



# 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 Thursday, September 21, 2023 at 4:00 PM. **To be held in person**  
**AV ROOM #308, CITY HALL**

### Agenda

#### APPROVAL OF PREVIOUS MINUTES

1. 9-5-2023

#### BILLS

1. Bill No. 8013 - A BILL to amend and reenact the Municipal Code by adding thereto a new relating to authorizing Private Outdoor Designated Areas.

#### ADJOURN

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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., SEPTEMBER 5, 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., SEPTEMBER 5, 2023.

### **Committee Members Present:**

Chad Robinson, Chair  
Frank Annie  
Emmett Pepper  
Joseph Jenkins

### Absent:

Patrick Salango, Vice Chair  
Becky Ceperley  
Sam Minardi

### Councilmembers also Present:

Beth Kerns  
Joe Solomon  
Chelsea Steelhammer  
Bruce King  
Shawn Taylor

1. Approval of Previous Minutes –  
Councilmember Jenkins motioned to approve the previous minutes from 2-21-2023. With those being present having voted unanimously in the affirmative, the Chair declared the minutes as approved.

## 2. Downtown Private Outdoor Designated Areas (PODA) –

Councilmember Robinson stated that the Committee has received the Ordinance recently passed by Huntington. He asked the City Attorney, Kevin Baker, to give them a brief overview.

Baker stated that the WV Legislature had recently created a new statute to allow municipalities to create private, outdoor areas. It would allow people to purchase a drink from a bar/restaurant to take outside within the designated area. The businesses that would want to participate would have to put drinks in a specially branded cup as well as obtain a special license and approval of the City Manager. Baker added that it would require the businesses to enter into a hold harmless agreement to be jointly and separately liable. Baker added that the area could be as small as one block. The hours can also be limited by the operation as far as days and times.

Councilmember Robinson asked if the City could identify events/specific days (such as the Regatta or specific weekends). Baker replied that the ABCA has taken the position that there can not be a private outdoor designated area at the same time or overlapping with a fair/festival. This would exclude the Regatta but not Live on the Levee or similar events.

Councilmember Jenkins asked for clarification about the liability. Baker confirmed that all business involved would be liable even if only one business breaks the rules (or for any other reason). Councilmember Jenkins confirmed that there is no limit to the numbers of PODAs the City could create.

Councilmember Jenkins added that there was promise to the idea, and suggested that the City Center Business District review it as well. Councilmember Robinson added that he thought it would be beneficial to the City.

Councilmember Pepper confirmed that a business could be part of the PODA only if they already had a license to sell liquor/alcohol. Baker replied that the PODA would allow someone to purchase alcohol from a bar within that PODA and carry it around outside anywhere within the designated area. This would not include stores that would be involved in the Art Walk, for example, although Baker believed that the ABCA had other licenses that might allow that.

Baker added that the ordinance states that the City has the authority to demarcate the area for the consumption of liquor, wine, beer, non-intoxication wine and non-intoxicating craft beer. It would not be likely that the City would be able to choose which types of alcohol to include/exclude.

From the audience, Councilmember Kerns added that there could be several distinct PODAs that would include Downtown, a section on the East End, Elk City and possibly Bridge Road.

Councilmember Robinson confirmed that the food trucks days at Slack Plaza were not considered a festival as they don't serve alcohol. If they did, they would have to get a Fair/Festival license from the ABCA. Baker added that the alcohol sold at Live on the Levee is from Four Points, who does have a license. The Regatta is considered a fair/festival because there are multiple vendors selling alcohol.

Councilmember Jenkins added that this should also be somewhat community driven. Councilmember Robinson agreed, adding that perhaps they could invite likely businesses to the next meeting for input.

3. 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)

Councilmember Robinson asked Baker to explain the Committee Substitute. Baker stated that it would also add a new subsection stating that the floor of Council would only be for members of Council and designated City staff during active sessions. The rule makes exceptions for anyone being presented a proclamation or honorary designation. It also would reserve the front, left row of the gallery for members of the media. The resolution would change the current 10 minutes of public comment to 20 minutes (from the original draft's 30). Instead of a maximum of 5 people, there would be a maximum of 10 people. It also clarifies that the maximum time that one person can speak is 5 minutes.

Councilmember Robinson added that the goal is to allow for more public speaking. Secondly, he added that the Legislature does not allow the public to have access to the chamber floor. The Senate requires media to sit in the back, and the House is considering doing that as well. The Committee Substitute does not remove access prior to or after the meeting.

Councilmember Robinson added that an alternative he considered was to adopt the House's definition of media (credential, state-wide/national media), but he did not want to do that.

From the audience, Councilmember Kerns added that there should be a physical gate with a sign that read "Authorized Personnel Only", and to have the public speaker sign up in the back of the room.

Councilmember Jenkins added that the disruptions seemed to be on an individual basis and not the media as a whole. He has never seen an issue with the media being at the front table. He was not sure if the Committee Substitute addressed the concerns. He added that any perceived disruption by the media should be called out by the Presiding Officer or by a Councilmember via a point of privilege. Councilmember Robinson added that he did not want to go to the extreme level of having to credential media or to put a

staff member in that position.

Councilmember Pepper motioned to amend the Committee Substitute on lines 26-28, to remove the language that would limit who the Presiding Officer could invite to the floor during a meeting, giving them broader discretion. Councilmember Annie seconded the motion. With those members being present having voted unanimously in the affirmative, the Chair declared to amendment to the Committee Substitute as approved.

From the audience, Councilmember Solomon added that he would introduce an amendment during Council that would strike out the section about the press.

Councilmember Pepper added that he had similar concerns that the press would be limited in the ability to adequately cover Council meetings. Councilmember Pepper motioned to amend the resolution to permit members of print and broadcast members to sit at the designated area and to permit other types of media to a designated section in the front row of the seating area. Councilmember Annie seconded the motion.

Councilmember Robinson asked what counted as “media.” He added that his intention was not to limit media, but there had to be consideration of who has access to the Council floor while a meeting was in session. He noted that other bodies do not allow the media to walk to and from while in session. Councilmember Pepper replied that things like Facebook live, Twitter, blogs, etc., would not be considered broadcast media under his proposed amendment.

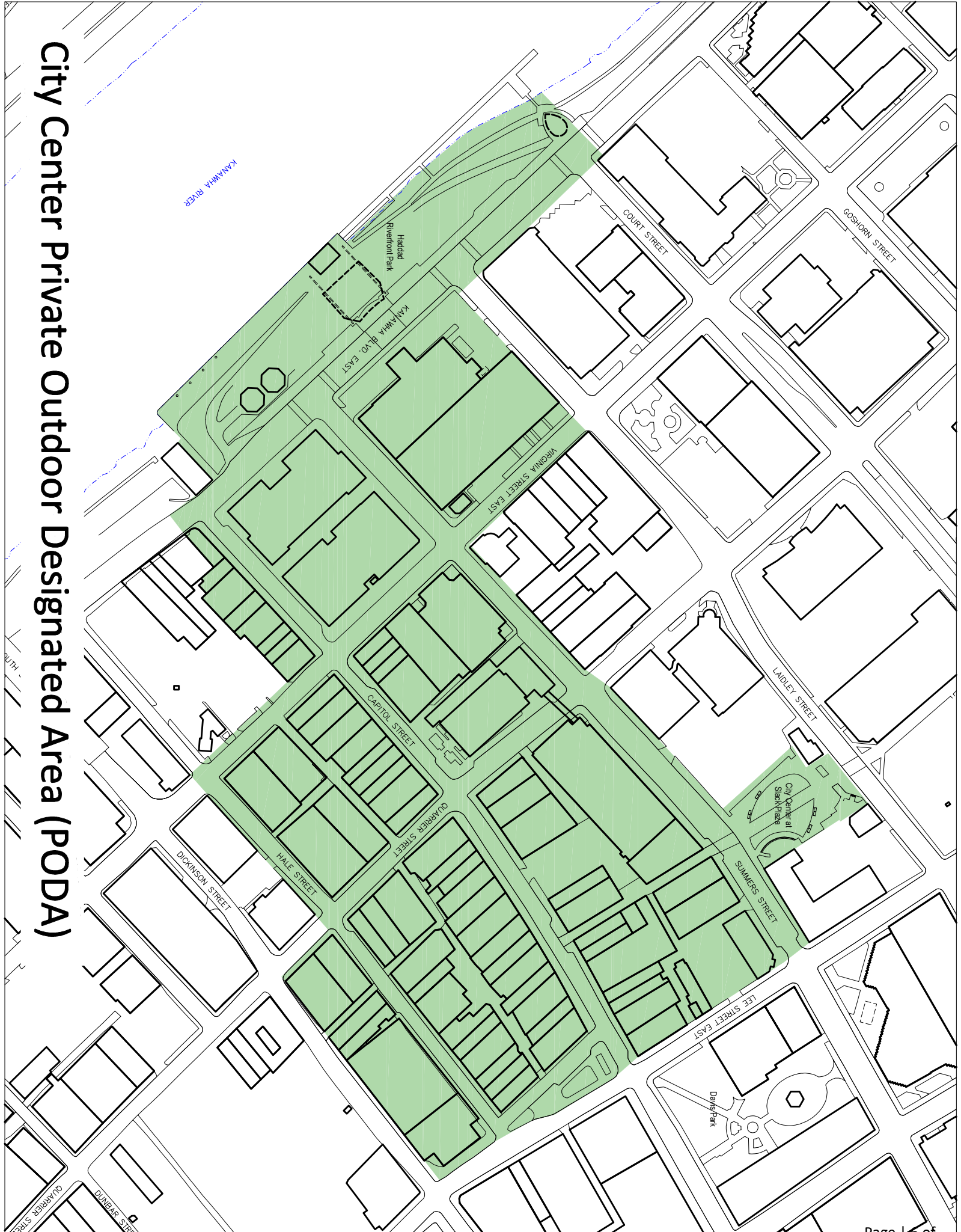
From the audience, Councilmember Taylor asked if the Committee had considered adopting the policy of the State for credentialing media. Councilmember Robinson added that was his initial thought, but he decided to propose the less extreme version in the Committee Substitute.

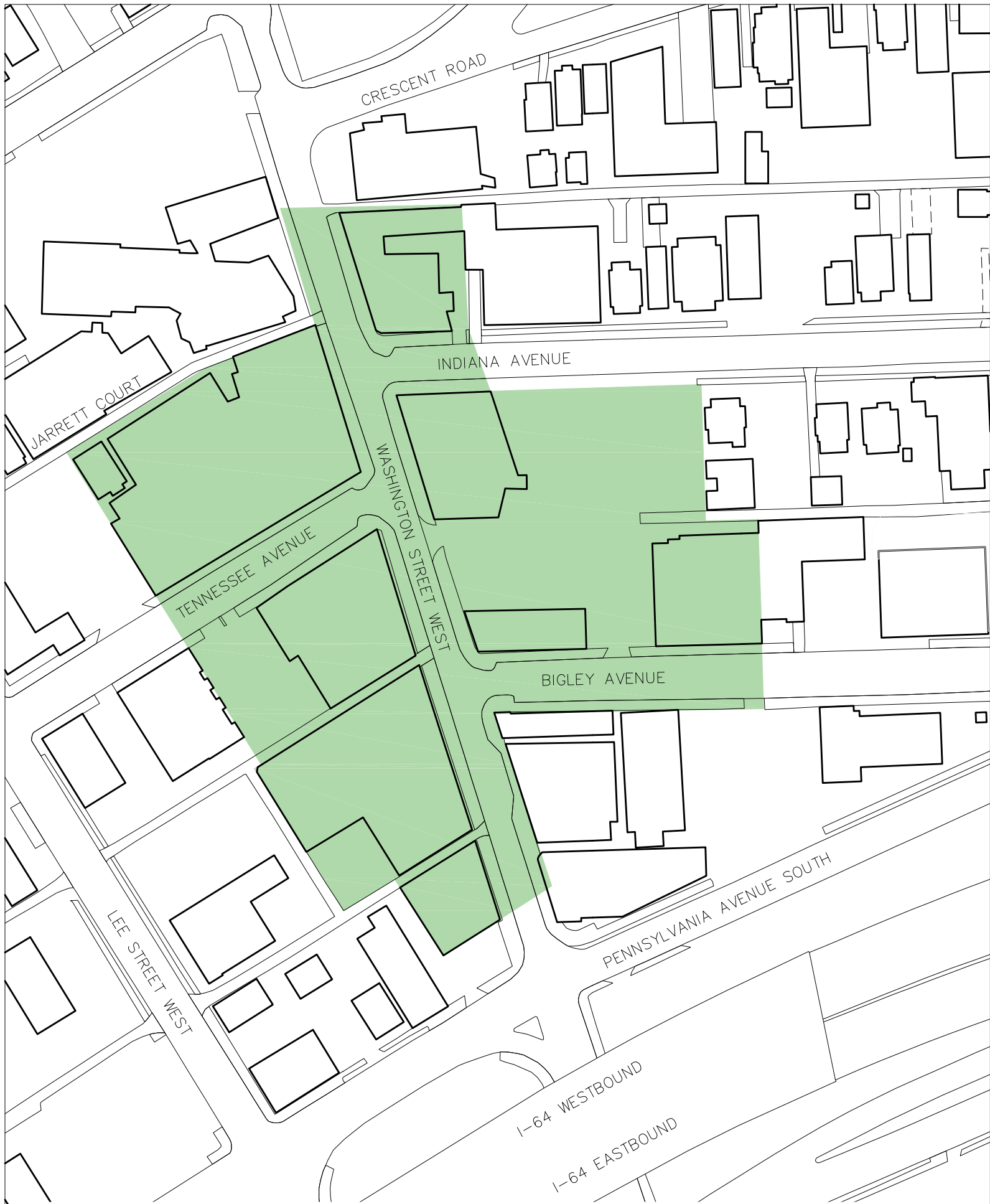
Councilmember Robinson stated that the resolution would be laid over indefinitely. There were no objections.

From the audience, former House of Delegates member Danielle Walker, added that the House did allow media to be at the front of the room during session. Councilmember Robinson confirmed with Walker that the House did have procedures to credential the media.

Councilmember Pepper motioned to adjourn the meeting. Meeting adjourned.

# City Center Private Outdoor Designated Area (PODA)





# Elk City Private Outdoor Designated Area (PODA)

**Bridge Road Private Outdoor Designated Area (PODA)**



**Bill No. 8013**

**Introduced in Council:**

**September 18, 2023**

**Adopted by Council:**

**Referred to:**

**Chad Robinson, Bruce King,  
Frank Annie, Mary Beth Hoover,  
Jennifer Pharr, Shawn Taylor,  
Joseph Jenkins, Sam Minardi and  
Patrick Salango**

**Ordinance & Rules**

1 **Bill No. 8013** - A BILL to amend and reenact Sec. 6-91 of the Municipal Code of the  
2 City of Charleston, as amended; and to amend said Code by adding thereto a new  
3 Article IV within Chapter 6, consisting of 4 divisions, designated Sec. 6-151, 6-152, 6-  
4 153, 6-154, 6-155, 6-156, 6-157, 6-158, 6-166, 6-167, 6-168, 6-171, 6-172, 6-173, 6-  
5 176, 6-177, and 6-178, all relating to authorizing Private Outdoor Designated Areas;  
6 updating prohibitions on drinking in public places; providing details for the operation of  
7 Private Outdoor Designated Areas; creating certain requirements and prohibitions for  
8 businesses and individuals within Private Outdoor Designated Areas; requiring certain  
9 signage be placed to demarcate Private Outdoor Designated Areas; authorizing the City  
10 Manager to take action to revoke permits or suspend Private Outdoor Designated Areas  
11 when public safety so requires; creating the City Center PODA, Bridge Road PODA,  
12 and Elk City PODA; and setting forth day, time, and personnel needed for the operation  
13 of each Private Outdoor Designated Area.

14  
15 **Now, therefore, be it ordained by the Council of the City of Charleston:**

16  
17 That Sec. 6-91 of the Municipal Code of the City of Charleston, as amended, is hereby  
18 amended and reenacted; and that said Code is hereby amended by adding thereto a  
19 new Article IV within Chapter 6, consisting of 4 divisions, designated Sec. 6-151, 6-152,  
20 6-153, 6-154, 6-155, 6-156, 6-157, 6-158, 6-166, 6-167, 6-168, 6-171, 6-172, 6-173, 6-  
21 176, 6-177, and 6-178, all to read as follows:

22  
23 **CHAPTER 6. – ALCOHOLIC BEVERAGES.**

24 **ARTICLE III. – INTOXICATING LIQUOR.**

25 **DIVISION 1. – GENERALLY.**

26  
27 **Sec. 6-91. – Prohibited drinking and prohibited possession.**

28  
29 It shall be unlawful for any person to:

30 (1) Drink alcoholic liquor in a public place except as otherwise provided by  
31 law.

32 (2) Drink alcoholic liquor in a motor vehicle upon any street, open space or

33 in a public garage.

34 (3) Tender a drink of alcoholic liquor to another person ~~in a public place or~~  
35 ~~in any place mentioned in subsection (2) of this section or~~ in a public place, except as  
36 otherwise provided by law.

37 (4) ~~Possess alcoholic liquor in an amount in excess of one gallon, in~~  
38 ~~containers not bearing stamps or seals of the state liquor control commission, without~~  
39 ~~having first obtained written authority from that commission.~~

40 (5) Possess any alcoholic liquor which he or she knows or should know  
41 was manufactured or acquired in violation of the provisions of W. Va. Code Chapter 60  
42 (W. Va. Code § 60-1-1 et seq.).

43  
44 **ARTICLE IV. – PRIVATE OUTDOOR DESIGNATED AREAS.**

45 **DIVISION 1. – GENERALLY.**

46  
47 **Sec. 6-151. – Authorization for Private Outdoor Designated Areas.**

48  
49 Pursuant to West Virginia Code §8-12-26, the City of Charleston hereby adopts  
50 this ordinance establishing private outdoor designated areas, as described in West  
51 Virginia Code § 60-7-8g.

52  
53 **Sec. 6-152. – Private Outdoor Designated Area.**

54  
55 A Private Outdoor Designated Area includes the public property that has become  
56 a legally demarcated area established by a municipal ordinance as set forth in West  
57 Virginia Code §8-12-26 for the consumption of liquor, wine, nonintoxicating beer, and  
58 nonintoxicating craft beer. A person may possess and consume an approved open  
59 container of liquor, wine, nonintoxicating beer, or nonintoxicating craft beer sold from an  
60 approved Class S4 permit holder, as further detailed in this Article, outdoors within a  
61 Private Outdoor Designated Area. A business operating within a Private Outdoor  
62 Designated Area may choose whether or not to permit people to enter its business with  
63 an approved open container of liquor, wine, nonintoxicating beer, or nonintoxicating  
64 craft beer sold from an approved Class S4 permit holder.

65  
66 **Sec. 6-153. – Participation in a Private Outdoor Designated Area.**

67  
68 (a) Any Class A license holder under West Virginia Code §60-7-1 et seq. that  
69 operates in a Private Outdoor Designated Area may apply to the City Manager for the  
70 approval to operate in a Private Outdoor Designated Area. The City Manager shall  
71 review the application to ensure it is complete and meets the following requirements:

72 (1) The applicant is located in an established Private Outdoor Designated  
73 Area, pursuant to this Article, with a front door in compliance with all building and fire  
74 codes for the safe ingress and egress of members, patrons, and guests to and from the  
75 Private Outdoor Designated Area.

76 (2) The applicant has a valid city and state business license and is in good  
77 standing with the city.

78 (3) The applicant has a valid Class A license under West Virginia Code

79 §60-7-1 et seq.  
80

81 (b) Once approved by the City Manager, as indicated by a letter of approval to  
82 the applicant, the license holder may apply to the West Virginia Alcohol Beverage  
83 Control Administration (“WVABCA”) for a special Class S4 permit, as detailed in West  
84 Virginia Code § 60-7-8g, to participate in a Private Outdoor Designated Area, as further  
85 detailed in this Article, in the West Virginia Code, and in any applicable rules of the  
86 WVABCA. Upon approval by the WVABCA, the Class S4 permit holder shall notify the  
87 City Manager’s office. Any business that receives the approval of the City Manager and  
88 a Class S4 permit from the WVABCA may participate in a Private Outdoor Designated  
89 Area.

90  
91 (c) Participation in a Private Outdoor Designated Area does not provide a  
92 business with any authority to operate outdoor dining on the public right of way. Any  
93 business interested in participating in outdoor dining shall follow the requirements of  
94 Chapter 102, Article VII of this Code. A business with an approved outdoor dining area  
95 that is within a Private Outdoor Designated Area may operate its outdoor dining area  
96 simultaneously with its participation in a Private Outdoor Designated Area.

97  
98 **Sec. 6-154. – Containers.**  
99

100 All beverages served from valid Class S4 permit holders for consumption in a  
101 Private Outdoor Designated Area shall be served in a non-glass container not greater  
102 than 16 fluid ounces, which has been approved by the City Manager and the WVABCA.  
103

104 **Sec. 6-155. – Signage and Prohibitions.**  
105

106 (a) Prior to the operation of a Private Outdoor Designated Area, the city shall  
107 erect conspicuous signage. The signs shall be located at every reasonable point where  
108 a pedestrian may exit the Private Outdoor Designated Area by way of a public sidewalk.  
109 The signs shall clearly state “No alcohol beyond this point.” and provide clear notice that  
110 a person is leaving the Private Outdoor Designated Area.

111  
112 (b) A person may not leave a Private Outdoor Designated Area while possessing  
113 an open container of liquor, wine, nonintoxicating beer, or nonintoxicating craft beer that  
114 contains liquid.

115  
116 (c) A person may not possess an open container of liquor, wine, nonintoxicating  
117 beer, or nonintoxicating craft beer that contains liquid while being in, on, or operating a  
118 motor vehicle within a Private Outdoor Designated Area.

119  
120 **Sec. 6-156. – Public Health, Safety, and Sanitation.**  
121

122 (a) All Private Outdoor Designated Areas shall be operated in a manner  
123 consistent with all state and municipal laws. The Charleston Police Department shall be  
124 responsible for ensuring compliance and may issue citations within the Private Outdoor

125 Designated Areas as necessary. The Charleston Police Department shall provide a  
126 copy of any citation issued within a Private Outdoor Designated Area to the WVABCA.

127  
128 (b) In addition to any public restrooms in a Private Outdoor Designated Area,  
129 participating Class S4 permit holders shall make available adequate restroom facilities,  
130 whether permanent or portable, to serve their members and guests during all hours of  
131 operation of the Private Outdoor Designated Area.

132  
133 (c) All businesses operating within a Private Outdoor Designated Area shall  
134 comply with all requirements of the Kanawha-Charleston Health Department.

135  
136 (d) All participating businesses within a Private Outdoor Designated Area shall  
137 make waste receptacles available during the operating hours of the Private Outdoor  
138 Designated Area in a number sufficient to contain the waste generated within the area  
139 and which are emptied regularly by each participating business as needed to ensure  
140 availability. These waste receptacles are in addition to the City of Charleston public  
141 waste receptacles in the area.

142  
143 **Sec. 6-157. – Revocation of City Manager Approval.**

144  
145 The City Manager may revoke the letter of approval of any Class S4 permit  
146 holder when doing so is in the interest of public safety by sending a revocation letter to  
147 both the permit holder and the WVABCA.

148  
149 **Sec. 6-158. – Suspension of Private Outdoor Designated Area.**

150  
151 The City Manager has the authority to suspend the operation of a Private  
152 Outdoor Designated Area immediately when in the interest of public safety by providing  
153 notice to all Class S4 permit holders within the Private Outdoor Designated Area and  
154 the WVABCA.

155  
156 **DIVISION 2. – CITY CENTER PODA**

157  
158 **Sec. 6-166. – Creation and Boundaries.**

159  
160 (a) City Council for the City of Charleston hereby established a Private Outdoor  
161 Designated Area known as “City Center PODA”, which shall have the boundary as  
162 stated in subsection (b) of this section and which shall meet all of the requirements of  
163 this Article and applicable West Virginia Code.

164 (b) The City Center PODA shall begin at the southeastern corner of the  
165 intersection of Virginia Street and Laidley Street, then continue along Virginia Street in  
166 an easterly to Summers Street, then continue along Summers Street in a northerly  
167 direction to Lee Street, including City Center at Slack Plaza, then continue in an easterly  
168 direction along Lee Street to Hale Street, then continue in a southerly direction along  
169 Hale Street to Virginia Street (including the buildings on the northern side of Quarrier  
170 Street between Hale Street and Dickinson Street), then continue in a westerly direction

171 along Virginia Street to Capitol Street, then continue in a southerly direction along  
172 Capitol Street to Kanawha Boulevard, then continue in a westerly direction along  
173 Kanawha Boulevard to include all of Haddad Riverfront Park before continuing in a  
174 northerly direction along Laidley Street to the southeastern corner of the intersection of  
175 Laidley Street and Virginia Street. The City Center PODA shall include the public rights-  
176 of-way within the boundary area and the buildings at or within the following addresses:  
177 600-822 Virginia Street East; 500-800 Kanawha Blvd East; 8-247 Capitol Street; 2-191  
178 Summers Street; 100-235 Hale Street; 701-819 Lee Street East; 700-723 Brawley  
179 Walkway; 700-910 Quarrier Street

180 \_\_\_\_\_ (c) The attached map of the City Center PODA is incorporated herein and made  
181 a part of this ordinance.

182 \_\_\_\_\_ (d) The area within the City Center PODA is in the Central Business District  
183 ("CBD"), which is a zoning area that allows for the sale and consumption of liquor, wine,  
184 nonintoxicating beer and nonintoxicating craft beer, and is in compliance with the zoning  
185 ordinance.

186

187 **Sec. 6-167. – Days and Hours of Operation**

188

189 \_\_\_\_\_ The City Center PODA may operate on any Thursday from 4:00 p.m. until 10:00  
190 p.m., Friday from 4:00 p.m. until 10:00 p.m., Saturday from 10:00 a.m. until 10:00 p.m.,  
191 and Sunday from 10:00 a.m. until 10:00 p.m.

192

193 **Sec. 6-168. – Personnel Needed**

194

195 \_\_\_\_\_ The estimated number of City personnel needed to ensure public safety and  
196 efficient operations in the City Center PODA is four police officers and two public works  
197 employees. The City Council anticipates that these City employees will be working their  
198 regular shifts and generally assigned in this area of the City.

199

200 **DIVISION 3. – BRIDGE ROAD PODA**

201

202 **Sec. 6-171. – Creation and Boundaries.**

203

204 \_\_\_\_\_ (a) City Council for the City of Charleston hereby established a Private Outdoor  
205 Designated Area known as "Bridge Road PODA", which shall have the boundary as  
206 stated in subsection (b) of this section and which shall meet all of the requirements of  
207 this Article and applicable West Virginia Code.

208 \_\_\_\_\_ (b) The Bridge Road PODA shall begin on Bridge Road at a point 115 feet north  
209 of its intersection with Walnut Road and shall continue along Bridge Road in a southerly  
210 direction to a point 115 feet southwest of its intersection with Forest Road; it shall  
211 include the area along Forest Road between Bridge Road and Glen Road and the area  
212 along Walnut Road between Pine Road and Bridge Road, along with the buildings and  
213 lots adjacent to these public rights-of-way. The Bridge Road PODA shall include the  
214 public rights-of-way within the boundary area and the buildings at or within the following  
215 addresses: 912-1038 Bridge Road; 900-908 Walnut Road;

216 \_\_\_\_\_ (c) The attached map of the Bridge Road PODA is incorporated herein and made

217 a part of this ordinance.

218 (d) The area within the Bridge Road PODA is in a C-4 Neighborhood Commercial  
219 District, which is a zoning area that allows for the sale and consumption of liquor, wine,  
220 nonintoxicating beer and nonintoxicating craft beer, and is in compliance with the zoning  
221 ordinance.

222  
223 **Sec. 6-172. – Days and Hours of Operation**

224  
225 The Bridge Road PODA may operate on any Thursday from 4:00 p.m. until 10:00  
226 p.m., Friday from 4:00 p.m. until 10:00 p.m., Saturday from 10:00 a.m. until 10:00 p.m.,  
227 and Sunday from 10:00 a.m. until 10:00 p.m.

228  
229 **Sec. 6-173. – Personnel Needed**

230  
231 The estimated number of City personnel needed to ensure public safety and  
232 efficient operations in the Bridge Road PODA is two police officers and one public works  
233 employee. The City Council anticipates that these City employees will be working their  
234 regular shifts and generally assigned in this area of the City.

235  
236 **DIVISION 4. – ELK CITY PODA**

237  
238 **Sec. 6-176. – Creation and Boundaries.**

239  
240 (a) City Council for the City of Charleston hereby established a Private Outdoor  
241 Designated Area known as “Elk City PODA”, which shall have the boundary as stated in  
242 subsection (b) of this section and which shall meet all of the requirements of this Article  
243 and applicable West Virginia Code.

244 (b) The Elk City PODA shall begin at a point on Washington Street West that is  
245 40 feet northwest of its intersection with Pennsylvania Ave. South and continues in a  
246 westerly direction along Washington Street West to a point that is 75 feet southeast of  
247 its intersection with Crescent Road; it shall include the first 300 feet of public rights-of-  
248 way off Washington Street West on Bigley Ave. and Tennessee Ave., along with the  
249 buildings and lots adjacent to these public rights-of-way. The Elk City PODA shall  
250 include the public rights-of-way within the boundary area and the buildings at or within  
251 the following addresses: 110-320 Washington Street West; 700-715 Bigley Ave.; 608-  
252 617 Tennessee Ave.

253 (c) The attached map of the Elk City PODA is incorporated herein and made a  
254 part of this ordinance.

255 (d) The area within the Elk City PODA is in either a C-10 General Commercial  
256 District or an Urban Corridor District (“UCD”), both of which are zoning areas that allow  
257 for the sale and consumption of liquor, wine, nonintoxicating beer and nonintoxicating  
258 craft beer, and are in compliance with the zoning ordinance.

259  
260 **Sec. 6-177. – Days and Hours of Operation**

261  
262 The Elk City PODA may operate on any Thursday from 4:00 p.m. until 10:00

263 p.m., Friday from 4:00 p.m. until 10:00 p.m., Saturday from 10:00 a.m. until 10:00 p.m.,  
264 and Sunday from 10:00 a.m. until 10:00 p.m.

265

266 **Sec. 6-178. – Personnel Needed**

267

268 The estimated number of City personnel needed to ensure public safety and  
269 efficient operations in the Elk City PODA is two police officers and one public works  
270 employee. The City Council anticipates that these City employees will be working their  
271 regular shifts and generally assigned in this area of the City.