



CITY OF CHARLESTON WEST VIRGINIA



COUNCIL MEMBER – WARD 20

Chad Robinson
793 Lower Donnally Rd.
Charleston, WV 25304
304- 389-7373
chad.robinson@cityofcharleston.org

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 Monday, July 15, 2024
at 5:30 PM. **To be held in person**
AV ROOM #308, CITY HALL

Agenda

APPROVAL OF PREVIOUS MINUTES

1. 7-8-2024

BILLS

1. Bill No. 8039 Committee Substitute - A BILL to amend the Municipal Code by adding a new section related to controlled substances offenses in Municipal Code.
2. Bill No. 8043 - A BILL to amend the Municipal Code by adding a new Section 78-374, entitled "Marijuana laws and penalties," relating to setting penalties for marijuana conviction at a jail sentence of ninety days suspended unconditionally and zero dollars in fines and court costs.
3. Bill No. 8038 - A BILL to amend the Municipal Code relating to expanding the urban deer hunt to allow for urban bear and coyote hunting; authorizing the use of air rifles of .22 caliber or larger to hunt coyotes as part of the urban hunt; and expanding the hours to allow for hunting of coyotes at night on private property.
4. Bill No. 8040 - A BILL to amend the Municipal Code relating to dogs running at large, and the penalties and impoundment therefore.

CR/ns

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

MINUTES

ORDINANCE AND RULES COMMITTEE MEETING

5:00 P. M., JULY 8, 2024

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 5:00 p.m., July 8, 2024.

Committee Members Present:

Chad Robinson, Chair
Frank Annie
Joseph Jenkins
Emmett Pepper

Absent:

Patrick Salango, Vice Chair
Becky Ceperley (attending Planning, Streets and Traffic meeting)
Sam Minardi

Other Councilmembers Present:

Beth Kerns

1. Approval of Previous Minutes –

Councilmember Annie motioned to approve the previous minutes from 7-1-2024. Councilmember Pepper seconded the motion. With those being present having voted unanimously in the affirmative, the Chair declared the minutes as approved as amended.

2. Bill No. 8039 - A BILL to amend the Municipal Code relating to simple possession of controlled substances and the criminal penalties; making first offense simple possession of marijuana and related substances specified in State code a non-jailable offense; clarifying the conditional discharge statutes for first offense possession charges; and updating state law references and other terminology.

AND

Bill No. 8043 - A BILL to amend the Municipal Code of the City of Charleston by adding a new Section 78-374, entitled "Marijuana laws and penalties," relating to lowering the penalty for misdemeanor marijuana possession to the lowest penalty by State Law.

City Attorney Kevin Baker explained that marijuana is a controlled substance under West Virginia law that can be penalized by a fine of up to \$1,000 and jail time of not less than 90 days and no more than 6 months. Bill No. 8039 cleans up City Code to match the State's language. Under current City Code, the first offense is up to 30 days and a \$500 fine, and uses the process of discharging and expunging for first offense with marijuana. The bill also changes the first offense to up to \$100 fine with no jail time. For subsequent offenses, the bill retains the current Code with higher fines and jail time. It also incorporates the definitions and schedules from State Code.

Baker added that the Petition would create a new Section in City Code that defines marijuana per State Code, and states that upon a misdemeanor possession conviction, the jail time of 90 days is suspended unconditionally with a fine of \$0 and no court costs. Baker added that he has a few legal concerns about the petition. State Law only authorizes municipalities to punish by confinement up to 30 days in jail. Although suspended unconditionally, the petition states 90 days. It requires an unconditional suspension of court costs, the collection of which is required by State Law. He was not sure how that could be carried out if the ordinance was enacted. Additionally, the language of the petition calls for language on the ballot is not a fair reflection as to what is stated in the bill. Baker added that under the petition, a defendant would no longer have the ability to appeal their case.

Councilmember Pepper asked if other cities had done something similar to what the petition proposes. Baker replied that he has been found any statutes that specifically require that a sentence be suspended unconditionally, but Ohio sometimes does it in practice.

Councilmember Pepper asked if the ballot language could be corrected. Baker replied that is unclear according to the Charter, however it seemed reasonable that it would be within the Clerk's authority to submit it properly for the ballot. It might also be possible that Council could vote on the proper wording for the ballot.

Councilmember Pepper summarized the options for the Petition as being they could

pass it, or not pass it, at which point it would go on the General ballot. If it would be approved via ballot, Council would not be able to amend it. Baker added that the Petition was referred to the Committee for discussion. Councilmember Pepper confirmed that if the Petition was passed by Council, it could be amended.

Councilmember Jenkins asked if this portion of the Charter was still valid after the passage of the State's municipal code. Baker replied that since this process was last used in the 1950s, he did not see anything that would invalidate it. He did find a section of State Code that authorizes ballot initiatives by Charter that lists a requirement of signatures equal to 10% of registered voters.

Referring to Bill No. 8039, Councilmember Jenkins confirmed that Part A referred to any controlled substance other than marijuana and synthetic cannabinoids. He added that he thought there was a drafting issue causing confusion that made it seem like there was no penalty for all controlled substances. Baker agreed.

Councilmember Annie confirmed that they could reduce fines and jail time, and could keep the system in place that would give the Municipal Judge more options. He asked if this would extend to synthetic marijuana. Baker confirmed that it would as drafted.

Councilmember Pepper asked if they could pass a bill that was in the spirit of the Petitioner bill. Baker replied that he believed that the Petitioner bill could be appropriately withdrawn with a letter from Corey Zinn, as he was the person who submitted the bill and signatures.

Councilmember Robinson added that it seemed like the most direct process would be if the Petition bill were withdrawn, and Bill No. 8039 were amended. Councilmember Jenkins added that the best option would be to advise Council to pass the Petition bill, which can be addressed with the other bill.

Councilmember Pepper suggested that if they passed Bill No. 8039 in the spirit of the Petition bill, that might satisfy the petitioner to withdraw their bill.

Councilmember Pepper confirmed with Baker that if the City did not follow the required 407 Section, then someone could be treated differently in Circuit Court than Municipal Court. Regarding removing the 15 grams limitation, Councilmember Jenkins asked if that would also apply to someone with an unreasonably large amount of marijuana. Baker replied that the totality of circumstances is taken into account to prove possession with intent versus simple possession.

Councilmember Pepper confirmed that the bill states that a person can be placed on probation rather than incarceration if they do not have a previous conviction. Baker replied that was the diversion program, which is currently used as a one-time situation. Regarding the 2nd Pepper Amendment, Councilmember Jenkins expressed concerns that it would open it up too far. He added that the language also states "shall." He suggested a time frame. Councilmember Annie suggested 1 year. Baker clarified with

Councilmember Pepper that the intent of the amendment was to allow use of the program multiple times for the use of marijuana and synthetic cannabinoids only. Councilmember Jenkins suggested that they instead change the language to number of times a deferment can be used.

Regarding the 3rd Pepper amendment, Councilmember Jenkins confirmed that MDVP etc. was also referred to as 'bath salts.' Councilmember Jenkins added that he did not think possible jail time should be removed for offenses involving more harmful substances such as bath salts. Councilmember Robinson agreed.

Regarding the Annie Amendment, Councilmember Jenkins thought it was fine to remove fines for the first offense, but not for subsequent offenses. Councilmember Robinson agreed.

Bill No. 8039:

Councilmember Jenkins motioned to amend Bill No. 8039 to contain the technical changes as previously stated. With those being present having voted unanimously in the affirmative, the Chair declared the amendment as passed.

Councilmember Pepper motioned to amend Bill No. 8039 to remove the 15 grams limitation. With those being present having voted unanimously in the affirmative, the Chair declared the amendment as passed.

Councilmember Pepper motioned to amend Bill No. 8039 to allow a person to qualify for the diversion program regardless of previous convictions. Councilmember Pepper reformed his amendment to allow for a 12-month period deferment between convictions as previously mentioned. With those being present having voted in the majority as affirmative, with a Nay from Jenkins, the Chair declared the amendment as passed.

Councilmember Pepper motioned to amend Bill No. 8039 to remove all instances that listed incarceration on page 4. Councilmember Pepper reformed his amendment to only include marijuana and synthetic cannabinoids. With those being present having voted unanimously in the affirmative, the Chair declared the amendment as passed.

Councilmember Annie motioned to amend Bill No. 8039 to change the language to no fines but include court costs for all marijuana and With those being present having voted unanimously in the affirmative, the Chair declared the amendment as passed. convictions. Councilmember Annie reformed his amendment so that the language referred to the first offense. With those being present having voted unanimously in the affirmative, the Chair declared the amendment as passed.

Councilmember Annie motioned to lay over Bill No. 8039 until the next meeting on July 15, 2024. With those being present having voted unanimously in the affirmative, the Chair declared the motion to lay over Bill No. 8039 as passed.

Councilmember Jenkins motioned to lay over Bill No. 8043 until the next meeting on July 15, 2024. With those being present having voted unanimously in the affirmative, the Chair declared the motion to lay over Bill No. 8043 as passed.

Councilmember Annie motioned to adjourn the meeting. Meeting adjourned.

Bill No. 8039 Committee Substitute

Introduced in Council:

July 1, 2024

Adopted by Council:

Introduced by:

Frank Annie and Chad Robinson

Referred to:

Ordinance & Rules

1 **Bill No. 8039 Committee Substitute** - A BILL to amend and reenact Sections 78-371,
2 78-372, and 78-373 of the Municipal Code of the City of Charleston, as amended, and to
3 amend said Code by adding thereto a new section, designated Section 78-374, all relating
4 updating, clarifying, and reforming the controlled substances offenses in Municipal Code,
5 to incorporating the state code definitions and schedules of controlled substances,
6 reducing the penalties for simple possession of certain controlled substances and the
7 criminal penalties therefore; making ~~first offense~~ simple possession of marijuana and
8 related substances specified in State code a non-jailable offense; clarifying the conditional
9 discharge statutes for ~~first offense simple possession charges;~~ and expanding the
10 possibilities for discharge of controlled substance possession charges; and updating state
11 law references and other terminology.

12
13 **Now, therefore, be it ordained by the Council of the City of Charleston:**

14
15 That Subdivision I of Division 5 of Article V of Chapter 78, specifically, Sections 78-371,
16 78-372, and 78-373 of the Municipal Code of the City of Charleston, as amended, are
17 hereby amended and reenacted and that a new section, designated Section 78-374, is
18 added thereto, all to read as follows:

19
20 **DIVISION 5. - DRUGS AND RELATED OFFENSES**

21
22 **Subdivision I. - In General**

23
24 **Sec. 78-371. -- Definitions and Schedules Incorporated. ~~Conditional discharge for~~
25 ~~first offense of simple possession of controlled substances;~~ ~~possession of 15~~
26 ~~grams or less of marijuana;~~ ~~expungement of records;~~ ~~subsequent offenses.~~**

27
28 ~~(a) Whenever any person who has not previously been convicted of any offense under~~
29 ~~this chapter subdivision or under any statute of the United States or of any state relating~~
30 ~~to controlled substances, narcotic drugs, marijuana, or stimulant, depressant, or~~
31 ~~hallucinogenic drugs, pleads guilty to or is found guilty under this section, the court,~~
32 ~~without entering a judgment of guilt and with the consent of the accused, may defer further~~
33 ~~proceedings and place him or her on probation upon terms and conditions which may~~
34 ~~include, but is not limited to, participation in a substance abuse treatment program. Upon~~
35 ~~violation of a term or condition, the court may enter an adjudication of guilt and proceed~~

36 ~~as otherwise provided. Upon fulfillment of the terms and conditions, the court shall~~
37 ~~discharge the person and dismiss the proceedings against him or her. Discharge and~~
38 ~~dismissal under this section shall be without adjudication of guilt and is not a conviction~~
39 ~~for purposes of this section or for purposes of disqualifications or disabilities imposed by~~
40 ~~law upon conviction of a crime. The effect of the dismissal and discharge shall be to~~
41 ~~restore the person in contemplation of law to the status he or she occupied prior to arrest~~
42 ~~and trial. No person as to whom a dismissal and discharge have been effected shall be~~
43 ~~thereafter held to be guilty of perjury, false swearing, or otherwise giving a false statement~~
44 ~~by reason of his or her failure to disclose or acknowledge his or her arrest or trial in~~
45 ~~response to any inquiry made of him or her for any purpose. There may be only one~~
46 ~~discharge and dismissal under this section with respect to any person.~~

47
48 (b) ~~Notwithstanding any other provision of this section to the contrary, any first offense for~~
49 ~~possession of marijuana shall be disposed of as described in section (a) above. The~~
50 ~~definitions set forth in Article I of the West Virginia Controlled Substances Act at West~~
51 ~~Virginia Code § §60A-1-101, et seq., and the schedules of controlled substances set forth~~
52 ~~in Article II of the West Virginia Controlled Substances Act at West Virginia Code § 60A-~~
53 ~~2-201, et seq., including as they may be amended from time to time, are hereby fully~~
54 ~~incorporated and made a part of this Chapter by reference.~~

55
56 (c) ~~After a period of not less than six months which shall begin to run immediately upon~~
57 ~~the expiration of a term of probation imposed upon any person under this chapter, the~~
58 ~~person may apply to the court for an order to expunge from all official records all~~
59 ~~recordations recordation of his or her arrest, trial, and conviction, pursuant to this section.~~
60 ~~If the court determines after a hearing that the person during the period of his or her~~
61 ~~probation and during the period of time prior to his or her application to the court under~~
62 ~~this section has not been guilty of any serious or repeated violation of the conditions of~~
63 ~~his or her probation, it shall order the expungement.~~

64
65 (d) ~~Notwithstanding any provision of this Code to the contrary, any person prosecuted~~
66 ~~pursuant to the provisions of this article whose case is disposed of pursuant to the~~
67 ~~provisions of this section shall be liable for any court costs assessable against a person~~
68 ~~convicted of a violation of this section. Payment of such costs may be made a condition~~
69 ~~of probation.~~

70
71 (e) ~~Any person convicted of a second or subsequent offense under this section may be~~
72 ~~fined up to \$500.00 and/or sentenced to 30 days in jail. For purposes of this section an~~
73 ~~offense is considered a second or subsequent offense if, prior to his conviction of the~~
74 ~~offense, the offender has at any time been convicted under this Code or under any state~~
75 ~~statute or statute of the United States or of any state relating to narcotic drugs, marijuana,~~
76 ~~depressant, stimulant or hallucinogenic drugs.~~

77
78 **Sec. 78-372. - Purporting to sell controlled substances.**

79
80 (a) ~~No person shall at any time sell any substance which that person purports to be a~~
81 ~~controlled substance, as defined under schedules I through V of article II of the Uniform~~

82 ~~Controlled Substances Act (W. Va. Code § 60A-2-201 et seq.) when in actuality the~~
83 ~~substance sold contains no controlled substances.~~

84
85 (b) Whoever violates the provisions of this section shall, upon conviction, be guilty of a
86 misdemeanor and fined not more than \$100.00 or be imprisoned for a period not to
87 exceed 30 days, or both. Subsequent violations upon conviction shall be punishable by a
88 mandatory \$100.00 fine and, in the discretion of the court, imprisonment not to exceed
89 30 days.

90
91 **Sec. 78-373. - Illegal Simple possession of marijuana, synthetic cannabinoids, and**
92 **other controlled substances; simple possession of marijuana.**

93
94 ~~(a) Simple Possession of Controlled Substances Prohibited. It is unlawful for any person~~
95 ~~knowingly or intentionally to possess a controlled substance, specifically a drug,~~
96 ~~substance or immediate precursor in schedules I through V as set forth in W. Va. Code~~
97 ~~§§ 60A-2-204, 60A-2-206, 60A-2-208, 60A-2-210 and 60A-2-212 (W. Va. Code § 60A-2-~~
98 ~~204, et seq.), unless the substance was obtained directly from or pursuant to, a valid~~
99 ~~prescription or order of a practitioner while acting in the course of his professional~~
100 ~~practice, or except as otherwise authorized by this Code or West Virginia law. Any Except~~
101 ~~as provided in subsection (b) of this section for simple possession of synthetic~~
102 ~~cannabinoids, 3,4-methylenedioxypropylamphetamine (MDPV), 4-methylmethcathinone~~
103 ~~(mephedrone), or less than 15 grams of marijuana, any person who violates this section~~
104 ~~is guilty of a misdemeanor and may be fined up to \$500.00 and/or sentenced to 30 days~~
105 ~~in jail; however, notwithstanding any other provision of this division to the contrary, any~~
106 ~~first offense for possession of 15 grams or less of marijuana shall be disposed of under~~
107 ~~section 78-371(e).~~

108
109 (b) ~~Conditional discharge for first offense of possession.~~

110
111 ~~(1) Whenever any person who has not previously been convicted of any offense under~~
112 ~~this Code or under any state statute or statute of the United States relating to narcotic~~
113 ~~drugs, marijuana, or stimulants, depressant or hallucinogenic drugs pleads guilty to or is~~
114 ~~found guilty of possession of a controlled substance under this section, the court, without~~
115 ~~entering a judgment of guilt and with the consent of the accused, may defer further~~
116 ~~proceedings and place such persons on probation upon terms and conditions. Upon~~
117 ~~violation of a term or condition, the court may enter an adjudication of guilt and proceed~~
118 ~~as otherwise provided. Upon fulfillment of the terms and conditions, the court shall~~
119 ~~discharge the person and dismiss the proceedings against him. Discharge and dismissal~~
120 ~~under this section shall be without adjudication of guilt and is not a conviction for purpose~~
121 ~~of this section or for purpose of disqualifications or disabilities imposed by law upon~~
122 ~~conviction of a crime, including the additional penalties imposed for second or subsequent~~
123 ~~convictions. The effect of such dismissal and discharge shall be to restore such person~~
124 ~~in contemplation of law to the status he occupied prior to such arrest and trial. No person~~
125 ~~as to whom such dismissal and discharge have been effected shall be thereafter held to~~
126 ~~be guilty of perjury, false swearing or otherwise giving a false statement by reason of his~~
127 ~~failure to disclose or acknowledge such arrest or trial in response to any inquiry made of~~

128 him for any purpose. There may be only one discharge and dismissal under this section
129 with respect to any person.

130
131 (2) After a period of not less than six months which shall begin to run immediately upon
132 the expiration of a term of probation imposed upon any person under this division, such
133 person may apply to the court for an order to expunge from all official records all
134 recordings of his arrest, trial and conviction pursuant to this section.

135
136 ~~(b)(a) *Simple Possession of Synthetic Cannabinoids, MDPV, Mephedrone, and Less*~~
137 ~~*Than 15 Grams of Marijuana Prohibited.* It is unlawful for any person knowingly or~~
138 ~~intentionally to possess synthetic cannabinoids, 3,4-methylenedioxypropylvalerone~~
139 ~~(MDPV), 4-methylmethcathinone (mephedrone), or less than 15 grams of marijuana,~~
140 ~~unless the substance was obtained directly from, or pursuant to, a valid prescription or~~
141 ~~order of a practitioner while acting in the course of his or her professional practice, or~~
142 ~~except as otherwise authorized by West Virginia law. Any person who violates this section~~
143 ~~subsection is guilty of a misdemeanor, and, upon a conviction: (1) for a first offense, may~~
144 ~~be fined not more than \$100.00\$0.00; or (2) for a second or subsequent offense, may be~~
145 ~~fined not more than \$500.00, imprisoned not more than 30 days in the regional jail, or~~
146 ~~both fined and imprisoned. Further, notwithstanding any other provision of this code to~~
147 ~~the contrary, whenever a person has not previously been convicted within the previous~~
148 ~~one year of any offense under this subsection-subdivision or under any statute of the~~
149 ~~United States or of any state for relating to controlled substances, narcotic drugs,~~
150 ~~marijuana, or stimulant, depressant, or hallucinogenic drugssimple possession of~~
151 ~~synthetic cannabinoids, MDPV, mephedrone, or less than 15 grams of marijuana, such~~
152 ~~initial conviction shall be disposed of under section 78-371(a)78-374.~~

153
154 ~~(b) *Simple Possession of MDPV and Mephedrone.* It is unlawful for any person knowingly~~
155 ~~or intentionally to possess 3,4-methylenedioxypropylvalerone (MDPV) or 4-~~
156 ~~methylmethcathinone (mephedrone), unless the substance was obtained directly from, or~~
157 ~~pursuant to, a valid prescription or order of a practitioner while acting in the course of his~~
158 ~~or her professional practice, or except as otherwise authorized by West Virginia law. Any~~
159 ~~person who violates this subsection is guilty of a misdemeanor, and, upon a conviction:~~
160 ~~(1) for a first offense, may be fined not more than \$100.00; or (2) for a second or~~
161 ~~subsequent offense, may be fined not more than \$500.00, imprisoned not more than 30~~
162 ~~days in the regional jail, or both fined and imprisoned. Further, notwithstanding any other~~
163 ~~provision of this code to the contrary, whenever a person has not previously been~~
164 ~~convicted of any offense under this subdivision or under any statute of the United States~~
165 ~~or of any state relating to controlled substances, narcotic drugs, marijuana, or stimulant,~~
166 ~~depressant, or hallucinogenic drugs, such initial conviction shall be disposed of under~~
167 ~~section 78-374.~~

168
169 ~~(c) *Simple Possession of Controlled Substances Prohibited.* It is unlawful for any person~~
170 ~~knowingly or intentionally to possess any other controlled substance not specified in~~
171 ~~subsection (a) or (b) of this section, unless the substance was obtained directly from or~~
172 ~~pursuant to, a valid prescription or order of a practitioner while acting in the course of his~~
173 ~~professional practice, or except as otherwise authorized by this Code or West Virginia~~

174 law. Any person who violates this subsection is guilty of a misdemeanor and may be fined
175 up to \$500.00 or confined up to 30 days in jail, or both fined and confined.

176
177 **Sec. 78-374. – Conditional discharge for simple possession of controlled**
178 **substances; expungement of records.**

179
180 (a) Except as otherwise provided in this Code, whenever any person who has not been
181 convicted of any offense under this subdivision or under any statute of the United States
182 or of any state relating to controlled substances, narcotic drugs, marijuana, or stimulant,
183 depressant, or hallucinogenic drugs, pleads guilty to or is found guilty under section 78-
184 373, the court, without entering a judgment of guilt and with the consent of the accused,
185 may defer further proceedings and place him or her on probation upon terms and
186 conditions which may include, but is not limited to, participation in a substance abuse
187 treatment program. Upon violation of a term or condition, the court may enter an
188 adjudication of guilt and proceed as otherwise provided. Upon fulfillment of the terms and
189 conditions, the court shall discharge the person and dismiss the proceedings against him
190 or her. Discharge and dismissal under this section shall be without adjudication of guilt
191 and is not a conviction for purposes of this section or for purposes of disqualifications or
192 disabilities imposed by law upon conviction of a crime. The effect of the dismissal and
193 discharge shall be to restore the person in contemplation of law to the status he or she
194 occupied prior to arrest and trial. No person as to whom a dismissal and discharge have
195 been effected shall be thereafter held to be guilty of perjury, false swearing, or otherwise
196 giving a false statement by reason of his or her failure to disclose or acknowledge his or
197 her arrest or trial in response to any inquiry made of him or her for any purpose. There
198 may be only one discharge and dismissal under this section with respect to any person:
199 Provided, That this limitation does not apply to anyone charged under Section 78-373(a)
200 for possession of marijuana or synthetic cannabinoids.

201
202 (b) After a period of not less than six months which shall begin to run immediately upon
203 the expiration of a term of probation imposed upon any person pursuant to this section,
204 the person may apply to the court for an order to expunge from all official records all
205 recordation of his or her arrest, trial, and conviction. If the court determines after a hearing
206 that the person during the period of his or her probation and during the period of time prior
207 to his or her application to the court under this section has not been guilty of any serious
208 or repeated violation of the conditions of his or her probation, it shall order the
209 expungement.

210
211 (c) Notwithstanding any provision of this Code to the contrary, any person prosecuted
212 pursuant to the provisions of this subdivision whose case is disposed of pursuant to the
213 provisions of this section shall be liable for any court costs assessable against a person
214 convicted of a violation of this subdivision. Payment of such costs may be made a
215 condition of probation.

Bill No. 8039 Committee Substitute

Introduced in Council:

July 1, 2024

Introduced by:

Frank Annie and Chad Robinson

Adopted by Council:

Referred to:

Ordinance & Rules

1 **Bill No. 8039 Committee Substitute** - A BILL to amend and reenact Sections 78-371,
2 78-372, and 78-373 of the Municipal Code of the City of Charleston, as amended, and to
3 amend said Code by adding thereto a new section, designated Section 78-374, all relating
4 updating, clarifying, and reforming the controlled substances offenses in Municipal Code,
5 incorporating the state code definitions and schedules of controlled substances, reducing
6 the penalties for simple possession of certain controlled substances; making simple
7 possession of marijuana and related substances specified in State code a non-jailable
8 offense; clarifying the conditional discharge statutes for simple possession charges; and
9 expanding the possibilities for discharge of controlled substance possession charges.

10
11 **Now, therefore, be it ordained by the Council of the City of Charleston:**

12
13 That Subdivision I of Division 5 of Article V of Chapter 78, specifically, Sections 78-371,
14 78-372, and 78-373 of the Municipal Code of the City of Charleston, as amended, are
15 hereby amended and reenacted and that a new section, designated Section 78-374, is
16 added thereto, all to read as follows:

17
18 **DIVISION 5. - DRUGS AND RELATED OFFENSES**

19
20 **Subdivision I. - In General**

21
22 **Sec. 78-371. – Definitions and Schedules Incorporated.**

23
24 The definitions set forth in Article I of the West Virginia Controlled Substances Act at West
25 Virginia Code § §60A-1-101, et seq., and the schedules of controlled substances set forth
26 in Article II of the West Virginia Controlled Substances Act at West Virginia Code § 60A-
27 2-201, et seq., including as they may be amended from time to time, are hereby fully
28 incorporated and made a part of this Chapter by reference.

29
30 **Sec. 78-372. - Purporting to sell controlled substances.**

31
32 (a) No person shall at any time sell any substance which that person purports to be a
33 controlled substance when in actuality the substance sold contains no controlled
34 substances.

36 (b) Whoever violates the provisions of this section shall, upon conviction, be guilty of a
37 misdemeanor and fined not more than \$100.00 or be imprisoned for a period not to
38 exceed 30 days, or both. Subsequent violations upon conviction shall be punishable by a
39 mandatory \$100.00 fine and, in the discretion of the court, imprisonment not to exceed
40 30 days.

41
42 **Sec. 78-373. - Simple possession of marijuana, synthetic cannabinoids, and other**
43 **controlled substances.**

44
45 (a) *Simple Possession of Synthetic Cannabinoids and Marijuana Prohibited.* It is unlawful
46 for any person knowingly or intentionally to possess synthetic cannabinoids or marijuana,
47 unless the substance was obtained directly from, or pursuant to, a valid prescription or
48 order of a practitioner while acting in the course of his or her professional practice, or
49 except as otherwise authorized by West Virginia law. Any person who violates this
50 subsection is guilty of a misdemeanor, and, upon a conviction: (1) for a first offense, may
51 be fined not more than \$0.00; or (2) for a second or subsequent offense, may be fined
52 not more than \$500.00. Further, notwithstanding any other provision of this code to the
53 contrary, whenever a person has not been convicted within the previous one year of any
54 offense under this subdivision or under any statute of the United States or of any state
55 relating to controlled substances, narcotic drugs, marijuana, or stimulant, depressant, or
56 hallucinogenic drugs, such conviction shall be disposed of under section 78-374.

57
58 (b) *Simple Possession of MDPV and Mephedrone.* It is unlawful for any person knowingly
59 or intentionally to possess 3,4-methylenedioxypyrovalerone (MDPV) or 4-
60 methylmethcathinone (mephedrone), unless the substance was obtained directly from, or
61 pursuant to, a valid prescription or order of a practitioner while acting in the course of his
62 or her professional practice, or except as otherwise authorized by West Virginia law. Any
63 person who violates this subsection is guilty of a misdemeanor, and, upon a conviction:
64 (1) for a first offense, may be fined not more than \$100.00; or (2) for a second or
65 subsequent offense, may be fined not more than \$500.00, imprisoned not more than 30
66 days in the regional jail, or both fined and imprisoned. Further, notwithstanding any other
67 provision of this code to the contrary, whenever a person has not previously been
68 convicted of any offense under this subdivision or under any statute of the United States
69 or of any state relating to controlled substances, narcotic drugs, marijuana, or stimulant,
70 depressant, or hallucinogenic drugs, such initial conviction shall be disposed of under
71 section 78-374.

72
73 (c) *Simple Possession of Controlled Substances Prohibited.* It is unlawful for any person
74 knowingly or intentionally to possess any other controlled substance not specified in
75 subsection (a) or (b) of this section, unless the substance was obtained directly from or
76 pursuant to, a valid prescription or order of a practitioner while acting in the course of his
77 professional practice, or except as otherwise authorized by this Code or West Virginia
78 law. Any person who violates this subsection is guilty of a misdemeanor and may be fined
79 up to \$500.00 or confined up to 30 days in jail, or both fined and confined.

80
81 **Sec. 78-374. – Conditional discharge for simple possession of controlled**

82 **substances; expungement of records.**

83
84 (a) Except as otherwise provided in this Code, whenever any person who has not been
85 convicted of any offense under this subdivision or under any statute of the United States
86 or of any state relating to controlled substances, narcotic drugs, marijuana, or stimulant,
87 depressant, or hallucinogenic drugs, pleads guilty to or is found guilty under section 78-
88 373, the court, without entering a judgment of guilt and with the consent of the accused,
89 may defer further proceedings and place him or her on probation upon terms and
90 conditions which may include, but is not limited to, participation in a substance abuse
91 treatment program. Upon violation of a term or condition, the court may enter an
92 adjudication of guilt and proceed as otherwise provided. Upon fulfillment of the terms and
93 conditions, the court shall discharge the person and dismiss the proceedings against him
94 or her. Discharge and dismissal under this section shall be without adjudication of guilt
95 and is not a conviction for purposes of this section or for purposes of disqualifications or
96 disabilities imposed by law upon conviction of a crime. The effect of the dismissal and
97 discharge shall be to restore the person in contemplation of law to the status he or she
98 occupied prior to arrest and trial. No person as to whom a dismissal and discharge have
99 been effected shall be thereafter held to be guilty of perjury, false swearing, or otherwise
100 giving a false statement by reason of his or her failure to disclose or acknowledge his or
101 her arrest or trial in response to any inquiry made of him or her for any purpose. There
102 may be only one discharge and dismissal under this section with respect to any person:
103 *Provided*, That this limitation does not apply to anyone charged under Section 78-373(a)
104 for possession of marijuana or synthetic cannabinoids.

105
106 (b) After a period of not less than six months which shall begin to run immediately upon
107 the expiration of a term of probation imposed upon any person pursuant to this section,
108 the person may apply to the court for an order to expunge from all official records all
109 recordation of his or her arrest, trial, and conviction. If the court determines after a hearing
110 that the person during the period of his or her probation and during the period of time prior
111 to his or her application to the court under this section has not been guilty of any serious
112 or repeated violation of the conditions of his or her probation, it shall order the
113 expungement.

114
115 (c) Notwithstanding any provision of this Code to the contrary, any person prosecuted
116 pursuant to the provisions of this subdivision whose case is disposed of pursuant to the
117 provisions of this section shall be liable for any court costs assessable against a person
118 convicted of a violation of this subdivision. Payment of such costs may be made a
119 condition of probation.

Bill No. 8043

Introduced in Council:

July 1, 2024 _____

Introduced by:

Citizen Petition _____

Adopted by Council:

Referred to:

Ordinance and Rules Committee

- 1 **Bill No. 8043** - A BILL to amend the Municipal Code of the City of Charleston by adding
- 2 a new Section 78-374, entitled "Marijuana laws and penalties," relating to setting
- 3 penalties for marijuana conviction at a jail sentence of ninety days suspended
- 4 unconditionally and zero dollars in fines and court costs.

Bill No. 8038

Introduced in Council:

July 1, 2024

Introduced by:

Frank Annie and Chad Robinson

Adopted by Council:

Referred to:

Ordinance & Rules

1 **Bill No. 8038** - A BILL to amend and reenact Section 10-171 of the Municipal Code of
2 the City of Charleston, as amended, relating to expanding the urban deer hunt to allow
3 for urban bear and coyote hunting; authorizing the use of air rifles of .22 caliber or larger
4 to hunt coyotes as part of the urban hunt; and continuing to limit the urban hunt for all
5 eligible game to the time period consistent with the West Virginia Division of Natural
6 Resources urban hunt rules while expanding the hours to allow for hunting of coyotes at
7 night on private property.
8

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

10
11 That Section 10-171 of the Municipal Code of the City of Charleston, as amended, be
12 amended and reenacted to read as follows:
13

14 **ARTICLE IV. – URBAN DEER MANAGEMENT HUNTING**

15 **Sec. 10-171. – Urban deer, bear, and coyote management.**

16
17 (a) *Urban hunting conditions.* An urban deer hunt shall be lawful in the City of
18 Charleston only under the following conditions:

19 (1) Hunting shall be by permit only issued under the terms of this chapter.

20 (2) The hunt shall be for deer, bear, and coyote only.

21 (3) Only bows, crossbows, arrows and bolts that comply with applicable state
22 statutes, rules and regulations may be used: Provided, That a person may hunt coyote
23 with an air rifle of .22 caliber or larger and such person hunting coyote with an air rifle is
24 subject to all other rifle and firearm hunting regulations as required by Chapter 20 of the
25 West Virginia Code and any rules promulgated thereunder.

26 (4) Hunting may occur only on property with the written permission of the
27 property owner and on city-owned property which has been designated as available for
28 hunting by the city manager.

29 (5) All deer and bear harvested must be ~~legally checked at an official game~~
30 ~~checking station~~ electronically registered through the West Virginia Electronic Licensing
31 System (ELS) and reported to the city.

32 (6) No hunting may take place within 150 feet of a dwelling or other occupied
33 building.

34 (7) No hunting shall take place closer than 500 feet from the property boundary
35 of school property which contains a school building. For purposes of this section

36 "school" means a public school or private school during periods when students are in
37 attendance or participating in school activities.

38 (8) Persons shall at all times when hunting pursuant to a city permit carry valid
39 photo identification, a copy of their city permit, and their West Virginia state hunting
40 license and any applicable state permit.

41 (9) The transportation of a deer, bear, or coyote carcass along any public right-
42 of-way is prohibited unless it is covered or hidden from public view.

43 (10) All West Virginia hunting rules and regulations apply to hunting within the
44 city.

45 (11) Any hunting activity including, but not limited to, field dressing or other
46 handling of a carcass, must occur on the property specified in the city permit.

47 (12) All hunting shall be conducted from an elevated portable tree stand that is at
48 least ten feet in height and faces the interior of the property. The stands and shooting
49 lanes will be located in such a way as to direct arrows, ~~or~~ bolts, or air rifle projectiles to
50 the interior of the property.

51 (13) Hunting may take place on tracts of five contiguous acres or more and within
52 a sufficient distance from the boundary that an arrow, ~~or~~ bolt, or air rifle projectile cannot
53 reasonably travel outside the permitted tract. Each tract must be approved by the city
54 manager.

55 (14) A property owner can designate and limit other persons allowed to hunt his
56 or her land with a permit.

57 (15) The city will be responsible to ~~dispose~~ for disposing of any wounded deer, ~~or~~
58 deer bear, or coyote carcass found on non-permitted property.

59 (16) Hunting shall be allowed during the maximum time period permitted under
60 state law and regulations promulgated by the West Virginia Division of Natural
61 Resources for an urban deer and bear hunt. Although the West Virginia Division of
62 Natural Resources currently allows for year-round open season hunting of coyotes, the
63 urban coyote hunt shall be limited to the same days as the urban deer and bear hunt,
64 but the hunting of coyotes may occur at night on those days on approved private
65 property tracts.

66
67 (b) *Permits.*

68 (1) In order to obtain a permit, the applicant must meet and have evidence of
69 compliance with all applicable state statutes, regulations and rules applicable to deer or
70 bear hunting with a bow and arrow or a crossbow and arrow or bolt and coyote hunting
71 with an air rifle. The city may impose additional requirements for a hunting permit and
72 may limit the number of permits to be issued.

73 (2) The city may charge an administrative fee for permits not to exceed \$25.00
74 per permit.

75 (3) The city manager is hereby authorized to promulgate reasonable rules and
76 regulations including, but not limited to: (i) setting license fees to regulate hunting; (ii)
77 selecting the tracts to be authorized for hunting as permitted herein; and (iii) promoting
78 safety and facilitating the goals of urban deer, bear, and coyote management.

79 (4) The city shall post the location of tracts approved for hunting on its website.

80
81 (c) *Donated meat.* Hunters are and shall be encouraged but are not required to

82 donate the deer harvest to programs or organizations that will provide the meat to
83 needy persons.

84

85 (d) *Violations.* In addition to any penalties for violations of state hunting laws or
86 regulations, any person violating this section, or the rules and regulations promulgated
87 pursuant to this section, shall be guilty of a misdemeanor and subject to the general
88 penalties as provided in section 1-8 of this Code.

Bill No. 8040

Introduced in Council:

July 1, 2024

Introduced by:

Frank Annie and Chad Robinson

Adopted by Council:

Referred to:

Ordinance & Rules

1 **Bill No. 8040** - A BILL to amend and reenact Sections 10-161, 10-162, and 10-163 of
2 the Municipal Code of the City of Charleston, as amended, relating to dogs running at
3 large, and the penalties and impoundment therefore.
4

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

6
7 That Division 3 of Article III of Chapter 10, specifically, Sections 10-161, 10-162, and
8 10-163 of the Municipal Code of the City of Charleston, as amended, are hereby
9 amended and reenacted to read as follows:
10

11 **DIVISION 3. – IMPOUNDMENT**

12
13 **Sec. 10-161. – Dogs prohibited to run at large; fines.**

14
15 (a) It shall be unlawful for any person to own or keep a dog which ~~runs~~ is at any time
16 running at large in the city. Knowledge or acquiescence by the owner or keeper is not
17 an element of the offense. A dog shall be deemed to be running at large if it is, for any
18 period of time, off the premises of its owner's or keeper's property and not firmly
19 attached to a leash or chain under the owner or keeper's direct physical control,
20 Provided That, An animal a dog shall not be deemed to be running at large if:

21
22 ~~(1) The dog is firmly attached to a leash or chain under the physical control of its owner;~~
23 ~~or~~

24
25 ~~(2)~~(1) The dog is within a closed structure or within a fence enclosure with the
26 permission of the owner of the structure or fence enclosure; or

27
28 ~~(3)~~(2) The dog ~~has~~ is wearing an operating electronic collar and is under the charge or
29 control of its owner or keeper who is operating an electronic pet containment system or
30 electronic training system for the animal; Provided That,
31 ~~Notwithstanding~~~~notwithstanding~~ this subsection, all dogs on the public right-of-way in
32 the central business district zoning district (downtown area) must be kept on a leash or
33 chain under the direct physical control of its owner or keeper; or

34
35 ~~(4)~~(3) The dog is under the supervision of its owner or keeper and is using an off-leash

36 dog park in accordance with the rules and regulations for the off-leash dog park.

37
38 (b) Any dog on property without the permission of the property owner shall be deemed
39 to be a dog at large, and the owner or keeper of such animal shall be in violation of this
40 section.

41
42 (c) The provisions of this section shall not apply to any persons who ~~have~~has a physical
43 disability or visual impairment, ~~are~~is using a service dogs, and can provide upon
44 demand by ~~an~~a humane officer or police officer adequate documentation that the
45 service dog is an animal trained by an accredited institution which trains dogs for
46 service work for the physically disabled or visually impaired.

47
48 (d) Any person found guilty of dog running at large as defined herein shall be punished
49 by a fine as follows: ~~\$30.00 not more than \$50.00~~ for the first offense within a 24-month
50 period; ~~\$40.00 for the second offense within a 24-month period;~~ ~~\$60.00 for the third~~
51 ~~offense within a 24-month period;~~ ~~\$100.00 for the fourth offense within a 24-month~~
52 ~~period; and \$250.00 for the fifth and not less than \$50.00 nor more than \$500.00 for any~~
53 ~~second or subsequent offenses within a 24-month period~~ of a conviction for a prior
54 offense. The municipal court judge shall have ~~no~~ authority to suspend or reduce the
55 fine; ~~provided that with regard to a fifth or subsequent offense within a 24-month period,~~
56 ~~the municipal court judge shall have the authority to reduce the fine to an amount no~~
57 ~~less than \$100.00~~ if the defendant agrees to forfeit ownership of the animal~~dog~~. In such
58 cases all interest of the animal shall vest to the humane association for appropriate
59 disposition. All fines arising from convictions for violations of this section shall be in
60 addition to any applicable court costs or impoundment fees.

61
62 **Sec. 10-162. - Aggressive dogs prohibited to run at large defined; fines.**

63
64 (a) It shall be unlawful for any person to own or keep an aggressive dog which ~~runs~~ is at
65 any time running at large in the city. Knowledge or acquiescence by the owner or
66 keeper is not an element of the offense. An aggressive dog at large means any dog
67 running at large as defined in Section 10-161 that, without provocation, exhibits
68 aggressive or combative behavior toward a person or another domestic animal, whether
69 said person or domestic animal is physically attacked or bitten.

70
71 (b) Any person found guilty of an aggressive dog at large shall be punished by a fine as
72 follows: ~~\$60.00 not more than \$50.00~~ for the first offense within a 24-month period;
73 ~~\$80.00 for the second offense within a 24-month period;~~ ~~\$120.00 for the third offense~~
74 ~~within a 24-month period;~~ ~~\$200.00 for the fourth offense within a 24-month period;~~ and
75 ~~\$500.00 for a fifth or not less than \$50.00 nor more than \$1,000.00 for any second or~~
76 ~~subsequent offense within a 24-month period~~ of a conviction for a prior offense. The
77 municipal court judge shall have ~~no~~ authority to suspend or reduce the fine; ~~provided~~
78 ~~that with regard to a fifth or subsequent offense within a 24-month period, the municipal~~
79 ~~court judge shall have the authority to reduce the fine to an amount no less than~~
80 ~~\$100.00~~ if the defendant agrees to forfeit ownership of the animal~~dog~~. In such cases all
81 interest of the animal shall vest to the humane association for appropriate disposition. All

82 fines arising from convictions for violations of this section shall be in addition to any
83 applicable court costs or impoundment fees.

84
85 **Sec. 10-163. - Impounding, redemption and disposition of dog running at large.**

86
87 (a) A dog found running at large within the corporate limits of the city contrary to the
88 provisions of ~~section~~Section 10-161 or Section 10-162 may be impounded at the
89 humane association by a humane officer or police officer. The humane officer or police
90 officer shall make a record of all dogs so impounded with their description, date of
91 impoundment and rabies vaccination number.

92
93 (b) The owner of any dog impounded pursuant to the provisions of this article must
94 appear and claim the said dog within five days from the date the dog is impounded.~~If~~
95 ~~or, upon expiration of the dog is not claimed within five days of impoundment, the five-~~
96 ~~day time period,~~ the owner shall be deemed to have forfeited all interest in the dog and
97 ~~the dog it~~ shall be deemed abandoned. All interest in such dog shall immediately, by
98 operation of law, vest to the humane association for adoption or other disposition. If the
99 owner appears to claim the dog within the five-day time period, said dog may be
100 released to him or her only upon satisfaction of the following conditions:

101
102 (1) Proof that the dog is currently immunized against rabies, or, in the absence of such
103 proof, reimbursement to the humane association for the costs incurred for administering
104 a rabies vaccine or providing a voucher for a rabies vaccine;

105
106 (2) Proof that the dog is currently licensed pursuant to Sections 10-141 and 10-142 of
107 Division 2 of this Article, and, if required, registered pursuant to West Virginia Code
108 Section 19-20-2, or, in the absence of such proof, reimbursement to the humane
109 association for any costs incurred for obtaining a valid dog license and license tag, and,
110 if required, certificate of registration and registration tag;

111
112 ~~(2)~~(3) Reimbursement to the humane association for any and all reasonable expenses
113 incurred for necessary medical care provided to the dog; and

114
115 ~~(3)~~(4) Payment of the following fees to the humane association:

116
117 a.(A) Impoundment and initial board fee for the first 24-hour period or any part thereof of
118 \$30.00;

119
120 b.(B) An additional fee of \$5.00 for each additional 24-hour period up to a maximum of
121 five days.

Bill No. 8040 Committee Substitute

Introduced in Council:

July 1, 2024

Introduced by:

Frank Annie and Chad Robinson

Adopted by Council:

Referred to:

Ordinance & Rules

Bill No. 8040 Committee Substitute - A BILL to amend and reenact Sections 10-161, 10-162, and 10-163 of the Municipal Code of the City of Charleston, as amended, relating to dogs running at large, and the penalties and impoundment therefore.

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

That Division 3 of Article III of Chapter 10, specifically, Sections 10-161, 10-162, and 10-163 of the Municipal Code of the City of Charleston, as amended, are hereby amended and reenacted to read as follows:

DIVISION 3. – IMPOUNDMENT

Sec. 10-161. – Dogs prohibited to run at large; fines.

(a) It shall be unlawful for any person to own or keep a dog which ~~runs~~ is at any time running at large in the city. Knowledge or acquiescence by the owner or keeper is not an element of the offense. A dog shall be deemed to be running at large if it is, for any period of time, off the premises of its owner's or keeper's property and not firmly attached to a leash or chain under the owner or keeper's direct physical control, Provided That, An animal a dog shall not be deemed to be running at large if:

~~(1) The dog is firmly attached to a leash or chain under the physical control of its owner;~~
~~or~~

~~(2)~~(1) The dog is within a closed structure or within a fence enclosure with the permission of the owner of the structure or fence enclosure; or

~~(3)~~(2) The dog ~~has~~ is wearing an operating electronic collar and is under the charge or control of its owner or keeper who is operating an electronic pet containment system or electronic training system for the animal; Provided That, ~~Notwithstanding~~notwithstanding this subsection, all dogs on the public right-of-way in the central business district zoning district (downtown area) must be kept on a leash or chain under the direct physical control of its owner or keeper; or

~~(4)~~(3) The dog is under the supervision of its owner or keeper and is using an off-leash

36 dog park in accordance with the rules and regulations for the off-leash dog park.

37
38 (b) Any dog on property without the permission of the property owner shall be deemed
39 to be a dog at large, and the owner or keeper of such animal shall be in violation of this
40 section.

41
42 (c) The provisions of this section shall not apply to any persons who ~~have~~has a physical
43 disability or visual impairment, ~~are~~is using a service dogs, and can provide upon
44 demand by ~~an~~a humane officer or police officer adequate documentation that the
45 service dog is an animal trained by an accredited institution which trains dogs for
46 service work for the physically disabled or visually impaired.

47
48 (d) Any person found guilty of dog running at large as defined herein shall be punished
49 by a fine as follows: ~~\$30.00 not more than \$50.00~~ for the first offense within a 24-month
50 period; ~~\$40.00 for the second offense within a 24-month period;~~ ~~\$60.00 for the third~~
51 ~~offense within a 24-month period;~~ ~~\$100.00 for the fourth offense within a 24-month~~
52 ~~period; and \$250.00 for the fifth and not less than \$50.00 nor more than \$500.00 for any~~
53 ~~second or subsequent offenses within a 24-month period~~ of a conviction for a prior
54 offense. The municipal court judge shall have ~~no~~ authority to suspend or reduce the
55 fine; ~~provided that with regard to a fifth or subsequent offense within a 24-month period,~~
56 ~~the municipal court judge shall have the authority to reduce the fine to an amount no~~
57 ~~less than \$100.00~~ if the defendant agrees to forfeit ownership of the animal~~dog~~. In such
58 cases all interest of the animal shall vest to the humane association for appropriate
59 disposition. All fines arising from convictions for violations of this section shall be in
60 addition to any applicable court costs or impoundment fees.

61
62 **Sec. 10-162. - Aggressive dogs prohibited to run at large defined; fines.**

63
64 (a) It shall be unlawful for any person to own or keep an aggressive dog which ~~runs~~ is at
65 any time running at large in the city. Knowledge or acquiescence by the owner or
66 keeper is not an element of the offense. An aggressive dog at large means any dog
67 running at large as defined in Section 10-161 that, without provocation, exhibits
68 aggressive or combative behavior toward a person or another domestic animal, ~~whether~~
69 ~~and~~ said person or domestic animal is either physically attacked or bitten, or the person
70 or domestic animal's owner or keeper reasonably believes an attack or bite is imminent.

71
72 (b) Any person found guilty of an aggressive dog at large shall be punished by a fine as
73 follows: ~~\$60.00 not more than \$50.00~~ for the first offense within a 24-month period;
74 ~~\$80.00 for the second offense within a 24-month period;~~ ~~\$120.00 for the third offense~~
75 ~~within a 24-month period;~~ ~~\$200.00 for the fourth offense within a 24-month period;~~ and
76 ~~\$500.00 for a fifth or not less than \$50.00 nor more than \$1,000.00 for any second or~~
77 ~~subsequent offense within a 24-month period~~ of a conviction for a prior offense. The
78 municipal court judge shall have ~~no~~ authority to suspend or reduce the fine; ~~provided~~
79 ~~that with regard to a fifth or subsequent offense within a 24-month period,~~ the municipal
80 court judge shall have the authority to reduce the fine to an amount no less than
81 \$100.00 if the defendant agrees to forfeit ownership of the animal~~dog~~. In such cases all

82 interest of the animal shall vest to the humane association for appropriate disposition. All
83 fines arising from convictions for violations of this section shall be in addition to any
84 applicable court costs or impoundment fees.

85
86 **Sec. 10-163. - Impounding, redemption and disposition of dog running at large.**

87
88 (a) A dog found running at large within the corporate limits of the city contrary to the
89 provisions of ~~section~~Section 10-161 or Section 10-162 may be impounded at the
90 humane association by a humane officer or police officer. The humane officer or police
91 officer shall make a record of all dogs so impounded with their description, date of
92 impoundment and rabies vaccination number.

93
94 (b) The owner of any dog impounded pursuant to the provisions of this article must
95 appear and claim the said dog within five days from the date the dog is impounded.~~If~~
96 ~~or, upon expiration of the dog is not claimed within five days of impoundment, then~~five-
97 day time period, the owner shall be deemed to have forfeited all interest in the dog and
98 ~~the dog it~~ shall be deemed abandoned. All interest in such dog shall immediately, by
99 operation of law, vest to the humane association for adoption or other disposition. If the
100 owner appears to claim the dog within the five-day time period, said dog may be
101 released to him or her only upon satisfaction of the following conditions:

102
103 (1) Proof that the dog is currently immunized against rabies, or, in the absence of such
104 proof, reimbursement to the humane association for the costs incurred for administering
105 a rabies vaccine or providing a voucher for a rabies vaccine;

106
107 (2) Proof that the dog is currently licensed pursuant to Sections 10-141 and 10-142 of
108 Division 2 of this Article, and, if required, registered pursuant to West Virginia Code
109 Section 19-20-2, or, in the absence of such proof, reimbursement to the humane
110 association for any costs incurred for obtaining a valid dog license and license tag, and,
111 if required, certificate of registration and registration tag;

112
113 ~~(2)(3)~~ Reimbursement to the humane association for any and all reasonable expenses
114 incurred for necessary medical care provided to the dog; and

115
116 ~~(3)(4)~~ Payment of the following fees to the humane association:

117
118 ~~a-~~(A) Impoundment and initial board fee for the first 24-hour period or any part thereof of
119 \$30.00;

120
121 ~~b-~~(B) An additional fee of \$5.00 for each additional 24-hour period up to a maximum of
122 five days.