,600	114,165	145,900
343-11-0000	Auditorium Lot (Spec. Ev.)	-	2,300		2,300	-	-
345-00-0002	Auditorium Lot (Monthly)	5,768	7,300		7,300	6,180	6,700
343-15-0000	Morris Square/Morris Street	10,733	25,500		25,500	12,610	12,600
343-20-0000	Union Building Parking Lot	14,480	10,080		10,080	8,280	6,720
343-21-0000	Special Events	26,947	17,400		17,400	28,265	25,800
345-00-0000	Rents/Concessions/Leases	79,027	71,000		71,000	87,317	164,072
320-00-0000	Police Fines/Court Costs	5,265	4,400		4,400	1,493	2,600
320-03-0000	Boot Fees	550	1,000		1,000	400	300
321-21-0000	Overtime Meter Violations	143,086	125,100		125,100	115,995	117,900
321-22-0000	All Other Parking Violations	248,915	233,000		233,000	133,970	194,500
321-24-0000	Bagged Meter Fees	12,315	6,100		6,100	11,880	13,800
321-25-0000	Business Valet	-	-		-	700	700
386-00-0000	Insurance Claims	-	1,800		1,800	1,623	2,000
399-00-0000	Miscellaneous Revenue	2,320	12,900		12,900	1,900	2,400
Total Other Revenue		1,156,331	1,156,880	-	1,156,880	916,937	1,145,492
Total Operating Revenue		2,552,532	2,688,384	-	2,688,384	2,027,570	2,509,596
Non-Operating Revenue							
380-00-0000	Interest on Investments	13,432	10,000		10,000	142,282	200,000
399-05-0000	Cash Over/Short	1	-		-	-	-
379-00-0000	Gain/(Loss) Sale of Assets	28,416	-		-	-	-
Total Non-Operating Revenue		41,849	10,000	-	10,000	142,282	200,000
Total Parking System Revenue		2,594,381	2,698,384	-	2,698,384	2,169,853	2,709,596

**City of Charleston
Municipal Budget
FY 2024**

Fund 406 Parking System Revenue Fund
Department 571 Parking
Unit 00 Administration

Full Time Employees	21
----------------------------	-----------

Expense Object		FY 2022 Actual	FY 2023 Original	FY 2023 YTD Amend.	FY 2023 Current	FY 2023 YTD April Actual	FY 2024 Proposed
Personal Services							
000-1-103	Salaries & Wages	693,811	804,724		804,724	594,107	847,603
000-1-104	FICA	51,111	61,561		61,561	44,280	64,842
000-1-105	Medical & Life Insurance	152,590	163,842		163,842	124,930	188,076
000-1-106	PERS	66,213	67,835		67,835	51,511	71,694
000-1-111	Dental & Optical Insurance	7,414	10,983		10,983	5,061	10,206
000-1-112	Employee Insurance Cont.	(21,338)	(23,814)		(23,814)	(14,437)	(23,625)
000-1-113	OPEB - Current	40,000	40,000		40,000	-	40,000
Total Personal Services		989,801	1,125,131	-	1,125,131	805,452	1,198,796
Contractual Services							
000-2-211	Telephone	13,142	17,000		17,000	10,132	17,000
000-2-213	Utilities	190,266	200,000		200,000	152,962	200,000
000-2-214	Travel	-	1,000		1,000	-	1,000
000-2-215	Mtce & Repair - Bldg/Ground	61,688	75,000		75,000	45,368	75,000
000-2-216	Mtce & Repair - Equipment	13,364	20,000		20,000	4,188	20,000
000-2-217	Mtce & Repair - Auto/Truck	14,718	9,700		9,700	2,013	9,700
000-2-218	Postage	7,851	8,000		8,000	3,147	8,000
000-2-219	Building & Equipment Rent	30,080	50,000		50,000	27,074	50,000
000-2-221	Training	-	1,000		1,000	-	1,000
000-2-222	Dues & Subscriptions	910	1,000		1,000	276	1,000
000-2-223	Professional Services	185	500		500	1,663	500
000-2-226	Insurance - WC & UC	13,345	21,693		21,693	13,516	19,677
000-2-227	Insurance - Liability	55,572	57,000		57,000	42,011	45,000
000-2-230	Contracted Services	132,765	275,000		275,000	86,831	275,000
000-2-232	Bank Fees	1,297	2,500		2,500	778	2,500
001-2-232	Electronic Meter Fees	6,829	55,000		55,000	22,278	55,000
Total Contractual Services		542,010	794,393	-	794,393	412,236	780,377
Commodities							
000-3-341	Materials & Supplies	68,194	65,000		65,000	35,695	75,000
000-3-343	Gas, Oil & Tires	3,794	8,000		8,000	884	8,000
000-3-345	Uniforms	6,934	7,350		7,350	6,829	7,350
000-3-359	Snow Removal Materials	-	10,000		10,000	-	10,000
Total Commodities		78,922	90,350	-	90,350	43,408	100,350
Capital Outlay							
000-4-459	Equipment Purchase	-	32,000		32,000	-	-
Total Capital Outlay		-	32,000	-	32,000	-	-
Contributions & Other							
000-5-566	Contributions to Other Funds	580,456	656,510		656,510	-	630,073
Total Contributions & Other		580,456	656,510	-	656,510	-	630,073
Total Parking		2,191,188	2,698,384	-	2,698,384	1,261,096	2,709,596

**City of Charleston
Municipal Budget
FY 2024**

Fund 406 Parking System Revenue Fund
Department 571 Parking
Unit 00 Administration

Authorized Full Time Positions & Salary Schedule

FY 2023 Current		
Title	FLSA/Paygrade	FTE
Director Parking Operations	E/119	1
Meter Mntce. & Cltct. Crew Ldr.	N-OT/109	1
Maintenace Crew Leader	N-OT/109	1
Office Support Specialist	N-OT/107	4
Maintenace Worker	N-OT/107	1
Meter Mntce. & Collections Spe	N-OT/107	1
Parking Enforcement Specialist	N-OT/107	1
Parking Enforcement Technician	N-OT/105	4
Security Custodian	N-OT/105	5
Parking Technician	N-OT/105	2
Total		21

FY 2024 Proposed		
Title	FLSA/Paygrade	FTE
Director Parking Operations	E/119	1
Meter Mntce. & Cltct. Crew Ldr.	N-OT/109	1
Maintenace Crew Leader	N-OT/109	1
Office Support Specialist	N-OT/107	4
Maintenace Worker	N-OT/107	1
Meter Mntce. & Collections Spe	N-OT/107	1
Parking Enforcement Specialist	N-OT/107	1
Parking Enforcement Technician	N-OT/105	4
Security Custodian	N-OT/105	5
Parking Technician	N-OT/105	2
Total		21

FY 2023 Current	
Pay Type	Amount
Elected Wages & Salaries	-
Regular Wages & Salaries	735,724
Irregular Part Time (IPT)	51,000
Overtime	18,000
Tool Allowance	-
Total	804,724

FY 2024 Proposed	
Pay Type	Amount
Elected Wages & Salaries	-
Regular Wages & Salaries	774,603
Irregular Part Time (IPT)	51,000
Overtime	22,000
Tool Allowance	-
Total	847,603

Projected Capital Equipment Acquisitions

Unit # Equipment		FY 2024				FY 2025	FY 2026
		Direct Purchase	Lease Purchase	New Lease Payment	Total Lease Payment ¹	Estimate	Estimate
Total		-	-	-	-	-	-

¹Total Lease Payment includes all payments from outstanding lease purchase cycles that will be paid in FY 2023.

**City of Charleston
Municipal Budget
Parking System Revenue Fund
FY 2024
Schedule of Cash**

FY 2022 Ending Cash Balance	4,988,912
FY 2023 Budgeted	
Operating Revenues	2,688,384
Non-Operating Revenues	10,000
Total System Revenues	2,698,384
Operating Expenses	2,009,874
Non-Operating Expenses	-
Total System Expenses	2,009,874
Excess Revenue Over Expenses	688,510
Other Cash Outlay	
Capital Expenditures	32,000
Transfers to Maintenance Fund	656,510
Total Other Outlay	688,510
Net Cash Flow - FY 2023	-
FY 2023 Projected Ending Balance	4,988,912
FY 2024 Budgeted	
Operating Revenues	2,509,596
Non-Operating Revenues	200,000
Total System Revenues	2,709,596
Operating Expenses	2,079,523
Non-Operating Expenses	-
Total System Expenses	2,079,523
Excess Revenue Over Expenses	630,073
Other Cash Outlay	
Capital Expenditures	-
Transfers to Maintenance Fund	630,073
Total Other Outlay	630,073
Net Cash Flow - FY 2024	-
FY 2024 Projected Ending Balance	4,988,912

Resolution No. 821-23

Introduced in Council:

Adopted by Council:

June 5, 2023

Introduced by:

Referred to:

Joseph Jenkins

Finance

- 1 Resolution No. 821-23 - Authorizing approval of Amendment No. 7 of the FY 2022-2023 General
- 2 Fund Budget as indicated on the attached list of accounts.
- 3
- 4 Be it Resolved by the Council of the City of Charleston, West Virginia:
- 5
- 6 That Amendment No. 7 of the FY 2022-2023 General Fund Budget as indicated on the attached
- 7 list of accounts is approved.

General Fund FY 2022-2023 Budget Amendment No. 5 - June 5, 2023

Revenues and Fund Balances

Account No.	Department	Account Description	Current Amount	Increase/ (Decrease)	Amended Amount
001 308 00 0000	Revenue	Hotel Occupancy Tax	2,650,000	450,000	3,100,000
Net Increase/(Decrease) to Revenues				450,000	

Expenditures

Account No.	Department	Account Description	Current Amount	Increase/ (Decrease)	Amended Amount
001 901 00 000 5 568	Convention & Visitors Bureau	Other Contributions	1,325,000	225,000	1,550,000
001 910 01 002 5 566	Coliseum and Convention Center	Operational Subsidy	900,000	(400,000)	500,000
001 412 00 000 2 222	City Manager's Office	Dues & Subscriptions	14,000	3,000	17,000
001 412 00 000 3 341	City Manager's Office	Materials & Supplies	20,000	25,000	45,000
001 416 00 000 3 341	Municipal Court	Materials & Supplies	4,000	3,000	7,000
001 431 00 000 3 341	Mailroom	Materials & Supplies	27,300	10,000	37,300
001 438 00 000 2 230	Elections	Contracted Services	72,000	5,166	77,166
001 439 00 000 2 211	Information Systems	Telephone	260,000	15,000	275,000
001 440 00 000 3 341	General Services	Materials & Supplies	88,000	10,000	98,000
001 700 00 000 3 344	Police - Uniformed	Prisoner Costs	200,000	60,000	260,000
001 706 00 000 1 103	Fire - Uniform	Salary & Wages - Regular	11,080,799	190,000	11,270,799
001 706 00 000 1 104	Fire - Uniform	FICA	160,672	2,755	163,427
001 706 00 001 1 107	Fire - Uniform	MPFRS	415,000	125,000	540,000
001 754 00 000 2 223	Equipment Maintenance	Professional Services	10,000	20,000	30,000
001 754 00 000 3 341	Equipment Maintenance	Materials & Supplies	975,000	65,079	1,040,079
001 900 00 000 3 341	Parks & Recreation	Materials & Supplies	141,500	70,000	211,500
001 900 00 000 2 216	Parks & Recreation	Maintenance & Repair - Equipment	15,000	10,000	25,000
001 906 01 000 2 219	Public Art	Building & Equipment Rental	6,000	11,000	17,000
Net Increase/(Decrease) to Expenditures				450,000	

Description:

To recognize increased Hotel Occupancy Tax revenue, reduce the appropriation for the Coliseum and Convention Center operational subsidy not needed to complete the fiscal year, and to reconcile certain expense items projected to be overexpended by fiscal year end.

Revenues and Fund Balances

Account No.	Department	Account Description	Current Amount	Increase/ (Decrease)	Amended Amount
001 369 12 0000	Revenue	Transfers In - American Rescue Plan	250,000	129,180	379,180
Net Increase/(Decrease) to Revenues				129,180	

Expenditures

Account No.	Department	Account Description	Current Amount	Increase/ (Decrease)	Amended Amount
001 421 00 000 1 103	MOECD	Salaries & Wages - Summer Youth	415,993	120,000	535,993
001 421 00 000 1 104	MOECD	FICA	31,823	9,180	41,003
Net Increase/(Decrease) to Expenditures				129,180	

Description:

To recognize transfer from American Rescue Plan fund to pay costs associated with the Summer Youth Jobs Program.

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

Resolution No. 822-23

Introduced in Council:

Adopted by Council:

June 5, 2023

Introduced by:

Referred to:

Joseph Jenkins

Finance

Resolution No. 822-23 - Authorizing the Mayor or City Manager to enter into a contract with McClanahan Construction Company, LLC, in the amount of \$967,300 to perform concrete street repair construction services, where the contract price was determined pursuant to a competitive bidding process.

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

That the Mayor or City Manager is authorized to enter into a contract with McClanahan Construction Company, LLC, in the amount of \$967,300 to perform concrete street repair construction services, where the contract price was determined pursuant to a competitive bidding process.

Concrete Street Paving

- Stratford Place
- South Point Drive
- Wilkie Drive
- Rockford Court
- Wychwood Road
- Rockford Court
- Sierra Road

BRUCE D MCCLANAHAN			
Item	Quantity	Price	Extension
BID AND PROPOSAL FORM (2 OF 3)			
Item 3.01 –Mobilization (5% Max.) - LS	1.00	\$44,000.00	\$44,000.00
Item 3.02 –Aggregate Base - TON	1,600.00	\$115.00	\$184,000.00
Item 3.03 –Class K Portland Cement Concrete Pavement - SY	4,300.00	\$163.00	\$700,900.00
Item 3.04 – Rolled Integral Concrete Curb Type I - LF	3,200.00	\$12.00	\$38,400.00
4 Items	Totals		\$967,300.00

Bill No. 7994

Introduced in Council:

May 15, 2023

Adopted by Council:

Introduced by:

Joseph Jenkins, Emmett Pepper
Pat Jones, Frank Annie,
Beth Kerns, & Joe Solomon

Referred to:

Finance

Bill No. 7994 - A BILL to amend the Municipal Code of the City of Charleston by adding thereto a new section, designated Section 2-464, within Subdivision I, Division 4 of Article VI, Chapter 2, all relating to the West Virginia Jobs Act, W. Va. Code § 21-1C-1 et seq. and its procedures, 42 C.S.R. § 37-1 et seq.

WHEREAS, the West Virginia Legislature found that the employment of persons from outside the local labor market on public improvement construction projects contracted for and subsidized by the taxpayers of the State contributes significantly to the rate of unemployment and the low per capita income among qualified state residents who would otherwise be hired for these jobs.; and

WHEREAS, the West Virginia Legislature declared that residents of local labor markets should be employed for the construction of public improvement projects which directly utilize taxpayer funding, in whole or in part; and

WHEREAS, the West Virginia Legislature enacted the West Virginia Jobs Act (“Jobs Act”), W. Va. Code § 21-1C-1 et seq., to address its concerns and further its declaration; and

WHEREAS, the West Virginia Division of Labor and Workforce West Virginia has set forth the responsibilities of public authorities and employers under the Jobs Act, 42 C.S.R. § 37-1 et seq; and

WHEREAS, the City of Charleston is in agreement with the findings and declaration of the West Virginia Legislature in the Jobs Act; and

WHEREAS, the City of Charleston recognizes its responsibilities under the Jobs Act and that by upholding those responsibilities, the purpose of the Jobs Act can be fulfilled.

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

That the Municipal Code of the City of Charleston be amended by adding thereto a new section, designated Section 2-464, within Subdivision I, Division 4 of Article VI, Chapter 2, to read as follows:

35
36 **CHAPTER 2 – ADMINISTRATION.**

37 **ARTICLE VI. – FINANCE.**

38 **DIVISION 4. – CONTRACTS AND PURCHASES.**

39 **Subdivision I. – In General.**

40
41 **Sec. 2-464. – West Virginia Jobs Act responsibilities for public improvement**
42 **construction projects.**

43
44 (a) The City shall abide by the requirements of the West Virginia Jobs Act (W. Va.
45 Code § 21-1C-1 et seq., as amended from time to time) and its Rules (42 C.S.R. § 37-1
46 et seq., as amended from time to time) which are incorporated herein by reference; and
47 shall meet its responsibilities set forth therein.

48
49 (b) This section is only applicable to expenditures for construction projects for
50 public improvements as defined by W. Va. Code § 21-1C-2(2) & (8) and subject to 42
51 C.S.R. § 37-1 et seq. A construction project is any construction, reconstruction,
52 improvement, enlargement, painting, decorating or repair of any public improvement let
53 to contract in an amount equal to or greater than \$500,000. It does not include temporary
54 or emergency repairs. A public improvement includes the construction of all buildings,
55 roads, highways, bridges, streets, alleys, sewers, ditches, sewage disposal plants,
56 waterworks, airports and all other structures that may be let to contract by a public
57 authority, excluding improvements funded, in whole or in part, by federal funds.

58
59 (c) Pursuant to 42 C.S.R. § 37-3, the City shall include the following statements
60 and information in the bid package when the City solicits bids for a construction project
61 for a public improvement subject to the Act:

62
63 (1) Specifications of the employer's responsibilities under the Act as explained in
64 42 C.S.R. § 37-4, including, but not limited to, the requirement to employ at least 75% of
65 employees from the local labor market, with an emphasis on, but not a requirement of,
66 hiring employees from the City of Charleston and Kanawha County.

67
68 (2) The employer's responsibility to submit weekly certified payroll records and
69 waiver certificates, if any, to the City; and

70
71 (3) Specification of credentials required to work on the construction project,
72 including the employer's West Virginia Contractor License number and classification.

73
74 (d) The City shall notify the West Virginia Division of Labor as soon as possible of
75 construction projects that are or will be covered by the Act, including the start date of
76 the project, the project location, and contract number if available.

77
78 (e) The City shall notify the West Virginia Division of Labor at least ten (10) days
79 in advance of all pre-bid meetings. This notification shall include dates, times, and
80 locations.

81
82 (f) When the project begins, the City shall submit certified payroll records and
83 waiver certificates, if any, to the West Virginia Division of Labor.
84

85 (g) The City shall monitor the employer's compliance with the construction project
86 contract, and shall promptly notify the West Virginia Division of Labor, Workforce West
87 Virginia, and the West Virginia Tax Department of other state agency, if applicable, of
88 an employer's possible violations, including actions taken by the City to require the
89 employer's compliance with its contractual obligations.

1 **Bill No. 7995**

2 Passed by Council:

3 Introduced in Council

4 **June 5, 2023**

5 Introduced by:

Referred to

6 **Mary Beth Hoover**

Planning, Streets and Traffic

7
8 **Bill No. 7995** - A Bill to establish a 15 MPH Speed Limit on Laidley Street from Lee St East
9 to Quarrier Street and amending the Traffic Control Map and Traffic Control File,
10 established by the code of the City of Charleston, West Virginia, two thousand and
11 three, as amended, Traffic Laws, Section 263, Division 2, Article 4, Chapter 114, to
12 conform therewith.

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

14 Section 1. A Bill to establish a 15 MPH Speed Limit on Laidley Street from Lee St East to
15 Quarrier Street

16 Section 2. The Traffic Control Map and Traffic Control File, established by the code
17 of the City of Charleston, West Virginia, two thousand and three, as amended, Traffic
18 Laws, Section 263, Division 2, Article 4, Chapter 114, shall be and hereby are
19 amended, to conform to this Ordinance.

20 Section 3. All prior Ordinances, inconsistent with this Ordinance are hereby
21 repealed to the extent of said inconsistency.

1 **Bill No. 7996**

2 Passed by Council:

3 Introduced in Council

4 **June 5, 2023**

5 Introduced by:

Referred to

6 **Pat Jones**

Planning, Streets and Traffic

7
8 **Bill No. 7996** - A Bill to create no parking on pavement zone on the eastern side of
9 Savory Drive from Woodward Drive to the End of Savory Drive and amending the Traffic
10 Control Map and Traffic Control File, established by the code of the City of Charleston,
11 West Virginia, two thousand and three, as amended, Traffic Laws, Section 263, Division
12 2, Article 4, Chapter 114, to conform therewith.

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

14 Section 1. A Bill to create no parking on pavement zone on the eastern side of Savory
15 Drive from Woodward Drive to the End of Savory Drive

16 Section 2. The Traffic Control Map and Traffic Control File, established by the code
17 of the City of Charleston, West Virginia, two thousand and three, as amended, Traffic
18 Laws, Section 263, Division 2, Article 4, Chapter 114, shall be and hereby are
19 amended, to conform to this Ordinance.

20 Section 3. All prior Ordinances, inconsistent with this Ordinance are hereby
21 repealed to the extent of said inconsistency.

Bill No. 7997

Introduced in Council:

June 5, 2023

Introduced by:

Joseph Jenkins

Adopted by Council:

Referred to:

Finance

Bill No. 7997 - A BILL to amend the Municipal Code of the City of Charleston by amending and reenacting Sections 110-81 and 110-145 of Chapter 110, relating to correcting inadvertent errors made in the year 2022 with respect to expanding the ability of small businesses to obtain consent from the city collector to pay business and occupation taxes on an annual basis.

WHEREAS, the City Council for the City of Charleston previously adopted Bill No. 7981 on December 5, 2022, expanding the ability of small businesses to obtain consent from the city collector to pay business and occupation taxes on an annual basis; and

WHEREAS, Bill No. 7981 contained inadvertent errors effecting Sections 110-81 and 110-145 of Chapter 110 of the Municipal Code of the City of Charleston; and

WHEREAS, this bill will apply the intended effects of Bill No. 7981 to the correct Code Sections; and

WHEREAS, these changes are made retroactive to the adoption of Bill No. 7981 on December 5, 2022.

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

That Sections 110-81 and 110-145 of the Municipal Code of the City of Charleston be amended and re-enacted to read as follows:

CHAPTER 110 – TAXATION.

ARTICLE II. – BUSINESS AND OCCUPATION TAX.

DIVISION 3. – PAYMENTS, RETURNS, AND RECORDS.

Sec. 110-81. – Tax cumulative.

(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

36 privilege tax, may exercise the privilege for the current tax year upon the condition that
37 he they shall pay the tax accruing under this article.

38 (b) *Computation of tax.*

39 (1) The taxes levied hereunder shall be due and payable in quarterly installments
40 on or before the expiration of one month from the end of the quarter in which they
41 accrue, except as otherwise provided in this subsection. The taxpayer shall, within one
42 month from the expiration of each quarter, make a return reporting the tax for which
43 he/she is liable for such quarter; sign it and mail it, together with any remittance due, in
44 the form required by section 110-82 of the amount of the tax to the office of the city
45 collector. In reporting and remitting the amount of the tax due for each quarter, the
46 taxpayer may deduct one-fourth of the total exemption allowed for the year. When the
47 total tax for which any person is liable under this article does not exceed the sum of
48 ~~\$200.00~~ \$2,500.00 in any year, the taxpayer may pay the tax quarterly as aforesaid or,
49 with the consent in writing of the city collector in the manner prescribed by regulations
50 promulgated pursuant hereto, on an annual basis at the end of the month next following
51 the close of the tax year.

52 (2) The city collector, if he they deems it necessary, based upon past experience
53 with a taxpayer, based on the past practices of a taxpayer, based on the financial
54 condition of the taxpayer, or based on the size of the contract, in order to insure
55 payment of the taxes levied hereunder, may require return and payment under this
56 section for other than quarterly periods. Furthermore, if the city collector deems it
57 necessary to insure payment of the business and occupation tax, he they may require
58 a deposit to be paid by the taxpayer prior to when the taxes accrue and are otherwise
59 payable. The amount of the deposit shall be determined and/or based upon the
60 taxpayer's projected gross income or gross proceeds of sale for the applicable tax
61 period. This deposit shall be paid to the office of the city collector, at a date and time,
62 and in a manner determined by the city collector.

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

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

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

77 **CHAPTER 110 – TAXATION.**

78 **ARTICLE II. – BUSINESS AND OCCUPATION TAX.**

79 **DIVISION 5. – TAX COLLECTION.**

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 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 \$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 the close of the tax year.~~

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

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

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

~~—— (B) In lieu of the six percent deposit, each contractor may request the approval of the city collector to provide, in the alternative, a corporate surety bond to be approved by the city collector as to form, sufficiency, value, amount, stability, and other features~~

128 ~~necessary to provide a guarantee of payment of the tax due the city.~~

129
130 (a) The tax imposed by this article, if not paid when due, shall bear interest at the
131 rate of at least eight percent per annum from the due date of the return until paid. The
132 city collector may charge an interest rate equal to the adjusted rate charged by
133 commercial banks to large business, in the manner described in W. Va. Code § 11-10-
134 17a.

135 (b) If any taxpayer fails to make the return or any quarterly installment required
136 by this article, or make his return but fails to remit, in whole or in part, the proper amount
137 of tax, there shall be added to the amount of tax unpaid, from the date such tax should
138 have been paid, a penalty in the amount of five percent of the tax for the first month, or
139 fraction thereof, of delinquency, and one percent of the tax for each succeeding month,
140 or fraction thereof of delinquency provided, that if such failure is due to reasonable
141 cause, the city collector may waive, with final approval from the city manager, in whole
142 or in part, these penalties. Additionally, if the failure to pay is due to fraud or intent to
143 evade any such tax there shall be added an additional penalty of 25 percent of the tax
144 owed, exclusive of penalties.

145 (c) Interest and penalties may be collected in the same manner as the tax
146 imposed by this article.

Resolution No. 823-23

Introduced in Council:

Adopted by Council:

June 5, 2023

Introduced by:

Referred to:

**Chelsea Steelhammer, Beth Kerns,
Frank Annie, Joe Solomon, Shannon Snodgrass**

Ordinance & Rules

Resolution No. 823-23 - Amending Rule No. 22 of the Rules of Council, relating to increasing public participation at council meetings.

WHEREAS, the City of Charleston values public participation in the democratic process; and

WHEREAS, the current limit of 5 speakers and total time allotment of 10 minutes for public speakers at Charleston City Council meetings may not provide sufficient opportunity for public input; and

WHEREAS, the City Council wishes to increase the number of allotted public speakers as well as time allotted for public speakers at council meetings to allow for greater public participation.

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

That Rule No. 22 of the Rules of Council be amended and reenacted to read as follows:

Rule No. 22. - Members of the public speaking before city council.

(a) A member of council may ask the floor for a member of the public to speak before council, which said motion is nondebtable. Upon such request, the presiding officer shall inquire of the councilmember the subject matter of the inquiry and ask council if there is any objection to the person speaking, and, if an objection is raised, then council, by majority vote, shall determine whether or not the person shall be allowed to address council. Any person addressing council shall be allowed no more than five minutes to make remarks, unless by unanimous consent council allows a longer period of time.

(b) A maximum of ~~ten~~ thirty minutes shall be set aside at the outset of each meeting of the council to permit members of the public, without leave of council, to address the council on any matter pertaining to the city's business. Any member of the public wishing to address the council shall first register with the clerk of the city council, or the clerk's designated representative for such purpose, in the council's chambers not earlier than 15

34 minutes before the beginning of each meeting setting forth his or her name, the group, if
35 any, on whose behalf he or she wishes to speak, and the subject matter which he or she
36 wishes to address: Provided, that if the presiding officer exercises the authority contained
37 in rule 1(c) to hold a meeting electronically, then the city clerk may provide for an extended
38 and different period of time and manner for public speakers to sign up that will allow for
39 an efficient meeting of council and create ample opportunity for the public to participate,
40 as long as that period of time and manner are included on the publicly posted agenda for
41 the meeting. If more than ~~one person registers~~ six people register to address council,
42 such persons shall be allocated time on a prorated basis, and shall be permitted to speak
43 only for the time allotted. In no event shall more than ~~five~~ fifteen people be permitted to
44 address the council under this rule 22(b). Nothing in this rule 22(b) shall affect the ability
45 of a member of council to request that a member of the public be allowed to speak
46 pursuant to rule 22(a).

Bill No. 7998

Introduced in Council:
June 5, 2023

Adopted by Council:

Introduced by:

Referred to:

Becky Ceperley

Finance

Bill No. 7998 - A BILL to amend and reenact sections 2-712 and 2-713 the Municipal Code of the City of Charleston, as amended, all relating to updating reporting requirements; clarifying that the BID may receive funds from sources other than the special assessment fees to be deposited into the BID Fund; reducing the assessment invoices from quarterly to twice a year; and defining the term surplus.

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

That sections 2-712 and 2-713 of the Municipal Code of the City of Charleston, as amended, are amended and reenacted, all to read as follows:

ARTICLE VII. – BOARDS, COMMITTEES AND COMMISSIONS.
DIVISION 11. – CITY CENTER BUSINESS IMPROVEMENT DISTRICT.

Sec. 2-712. – Board Members Terms, Appointment, Powers, and Duties.

(a) The City Center BID Board shall consist of seven members, appointed by the Mayor with the approval of City Council. The initial appointments shall be staggered such that two members are appointed for 5-year terms, one member is appointed for a 4-year term, two members are appointed for 3-year terms, one member is appointed for a 2-year term, and one member is appointed for a 1-year term. After the initial appointments, all subsequent appointments shall be for terms of 5 years. At all times, a majority of City Center BID Board members shall be owners of commercial property situated within the boundaries of the City Center BID. Members of the Board may not receive compensation, either directly or indirectly, for service on the Board.

(b) The City Center BID Board shall have the following powers and duties:

(1) Oversee the operations of the City Center BID;

(2) Adopt bylaws to govern the procedures of the City Center BID;

(3) Adopt an annual budget;

(4) To prepare spending requests to be submitted to the City Manager, or his or her designee, who shall act as the fiscal agent for the City Center BID;

(5) Calculate and provide to the City Collector and City Clerk the annual amount due by each commercial property owner within the City Center BID ~~within 30 days of the adoption of this ordinance and by July 4~~ May 15 of each subsequent year, along with a proposed budget for the upcoming fiscal year and the recommended program of

services to be performed or provided within the district for the upcoming fiscal year;

(6) Coordinate and plan the Clean and Safe line of business within the City Center BID;

(7) Coordinate and plan the Entertainment and Recreation line of business for the City Center BID;

(8) Coordinate and plan the Beautification and Image line of business within the City Center BID;

(9) Collaborate on efforts for the City Center BID with the City of Charleston and other community partners;

(10) Seek out gifts, apply for grants, and obtain revenue from other available sources; and

~~(10)~~ (11) Submit an annual report on or before May 15, 2022, and by May 15 September 30 each year thereafter, to City Council that includes, at a minimum, the following:

(A) An itemized statement of its receipts and disbursements for the preceding fiscal year;

(B) A description of its activities for the preceding fiscal year;

(C) ~~A recommended~~ The program of services to be performed or provided within the district for the coming current fiscal year; and

(D) ~~A proposed~~ An overview of its budget to and statement regarding any additional funding needed to accomplish its objectives.

(c) Meetings of the City Center BID Board are subject to the West Virginia Open Governmental Proceedings Act, West Virginia Code Chapter 6, Article 9A. Members of the City Center BID are subject to the West Virginia Governmental Ethics Act, West Virginia Code Chapter 6B.

Sec. 2-713. – Creation of Fund; Rate and Manner of Fees.

(a) There is hereby created a special revenue fund within the city treasury to be known as the City Center BID Fund, along with any subaccounts deemed necessary by the district board.

(b) The City Center Business Improvement District FY2021 BID Work Plan and Budget sets the rate of annual fees for the City Center BID on each private for-profit property owner at the equation of (total land lot size square footage x .075) + (total building square footage x .03325). The maximum rate of any annual fees that may be imposed upon a single commercial property in the City Center BID, as calculated by the aforementioned formula, will be \$25,000 annually. It is anticipated that cumulative revenue from the initial annual fee will be \$100,000. The City Center BID Board provided the assessed amounts for FY2021 to the City in December 2021. For each subsequent year, the City Center BID Board shall provide to the City Collector the assessed amounts no later than May 15. Pursuant to West Virginia Code § 8-13A-12, City Council may levy the assessments by ordinance upon receipt of the proposal from the City Center BID Board. ~~City Council levies the assessments for FY2021 as shown in the attached Exhibit A.~~ City Council shall levy the rates for future each fiscal years year

83 after the City Center BID Board provides the assessments.

84
85 (1) Pursuant to West Virginia Code § 8-13A-12(a), the levy amount shall be “only
86 to the extent necessary to fund the budget proposed by the district board” and “[a]ny
87 surplus in the fund in a fiscal year shall be applied to reduce the amount of service fees
88 required for the next fiscal year.”

89
90 (2) As used in this section, the term “surplus” shall mean the amount by which
91 the service fees collected in a full fiscal year exceed the budgeted amount of anticipated
92 service fee revenue used to fund the ongoing operations and services of the City Center
93 BID District. The term “surplus” shall not include, and the calculation of any surplus shall
94 not take into consideration, any gifts, grants, or other appropriations that are designated
95 for specific projects or purposes that are separate from the general ongoing operations
96 and services of the City Center BID District.

97
98 (c) Any person who desires to challenge the City Center BID Board assessment
99 shall file a petition for reassessment with the City Collector within 30 days of receiving
100 notice of the assessment. The petition shall state the reasons the person is seeking the
101 reassessment. After the filing of a petition, the City Collector shall set the petition for an
102 administrative hearing and give the Board an opportunity to respond in writing in
103 advance of the hearing. The petitioner and the Board may represent themselves or be
104 represented by counsel at the administrative hearing. The City Collector, or a hearing
105 examiner designated by the City Collector, shall conduct an informal and impartial
106 administrative hearing and make a prompt decision on the petition for reassessment
107 after hearing all of the evidence and argument. An appeal of the City Collector’s
108 decision may be taken by the petitioner or the Board to the Circuit Court of Kanawha
109 County within 30 days of the City Collector’s decision.

110
111 (d) The fees assessed by the City Center BID upon the property owners shall be
112 collected through the City of Charleston’s City Collector on a ~~quarterly~~ biannual (twice
113 per year) basis. The collection efforts from the City Collector shall clearly state it is
114 assessing fees for the City Center BID. All funds collected from the fees shall be placed
115 in the City Center BID Fund created by this section. The City Center BID Fund may also
116 receive other voluntary contributions.

117
118 (e) Notwithstanding any provision of this Code to the contrary, any expenditure
119 authorized by the City Center BID Board from the City Center BID Fund up to \$100,000
120 is exempt from the purchasing rules of the City of Charleston. Any individual
121 expenditure in excess of \$100,000 by the City Center BID Board shall require City
122 Council approval prior to authorization. The City Center BID Board shall generally
123 submit requests for Purchase Orders to the City Manager’s Office in advance of any
124 purchase being made, which the City Manager will approve as long as the vendor is in
125 good standing with the City Collector’s Office and there are no other legal issues with
126 payment.

127
128 (f) The City Collector shall have plenary power and authority to promulgate any

129 rules necessary to carry out the assessment, hearing, and collection provisions of this
130 Article. The City Collector shall work in conjunction with the City Center BID Board to
131 develop such rules.