



# CITY OF CHARLESTON WEST VIRGINIA



## COUNCIL MEMBER – WARD 20

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Ordinance and Rules Committee, Chair  
Parks and Recreation Committee  
Finance Committee  
Parking Facilities Committee

A meeting of the Council Committee on Ordinance & Rules will be held on Tuesday, September 5, 2023 at 5:45 PM. **To be held in person**  
**AV ROOM #308, CITY HALL**

### Agenda

#### APPROVAL OF PREVIOUS MINUTES

1. 2-21-2023

#### RESOLUTIONS

1. Resolution No. 823-23 - Amending Rule No. 22 of the Rules of Council, relating to increasing public participation at council meetings (**a committee substitute has been proposed**).

#### DISCUSSION

1. Downtown Private Outdoor Designated Areas (PODA)

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

# MINUTES

## ORDINANCE AND RULES COMMITTEE MEETING

5:45 P. M., FEBRUARY 21, 2023

THE MEETING WAS HELD IN PERSON IN THE AV ROOM #308 IN CITY HALL.

Chad Robinson, Chairperson, called the meeting of the Charleston City Council Committee on Ordinance and Rules to order at 5:45 p.m., FEBRUARY 21, 2023.

### **Committee Members Present:**

Chad Robinson, Chair  
Patrick Salango, Vice Chair  
Frank Annie  
Becky Ceperley  
Sam Minardi  
Emmett Pepper  
Joseph Jenkins

Absent:

### Councilmembers also Present:

Beth Kerns  
Joe Solomon  
Chelsea Steelhammer  
Jennifer Pharr  
Caitlin Cook  
Mary Beth Hoover  
Shannon Snodgrass  
Bruce King

#### 1. Approval of Previous Minutes –

Councilmember Ceperley motioned to approve the previous minutes from 10-3-2022. With those being present having voted unanimously in the affirmative, the Chair declared the minutes as approved.

Councilmember Ceperley motioned to approve the previous minutes from 12-5-2022. With those being present having voted unanimously in the affirmative, the Chair declared the minutes as approved.

2. Bill No. 7983 Committee Substitute – A BILL to amend the Municipal Code by adding a new Article establishing a Health Equity Action Plan; creating a Health Equity Board; setting forth the makeup of the Board; and detailing the requirements of the Health Action Plan. (A Committee Substitute has been proposed).

City Attorney, Kevin Baker, stated that the bill creates a community health action plan, creates a board of 11 members to oversee, states the purpose of the Board and requires that they report to Council at the end of the year.

Councilmember Robinson added that the Committee Substitute changes the name of the Board, removed the language “Board created for Council.”

Councilmember Minardi asked how the members would be appointed. From the audience, Councilmember Cook replied that the listed organizations are health care providers that serve the City and approved by the Charleston-Kanawha Health Care Department.

Councilmember Ceperley asked if there was concern with sustainability in the types of services the organizations provide. Councilmember Cook replied that it is an American Heart Association initiative that will be nation-wide, and these organizations are expected to be sustainable. Anything proposed by the Board will come before Council for approval.

Councilmember Minardi asked if there were examples of these inequalities. Councilmember Cook replied that the pandemic shed light on a lot of areas that can be improved, such as gaining the trust of certain groups by working with these organizations. She added that an example is hypertension. From the audience, Councilmember Pharr added that Heath Right and WV Outreach had been in the community during the pandemic, so they will have different, valuable data than that which is collected by a hospital.

Councilmember Pepper stated that the third section, describing the Action Plan, discusses deliverables, implementation and recommendations to Council. He asked if the Board/organizations would be implementing these plans without possibly any City government involvement. He also asked what the Annual Review would look like. Councilmember Cook replied that progress was the goal, and the annual review would be to determine if the Action Plan is working. She assumed it would be a written report presented to Council.

Councilmember Robinson commented that the implementation schedule seemed fast.

Councilmember Minardi confirmed that there would not necessarily be Council approval before the Board implemented a plan.

A representative of the American Heart Association, Julie Thomm, was invited to speak

to the Committee. She added that the purpose of the bill is to ensure that individuals have the opportunity to reach their full health potential, and to ensure no one is disadvantaged from achieving this. Charleston would be the first City in the State and one of the first in the Nation to pass such a bill.

Councilmember Pepper asked how Charleston compared to the other cities. Thomm replied that there is a lack of health data at the City level.

From the audience, Councilmember Snodgrass asked why the City Code was being changed. She asked if the City planned to fund the Board. Councilmember Robinson replied that the Committee Substitute removes direct Council involvement. Councilmember Snodgrass added that the bill should state that Council has the ability to approve any recommendation made by the Board. Councilmember Ceperley added that the Board could present their recommendations to Council and bills and resolutions could be written from that which would go to Council. Councilmember Snodgrass added that the Mayor appoints three members of the Board, and Council is really removed from the process. Councilmember Pepper added that the bill does not delegate any authority of Council to the Board. Per line 67, Council can act upon their recommendations. Councilmember Robinson agreed that the bill does not specify that the members to be appointed by the Mayor will be approved by Council, as is the usual procedure. Councilmember Cook added that the point of the bill, as far as the City is concerned, is to call attention to disparities in the community. The Board is not taking away any existing Council authority. Councilmember Robinson added that nothing in the bill mentions funding or funding requests.

From the audience, Councilmember Kerns added that she would like to see a woman's health representative on the Board. From the audience, Councilmember Pharr added that Family Care is one such organization, and has been open for decades.

Councilmember Minardi suggested that this might be better as a resolution instead of a bill that changes code.

From the audience, Councilmember Steelhammer asked if community involvement was part of the plan at any stage. Thomm replied that the intent is to reach out to the community through various methods.

Councilmember Pepper motioned to amend the Bill to include Council approval of the Mayor's appointments as previously mentioned. With those members being present having voted unanimously in the affirmative, the Chair declared the amendment as approved.

Councilmember Ceperley motioned to approve Bill No. 7983 Committee Substitute as Amended. Councilmember Pepper seconded the motion. With those members being present having voted unanimously in the affirmative, the Chair declared Bill No. 7983 Committee Substitute as Amended as approved.

Councilmember Ceperley motioned to adjourn the meeting. Meeting adjourned.

**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**

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

3  
4 WHEREAS, the City of Charleston values public participation in the democratic  
5 process; and

6  
7 WHEREAS, the current limit of 5 speakers and total time allotment of 10 minutes  
8 for public speakers at Charleston City Council meetings may not provide sufficient  
9 opportunity for public input; and

10  
11 WHEREAS, the City Council wishes to increase the number of allotted public  
12 speakers as well as time allotted for public speakers at council meetings to allow for  
13 greater public participation.

14  
15 **Now, therefore, be it Resolved by the Council of the City of Charleston, West**  
16 **Virginia:**

17  
18 That Rule No. 22 of the Rules of Council be amended and reenacted to read as follows:

19  
20 **Rule No. 22. - Members of the public speaking before city council.**

21  
22 (a) A member of council may ask the floor for a member of the public to speak  
23 before council, which said motion is nondebatabile. Upon such request, the presiding  
24 officer shall inquire of the councilmember the subject matter of the inquiry and ask council  
25 if there is any objection to the person speaking, and, if an objection is raised, then council,  
26 by majority vote, shall determine whether or not the person shall be allowed to address  
27 council. Any person addressing council shall be allowed no more than five minutes to  
28 make remarks, unless by unanimous consent council allows a longer period of time.

29 (b) A maximum of ~~ten~~ thirty minutes shall be set aside at the outset of each meeting  
30 of the council to permit members of the public, without leave of council, to address the  
31 council on any matter pertaining to the city's business. Any member of the public wishing  
32 to address the council shall first register with the clerk of the city council, or the clerk's  
33 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).

**Resolution No. 823-23 Committee Substitute**

**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**

1 **Resolution No. 823-23 Committee Substitute** - Amending Rule No. 22 of the Rules of  
2 Council, relating to privileges to the floor of council chambers and increasing public  
3 participation at council meetings.  
4

5 WHEREAS, the City of Charleston values public participation in the democratic  
6 process and has identified a need to clarify who is permitted on the floor during the  
7 meetings of city council; and  
8

9 WHEREAS, the current limit of 5 speakers and total time allotment of 10 minutes  
10 for public speakers at Charleston City Council meetings may not provide sufficient  
11 opportunity for public input; and  
12

13 WHEREAS, the City Council wishes to increase the number of allotted public  
14 speakers as well as time allotted for public speakers at council meetings to allow for  
15 greater public participation.  
16

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

19  
20 That Rule No. 22 of the Rules of Council be amended and reenacted to read as follows:  
21

22 **Rule No. 22. - Floor Privileges; Members of the public speaking before city council.**  
23

24 (a) When the city council is in session, only members of council and City staff who  
25 are present for an official purpose are permitted to be on the floor of council: Provided,  
26 That any member of the public invited forward by the presiding officer for the purpose of  
27 presentation of a proclamation or other honorary designation is permitted to be on the  
28 floor of council for said presentation. All other people shall remain in the gallery while the  
29 city council is in session. The first row of the gallery on the left side when facing the  
30 presiding officer shall be reserved for members of the media.

31 ~~\_\_\_\_\_ (a) A member of council may ask the floor for a member of the public to speak~~  
32 ~~before council, which said motion is nondebatable. Upon such request, the presiding~~  
33 ~~officer shall inquire of the councilmember the subject matter of the inquiry and ask council~~

34 ~~if there is any objection to the person speaking, and, if an objection is raised, then council,~~  
35 ~~by majority vote, shall determine whether or not the person shall be allowed to address~~  
36 ~~council. Any person addressing council shall be allowed no more than five minutes to~~  
37 ~~make remarks, unless by unanimous consent council allows a longer period of time.~~

38 (b) A maximum of ~~ten~~ thirty twenty minutes shall be set aside at the outset of each  
39 meeting of the council to permit members of the public, without leave of council, to  
40 address the council on any matter pertaining to the city's business. Any member of the  
41 public wishing to address the council shall first register with the clerk of the city council,  
42 or the clerk's designated representative for such purpose, ~~in the council's chambers~~ not  
43 earlier than 15 minutes before the beginning of each meeting setting forth his or her name,  
44 the group, if any, on whose behalf he or she wishes to speak, and the subject matter  
45 which he or she wishes to address: Provided, that if the presiding officer exercises the  
46 authority contained in rule 1(c) to hold a meeting electronically, then the city clerk may  
47 provide for an extended and different period of time and manner for public speakers to  
48 sign up that will allow for an efficient meeting of council and create ample opportunity for  
49 the public to participate, as long as that period of time and manner are included on the  
50 publicly posted agenda for the meeting. If more than ~~one person registers~~ six people  
51 register one person registers to address council, such persons shall be allocated time on  
52 a prorated basis, and shall be permitted to speak only for the time allotted. In no event  
53 shall more than ~~five~~ fifteen ten people be permitted to address the council under this rule  
54 22(b). Nothing in this rule 22(b) shall affect the ability of a member of council to request  
55 that a member of the public be allowed to speak pursuant to rule 22~~(a)~~(c).

56 (a)(c) A member of council may ask the floor for a member of the public to speak  
57 before council, which said motion is nondebatable. Upon such request, the presiding  
58 officer shall inquire of the councilmember the subject matter of the inquiry and ask council  
59 if there is any objection to the person speaking, and, if an objection is raised, then council,  
60 by majority vote, shall determine whether or not the person shall be allowed to address  
61 council.

62 (d) Whether speaking pursuant to rule 22(b) or rule 22(c), any ~~Any person~~  
63 addressing council shall be allowed no more than five minutes to make remarks, unless  
64 by unanimous consent council allows a longer period of time.  
65

**ARTICLE 711**  
**PRIVATE OUTDOOR DESIGNATED AREAS**

711.01 Purpose and Intent

Pursuant to the provisions of West Virginia Code §8-12-26 and §60-7-8g, one or more private outdoor designated areas may be created within the City.

711.02 Definitions.

- (a) “Commissioner” means the West Virginia Alcohol Beverage Control Commissioner.
- (b) “Private Outdoor Designated Area” means public property that has become a legally demarcated area established by a municipal ordinance as set forth in §8-12-26 of this code for the consumption of liquor, wine, nonintoxicating beer, and nonintoxicating craft beer.
- (c) “Qualified permit holder” means the holder of a Class A license issued under §60-7-1 et seq. of the West Virginia State Code.

711.03 Private Outdoor Designated Area

- (a) There is hereby established Private Outdoor Designated Areas, hereinafter “PODAs,” which shall be designated and managed as described herein and applicable state code.

(1) Downtown PODA. The Downtown PODA begin at the intersection of the eastern 8th Street sidewalk and the northern boundary of 4 1/2 Alley and shall continue northerly parallel to 8th Street to a point ±230 feet south/southeast of Veterans Memorial Boulevard, then continue northeast to a point on the western sidewalk of 10th Street that is ±185 feet south/southeast of the intersection of 10th Street and Veterans Memorial Boulevard, then continue southerly parallel to the western 10th Street sidewalk to the intersection with the southern 3rd Avenue sidewalk and 10th St, then continue easterly to a point ±160 feet east/northeast of the intersection of the eastern 10th Street sidewalk and the southern 3rd Avenue sidewalk, then continue southerly to a point ±160 feet east/northeast of the intersection of eastern 10th Street sidewalk and the southern boundary of 4 1/2 Alley, then shall continue westerly the intersection of western 10th Street sidewalk and the southern boundary of 4 1/2 Alley, then north to the intersection of western 10th Street sidewalk and the northern boundary of 4 1/2 Alley, then shall continue westerly to the beginning point. The Downtown PODA shall include the public rights-of-way within the boundary area and the buildings at or within the following addresses:

3-61 Pullman Square; 412-418 8th Street; 220-289 Ninth Street; 301-335 Ninth Street; 404-420 Ninth Street; 310-322 Tenth Street; 410-422 Tenth Street; 800-898 Third Avenue; 900-952 Third Avenue; 1001 Third Avenue; 801-848 Fourth Avenue; 900-999 Fourth Avenue; 1001-1019 Fourth Avenue.

A map of the Downtown PODA is made a part of this ordinance.

The Downtown PODA is, at the time of the passage of this ordinance, zoned C-3, Downtown Commercial, which permits the service and consumption of liquor, wine, nonintoxicating beer and nonintoxicating craft beer.

It is estimated that a minimum of two police officers and one public works employee will be need to be available to ensure public safety and efficient operations in the Downtown PODA.

(2) RESERVED.

#### 711.04 Special Exception Permit Required.

(a) Any restaurant, bar, or other business licensed by the State of with a valid business license that authorizes the sale of liquor, wine, nonintoxicating beer, and nonintoxicating craft beer by the drink may apply for an annual Private Outdoor Designated Area Special Exception Permit (PODA Permit) to allow service to patrons for on-premises consumption at a certain public property designated by ordinance as a private outdoor designated area.

(b) Requirements.

(1) Applicant must be located in an established PODA with a door for the safe ingress and egress of members, patrons, and guests to and from the PODA. The door shall comply with all building and fire codes.

(2) Applicant must submit an application to the City on the form that shall be provided.

(3) Applicant must submit a copy of the intended floor plan of any private outdoor area. The floor plan should indicate at minimum the placement of the door used for ingress and egress.

(4) Applicant must possess an active business license.

(5) No PODA permit shall be granted without approval of the City's Planning Division.

(6) Any applicant that intends to place tables, chairs, or other items on the public sidewalk and either does not have an active outdoor dining permit at the time of application or intends to expand an established outdoor service area must have approval from the fire marshal's office and the public works director or designee.

(7) Verification of zoning approval including a conditional use permit that includes any private outdoor area to be utilized for seating and serving patrons.

(c) Upon approval of the PODA Permit, the mayor or designee shall notify the commissioner of the identity of qualified permit holders that will be applying for permits set forth in West Virginia Code §60-7-8g.

(d) The mayor or designee may suspend a private outdoor designated area immediately when in the interest of public safety.

(e) Any business with a PODA Permit that also holds a valid outdoor dining area permit in accordance with Article 1340 *et seq.* of this code may continue to operate those areas in conjunction with the private outdoor designated area subject to the commissioner's requirements.

#### 711.05 Signage.

At a minimum, every point where a pedestrian may exit the PODA by way of a public sidewalk shall have minimum of one sign placed designating the end of the PODA. The sign must be

mounted in such a way and be made of a material that will ensure the sign will last for the entirety of the season the PODA is open.

#### 711.06 Days/Hours of Operation.

Any PODA may operate from April through October. No PODA may not be open except for the days and times listed herein.

(a) The hours of operation for the Downtown PODA shall be will be Thursday from 5:00 p.m. to 11:00 p.m., Friday from 5:00 p.m. to 11:00 p.m., and Saturday from 11:00 a.m. to 11:00 p.m.

(b) RESERVED.

#### 711.07 Safety, Health, and Sanitation.

(a) All alcoholic beverages including, but not limited to, liquor, wine, nonintoxicating beer, and nonintoxicating craft beer shall be served in approved, non-glass containers, not greater than 18 fluid ounces.

(b) Public Waste Receptacles in the PODA.

(1) The mayor or designee shall make available to the public disposable waste receptacles the hours of PODA operation. This requirement may be modified by the mayor or designee when inclement weather or other outside factors make placement of disposable waste receptacles unsafe or unreasonable.

(2) Public waste receptacles, including both permanent and disposable receptacles, shall be placed no less than 1 per half-block.

(3) Public waste receptacles, including both permanent and disposable receptacles, shall be emptied as needed, but at a minimum of once per day of operation. The mayor or designee shall cause permanent public waste receptacles to be emptied every Thursday before the PODA hours of operation begin and at least once a day on all other days of operation.

(c) Participating businesses within the PODA shall make available adequate restroom facilities, whether permanent or portable, to serve their members and guests during all the hours of PODA operation in accordance with West Virginia Code §60-7-8g(c)(7).

(d) All businesses operating within the PODA must comply with all requirements of the Cabell-Huntington Health Department.

#### 711.08 Rules Governing Patrons in Private Outdoor Designated Areas.

(a) Notwithstanding any prohibition in Article 521 of this code, a person may possess an opened container of liquor, wine, nonintoxicating beer, and nonintoxicating craft beer at an outdoor location within a PODA during the hours of operation authorized by this ordinance if all of the following apply:

(1) opened container of liquor, wine, nonintoxicating beer, and nonintoxicating craft beer was purchased from a PODA permit holder located in the PODA; and

(2) the liquor, wine, nonintoxicating beer, and nonintoxicating craft beer is in a container approved under this ordinance and by the West Virginia Alcohol Beverage Control Commissioner.

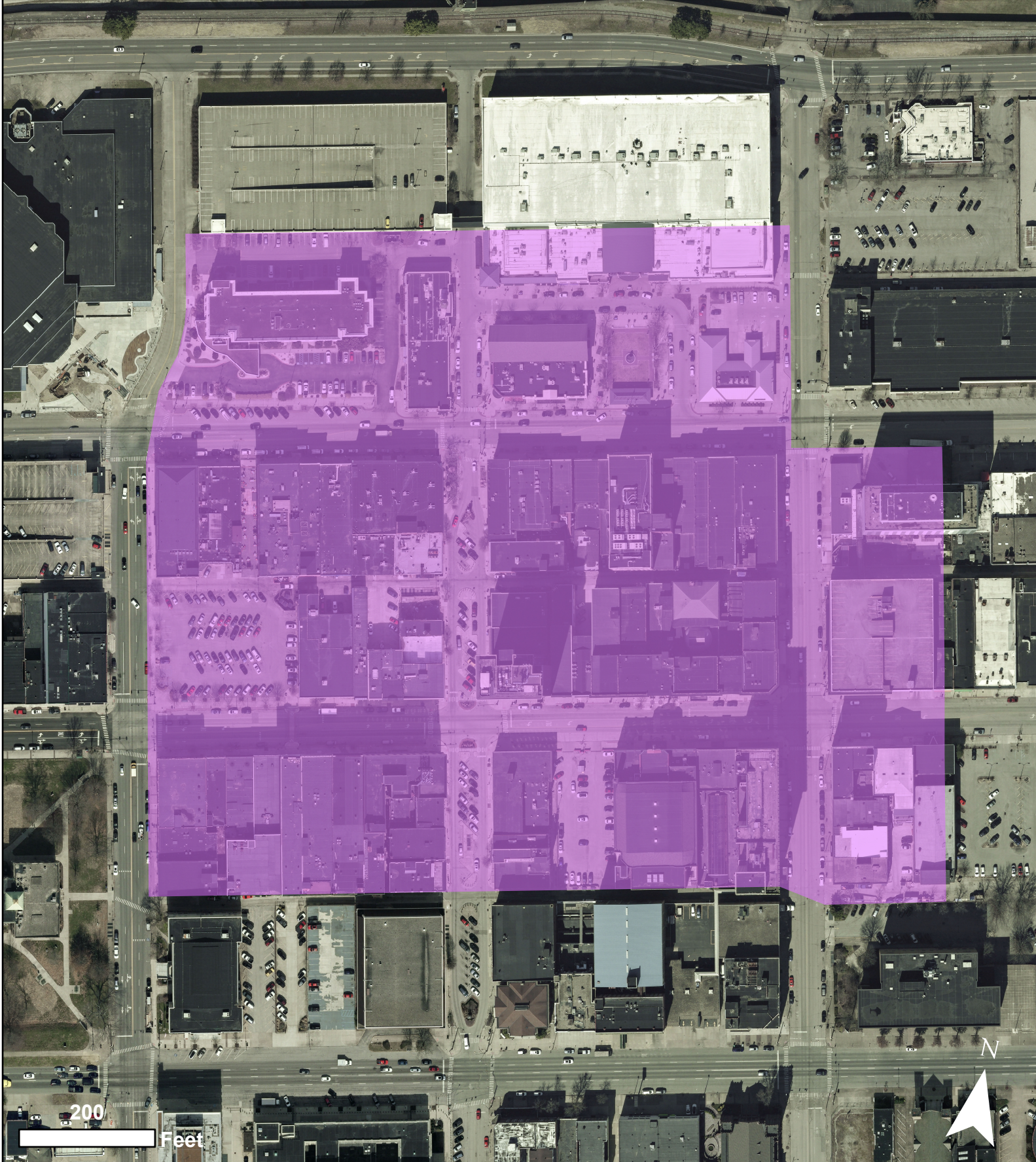
(b) Subsection (a) of this section does not authorize a person to do either of the following:

(1) Leave a PODA while possessing an open container of liquor, wine, nonintoxicating beer, and nonintoxicating craft beer

(2) Possess an opened container of liquor, wine, nonintoxicating beer, and nonintoxicating craft beer while being in or on a motor vehicle within a PODA.

711.99 Enforcement.

The City shall provide the commissioner copies of all non-compliance and violations including criminal violations. The commissioner shall enforce all qualified permit holders operate in accordance with requirements set forth in West Virginia Code §11-16-1 *et seq.* and West Virginia Code chapter 60.



# Downtown Private Outdoor Designated Area (PODA)

