



# 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](mailto: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, November 18, 2024 at 5:45 PM. **To be held in person**  
**AV ROOM #308, CITY HALL**

### Agenda

#### APPROVAL OF PREVIOUS MINUTES

1. August 15, 2024

#### DISCUSSION

1. Discussion of Pedestrian and Vehicle Safety

CR/ns

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

# MINUTES

## ORDINANCE AND RULES COMMITTEE MEETING

5:00 P. M., AUGUST 15, 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., August 15, 2024.

### **Committee Members Present:**

Chad Robinson, Chair

Patrick Salango, Vice Chair

Frank Annie

Becky Ceperley

Joseph Jenkins

Sam Minardi (via Zoom)

Emmett Pepper (via Zoom – arrived after approval of minutes)

### **Absent:**

### **Other Councilmembers Present:**

Joe Solomon

Caitlin Cook

Jennifer Pharr

Mary Beth Hoover

Jeanine Faegre

Chuck Overstreet

Shannon Snodgrass

### 1. Approval of Previous Minutes –

Councilmember Annie motioned to approve the previous minutes from 7-15-2024. Councilmember Ceperley 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 Committee Substitute - A BILL to amend the Municipal Code relating to updating, clarifying, and reforming the controlled substances offenses in the Municipal Code, incorporating the state code definitions and schedules of controlled substances, reducing the penalties for simple possession of certain controlled substances; making simple possession of marijuana a non-jailable offense; clarifying the conditional discharge statutes for simple possession charges; and expanding the possibilities for discharge of controlled substance possession charges.

City Attorney Kevin Baker explained that after the bill was sent back to Committee from Council floor, the Administration met with a group that were supporters of the recently submitted petition. The revised Committee Substitute is a result of that discussion. The current version:

- Incorporates the State's schedules and definitions.
- Removed duplicate and confusing language
- Makes simple possession of less than 15 grams of marijuana a misdemeanor, and lowers the punishment of first offense to no fine, up to \$250 for second offense and up to \$500 for third and subsequent offenses.
- Requires that a person charged with less than 15 grams of marijuana be given the conditional discharge program in State Law, providing they do not have any drug related charges within the last year.
- For synthetic cannabinoids, first offense is punishable by up to \$100 fine, up to \$500 and up to 30 days in jail for second and subsequent charges.

Councilmember Minardi asked how substantial 15 grams of marijuana was.

Councilmember Robinson replied the amount was in the original ordinance. Baker added that the number also comes from State Law, and is generally considered to be a small amount.

Councilmember Ceperley asked why "simple" replaced "illegal" in Section 78-373. Baker replied that it was changed to be consistent with State Law.

Councilmember Ceperley asked if synthetic cannabis was found to be more dangerous. Baker replied that they were, which is why the penalty for second and subsequent offenses was not reduced.

Councilmember Ceperley asked why there was a need to alter the Code with these changes. Councilmember Robinson replied that it was to mirror State Code as City Code had not been changed since approximately 2011. He added that the proposed bill does not legalize marijuana. Baker added that the penalties in State Code are slightly more than what is in the proposed bill as the City is limited to a max of 30 day jail sentence. Baker added that the bill more accurately reflects the current practice of the Municipal Court. Attorney Davis Potters added that the current City Code contains bad language and formatting.

Councilmember Robinson added that the penalties were changed because the Court

was not jailing anyone for simple possession. Councilmember Jenkins added that the policies could change when there is a new judge, so putting them into Code means that they cannot be changed by the Judge. Councilmember Jenkins added that he thought it was ridiculous to spend money to jail people for simple possession. Councilmember Ceperley added that destigmatizing marijuana possession encourages people to go to a drug dealer where the product is not regulated. Councilmember Robinson added that he was uncomfortable with unlimited forgiveness of simple possession. Councilmember Annie added that the changes are meant to help people keep their first offense off the record via discharge as one charge of simple possession could keep someone from being admitted to a graduate program, for example.

From the audience, Councilmember Faegre confirmed with Councilmember Robinson that a State Trooper would not be required to follow the City Code. Councilmember Faegre added that she thought the fines were too low, especially for second and third offenses.

From the audience, Councilmember Solomon asked about the court fees associated with the bill. Baker replied that State Code required that the City collect a court fee of \$72 per criminal matter and \$62 per traffic matter. Those fees will not currently be waived.

Councilmembers Jenkins and Cook requested to be added as a sponsor.

Councilmember Faegre asked the Committee to consider raising the fines for second and third offenses.

Councilmember Solomon added that, in his opinion, the fines seemed substantial and would be a financial impact for a lot of people.

From the audience, Councilmember Pharr added she would support changing the fines to be higher. Councilmember Ceperley agreed.

Councilmember Pepper thanked the sponsors of the bill for the hard work put into the bill.

Councilmember Robinson requested that in support of higher fines for simple possession take into consideration the fines of other substance possession in City Code. He would want all fines to be considered in a comprehensive review.

Councilmember Minardi confirmed that the fine for first offense of a DUI is likely up to \$500, and would be issued through the Magistrate Court. Councilmember Minardi added that he did not think the objective of a fine was to be affordable. He agreed with taking a holistic approach to possession fines.

Councilmember Solomon asked the Committee to consider the racial disparity around cannabis possession.

Councilmember Jenkins motioned to approve Bill No. 8039 Committee Substitute. Councilmember Annie seconded. With those being present having voted in the majority in the affirmative, with one recognized Nay from Ceperley, the Chair declared Bill No. 8039 Committee Substitute as approved.

Councilmember Annie motioned to adjourn the meeting. Meeting adjourned.

**Bill No. \_\_\_\_\_ :**

**Introduced in Council:**

**Adopted by Council:**

**Introduced by:**

**Referred to:**

**Bill No. \_\_\_\_\_ :** A BILL to amend the Municipal Code of the City of Charleston, as amended, by adding thereto a new section, designated Sec. 114-25, relating to regulating and eliminating hazards to public health and safety by prohibiting certain conduct by pedestrians and vehicle operators within areas of concern.

WHEREAS, West Virginia Code § 8-12-5 grants municipalities plenary power and the authority to regulate or eliminate hazards to public health and safety by enacting ordinances or resolutions; and

WHEREAS, West Virginia Code § 17C-10-1(b) grants local authorities the power to enact ordinances prohibiting pedestrians from crossing any roadway in a business district or any designated highways except in a crosswalk; and

WHEREAS, the City Council for the City of Charleston hereby declares that this ordinance is necessary to regulate and eliminate hazards to public health and safety relating to pedestrian and vehicle safety.

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

That the Municipal Code of the City of Charleston, as amended, be amended by adding thereto a new section, designated Sec. 114-25, to read as follows:

**CHAPTER 114 – TRAFFIC ORDINANCE.**

**ARTICLE I – IN GENERAL.**

**Sec. 114-25 – Public Safety and Areas of Concern.**

(a) Findings. The City Council for the City of Charleston, West Virginia, finds that public safety is a compelling and significant governmental interest. The City Council for the Cit of Charleston, West Virginia, further finds a significant safety risk to both pedestrians and occupants of vehicles in areas possessing, without limitation, any, some, or all of the following characteristics:

(1) Intersections where at least one roadway has an annual average daily traffic volume of 4,000 or more vehicles per through lane;

(2) Roads, roadways, or highways with speed limits of at least 25 miles an hour;

- (3) Medians of roads or highways that are less than 10 feet wide;
- (4) Roads or highways with poor or no lighting at night;
- (5) Roads or highways during inclement weather conditions that limit the visibility of both pedestrians and occupants of vehicles;
- (6) Intersections of roadways used to dispatch emergency vehicles; or
- (7) Roads, streets, or highways under construction or repair.

The City Council for the City of Charleston, West Virginia, finds that areas possessing, without limitation, any, some, or all of those characteristics are deemed "Areas of Concern." The City of Charleston may publish a list of the Areas of Concern on the City of Charleston website and generally through other means, which it may update from time to time.

The City Council for the City of Charleston, West Virginia, finds that the interaction or exchanging of items between pedestrians and occupants of vehicles hinders the flow of traffic of roadways and increases the risk of single-vehicle, vehicle-on-vehicle, or vehicle-on-pedestrian accidents, which the City Council finds to be a hazard to public safety.

The City Council for the City of Charleston, West Virginia, finds that the interaction or exchanging of items between occupants of vehicles and occupants of other vehicles hinders the flow of traffic on roadways and increases the risk of single-vehicle, vehicle-on-vehicle, or vehicle-on-pedestrian accidents, which the City Council finds to be a hazard to public safety.

Consequently, the City Council for the City of Charleston, West Virginia, finds that the issues of pedestrian and vehicle safety are significant and compelling as to justify the enactment of this Ordinance under the statutory authorities set forth in the title to this Bill, the laws of West Virginia, and the laws of the United States.

(b) Prohibitions. Within any Area of Concern, it shall be unlawful:

(1) For any person to make any use of the public right-of-way in a manner that interferes with the safe and efficient movement of people and property from place to place on a public road or right-of-way.

(2) For any person to stop, stand, or otherwise occupy or remain in a median on any public road or right-of-way when that person is not in the process of lawfully crossing the road in accordance with applicable traffic safety laws.

(3) For any person to engage in any physical interaction between a pedestrian and an occupant of a motor vehicle, including but not limited to the transfer of any product or material, while the motor vehicle is not legally parked and is located on the traveled portion of a public road. The traveled portion of a public road (including travel lanes, turn lanes, bike lanes, and shoulders) that is normally used by moving motor vehicle traffic and is not an area designated for or routinely used as a parking area of the general public.

(4) For any person within a road, street, or highway to reach out to interact with or exchange items with any occupant of a vehicle entering on, or departing a roadway.

(5) For any occupant of a vehicle entering on, or departing a roadway to reach out of or attempt to reach out of his or her vehicle to interact with or exchange items with another occupant of a vehicle or any person within a road, street, or highway.

82 (6) For any person to stand, sit, or otherwise physically remain within the  
83 roadway for any reason apart from the lawful crossing of a road, street, or highway.

84 (7) For any person to stand, sit, or otherwise remain in the median of a  
85 road, street, or highway where the median is not wider than 10 feet for any reason apart  
86 from the lawful crossing of a road, street, or highway.

87 (8) For any person to stand, sit, or otherwise remain in the median, neutral  
88 ground, shoulder, or other part of the road, street, or highway where the intersection has  
89 one roadway with an annual average daily traffic volume of 4,000 or more vehicles per  
90 through lane.

91 (9) For any person to stand, sit, or otherwise remain in the median, neutral  
92 ground, shoulder, or other part of the road, street, or highway where the road, street, or  
93 highway has a speed limit exceeding 25 miles an hour for any reason apart from the  
94 lawful crossing of the road, street, or highway.

95 (10) For any person to stand, sit, or otherwise remain in the median,  
96 neutral ground, shoulder, or other part of the road, street, or highway at night, meaning  
97 after sunset, and/or where the roadway has poor or no lighting for any reason apart  
98 from the lawful crossing of a road, street, or highway.

99 (11) For any person to stand, sit, or otherwise remain in the median,  
100 neutral ground, shoulder, or other part of the road, street, or highway during inclement  
101 weather conditions that limit the visibility of pedestrians and occupants of vehicles on  
102 the road, street, or highway for any reason apart from the lawful crossing of a road,  
103 street, or highway.

104 (12) For any person to stand, sit, or otherwise remain in the median,  
105 neutral ground, shoulder, or other part of the road, street, or highway where the  
106 intersection is regularly used to dispatch emergency vehicles for any reason apart from  
107 the lawful crossing of a road, street, or highway.

108 (13) For any person to stand, sit, or otherwise remain in the median,  
109 neutral ground, shoulder, or other part of the road, street, or highway where the road,  
110 street, or highway is under construction or repair for any reason apart from the lawful  
111 crossing of a road, street, or highway.

112  
113 (c) *Enforcement.* This section of Municipal Code may be enforced by the City of  
114 Charleston, West Virginia, Police Department as the municipal law enforcement agency  
115 by issuing citations, making arrests if necessary, or issuing charges if necessary. The  
116 City of Charleston may provide public signs as notice of the prohibitions contained in  
117 this section.

118  
119 (d) *Penalties.* Any violation of the prohibitions in this section shall be subject to  
120 the following penalties:

121 (1) For a first offense, (a) a pedestrian offender will be required to leave  
122 the road, street, or highway and be given an oral warning, the offender will provide their  
123 name and address to the officer, and the offender may be given an information sheet  
124 regarding the prohibitions contained in this section, and (b) a driver or occupant of a  
125 vehicle will be issued a warning by the officer using the vehicle and driver information  
126 and the officer may provide an information sheet regarding the prohibitions contained in  
127 this section.

128 (2) For a second offense, (a) a pedestrian offender will be required to  
129 leave the road, street, or highway and be given a written warning, the offender will  
130 provide their name and address to the officer, and the offender may be given an  
131 information sheet regarding the prohibitions contained in this section, and (b) a driver or  
132 occupant of a vehicle will be issued a warning by the officer using the vehicle and driver  
133 information and the officer may provide an information sheet regarding the prohibitions  
134 contained in this section.

135 (3) For each subsequent offense(s), a pedestrian, driver, or occupant of a  
136 vehicle offender shall be issued a citation and, upon conviction, be subject to a fine of  
137 up to \$100.00 or community service substituted in lieu thereof, in the discretion of the  
138 Municipal Court.

139 (4) Nothing in this section prohibits an officer from issuing applicable  
140 citations if a pedestrian, driver, or occupant of a vehicle violates other sections of the  
141 Municipal Code of the City of Charleston or the laws of the State of West Virginia.

142  
143 (e) Interpretation. Nothing in this section shall be construed to prevent, hinder, or  
144 otherwise impair a person's rights under the Constitution and laws of the United States  
145 and the State of West Virginia.

146  
147 (f) Official Duties of Emergency Responders Exempted. Any Federal, State,  
148 County, Municipal, Local, or other Public Safety and Emergency Response personnel  
149 affiliated with a governmental authority or duly licensed agency, and serving in the  
150 performance of official duties, shall not be in violation of this ordinance.

151  
152 (g) Additional Definitions. In addition to the definitions set forth in Section 114-2  
153 of this Code, the following terms have the following meanings:

154 (1) Median means any area separating traffic lanes on a roadway. A  
155 median includes, but is not limited to, any paved or unpaved, marked or unmarked,  
156 landscaped or non-landscaped, portions of a roadway which exist between lanes of  
157 traffic.

158 (2) Public road, road, street, or highway includes, but shall not be limited  
159 to, the right-of-way, roadbed, and all necessary culverts, sluices, drains, ditches,  
160 waterways, embankments, slopes, retaining walls, bridges, tunnels, and viaducts  
161 necessary for the maintenance of travel, dispatch of freight and communication between  
162 individuals and communities; and such public road shall be taken to include any road to  
163 which the public has access and which it is not denied the right to use, or any road or  
164 way leading from any other public road over the land of another person, and which shall  
165 have been established pursuant to law. For the purposes of this section, "sidewalk" shall  
166 not be included in the definition of "public road," "road," "street," or "highway."