

**JOURNAL
OF THE
COUNCIL
CITY OF CHARLESTON
WEST VIRGINIA**

April 15, 2013

THE COUNCIL MET IN CHAMBERS OF THE CITY BUILDING AT 7:00 P.M., FOR THE SECOND MEETING IN THE MONTH OF APRIL ON THE 15th DAY, IN THE YEAR 2013, AND WAS CALLED TO ORDER BY THE HONORABLE MAYOR, DANNY JONES. THE INVOCATION WAS DELIVERED BY HARRISON AND THE PLEDGE OF ALLEGIANCE WAS LED BY MICHAEL MINARDI.

**BURKA
EALY
KIRK
MINARDI
REISHMAN
SALISBURY
SNODGRASS
WARE
MAYOR JONES**

**BURTON
DENEALT
HAAS
NICHOLS
RICHARDSON
SHEETS
STAJDUHAR**

**DODRILL
HARRISON
MILLER
PERSINGER
RUSSELL
SMITH
TALKINGTON
WHITE**

WITH TWENTY-FOUR MEMBERS BEING PRESENT, THE MAYOR DECLARED A QUORUM.

PENDING THE READING OF THE JOURNAL OF THE PREVIOUS MEETING, THE READING THEREOF WAS DISPENSED WITH AND THE SAME DULY APPROVED.

PUBLIC SPEAKERS

Gary Taylor – West Side

CLAIMS

1. A claim of Steven Kennedy, 3907 Virginia Ave., Charleston, WV; alleges damage to property.

Refer to City Solicitor.

2. A claim of Delmer Burdette, 43 Kempway Lane, Charleston, WV; alleges damage to vehicle.

Refer to City Solicitor.

3. A claim of John Pritt, 130 Lock Lane, Alum Creek, WV; alleges damage to property.

Refer to City Solicitor.

PUBLIC HEARING

The Mayor read the following:

Bill No. 7571: A BILL to amend Chapter 18 of the Municipal Code of the City of Charleston, as amended, for the purpose of creating a more uniform business license within the City of Charleston.

With no one from the public to speak, the Mayor declared the Public Hearing on Bill No. 7571 closed.

PROCLAMATION

EXECUTIVE DEPARTMENT
CITY OF CHARLESTON
PROCLAMATION

By the Mayor

WHEREAS: ALS known by many as Lou Gehrig’s disease, is a progressive fatal neurodegenerative disease that attacks the nerve cells in the brain and spinal cord, making even the simplest movements – walking, speaking, gesturing – nearly impossible; and

WHEREAS: Approximately 30,000 individuals in the United States are afflicted with ALS at any given time, with 5,000 new cases appearing each year. Approximately fifteen new cases of ALS are diagnosed every day, with a person losing their battle with the disease every 90 minutes. ALS strikes people regardless of race, sex, age or ethnicity; and

WHEREAS: Finding the causes of, and cure for, ALS will prevent the disease from robbing hundreds of thousands of Americans of their dignity and lives. Aggressive treatments of the symptoms of ALS can extend the lives of those living with the disease; and

WHEREAS: For over sixty years, the Muscular Dystrophy Association's (MDA) aggregate expenditures for services and research for ALS total more than \$290 million. MDA leads the search for treatments and a cure for ALS through its aggressive worldwide research and MDA/ALS clinical programs including those at Ruby Memorial Hospital. Raising public awareness of this disease will facilitate the discovery of a cure; bring much needed dollars for support and services for families in West Virginia dealing with ALS.

NOW THEREFORE, I, Danny Jones, Mayor of the City of Charleston do hereby proclaim May 2013 as

ALS AWARENESS MONTH

in Charleston, West Virginia, and urge all residents to become educated about ALS and to lend their aid to combating this disease by all means possible.

IN WITNESS HEREOF, I have hereunto set my hand and caused the Seal of the Executive Department to be affixed this 28th day of April 2013.

NOMINATION OF VACANT COUNCIL SEAT WARD 11

The Mayor declared the floor open for nominations to fill the vacancy for the unexpired Ward 11 seat. Councilman Jack Harrison made a motion to nominate Mary Beth Hoover; the motion was second by Shannon Snodgrass.

The question being on the approval of the nomination a vote was taken. There being no dissent the Mayor declared Mary Beth Hoover as the Councilperson for Ward 11.

The question being on the approval of the nomination. A roll call was taken and there were; yeas – 24, absent-3, as follows:

YEAS: Burka, Burton, Deneault, Dodrill, Ealy, Haas, Harrison, Kirk, Miller, Minardi, Nichols, Persinger, Reishman, Richardson, Russell, Salisbury, Sheets, Smith, Stajduhar, Talkington, Ware, White, Mayor Jones.

ABSENT: Davis, Clowser, Lane.

With a majority of members elected recorded thereon as voting in the affirmative the nomination of Mary Beth Hoover approved.

Mary Beth Hoover came forward and took the oath of office given by James M. Reishman, City Clerk.

HOME RULE COMMITTEE

Councilperson Jack Harrison, Chairperson of the Council Committee on Home Rule, submitted the following reports.

Bill No. 7570: "A BILL authorizing the City of Charleston to submit to the Municipal Home Rule Board a proposed amendment to the City of Charleston Municipal Home Rule Plan consistent with W. Va. Code § 8-1-5a, requesting approval

to enact a municipal sales and service tax, and municipal use tax under the City's home rule powers;

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

That, on behalf of the City of Charleston, the Mayor and the City Administration are hereby authorized and requested to submit to the Municipal Home Rule Board, in accordance with the requirements of W. Va. Code § 8-1-5a and application guidelines of the Board, a proposed amendment to the City of Charleston Municipal Home Rule Plan that is consistent with Exhibit A attached hereto and to request approval by the Board of the Plan amendment thereby allowing the City to adopt a municipal sales and service tax, and municipal use tax under the City's home rule powers. The Mayor and the Administration are further authorized to do all things reasonably necessary to obtain approval by the Board of this Plan amendment.

The question being on the passage of the Bill. A roll call was taken and there were; yeas – 25, absent-3, as follows:

YEAS: Burka, Burton, Deneault, Dodrill, Ealy, Haas, Harrison, Hoover, Kirk, Miller Minardi, Nichols, Persinger, Reishman, Richardson, Russell, Salisbury, Sheets, Smith, Snodgrass, Stajduhar, Talkington, Ware, White, Mayor Jones.

ABSENT: Davis, Clowser, Lane.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7570, passed.

ORDINANCE AND RULES COMMITTEE

Councilperson Jack Harrison, Chairperson of the Council Committee on Ordinance and Rules, submitted the following reports.

1. Your Committee on Ordinance and Rules has had under consideration Bill No. 7571, and reports the same to Council with the recommendation that the bill do pass, after final considered by the Finance Committee.

Bill No. 7571, to amend Chapter 18 of the Municipal Code of the City of Charleston, as amended, for the purpose of creating a more uniform business license within the City of Charleston.

RECEIVED AND FILED.

STREETS AND TRAFFIC

Councilperson Joe Deneault, Chairperson of the Council Committee on Streets and Traffic, submitted the following reports.

1. Your Committee on Streets and Traffic has had under consideration Bill No. 7565, and reports the same to Council with the recommendation that the bill do pass.

Bill No. 7565 - A Bill to repeal Ordinance No. 2507 passed by Council on July 16, 1979 relating to a Two Hour Parking Zone between 8:00 A.M. and 6:00 P.M. on the south side of Monongalia Street from the intersection of Maryland Avenue and Monongalia Street to the intersection of Ohio Avenue and Monongalia Street and amending the Traffic Control Map and Traffic Control File, established by the Code of the City of Charleston, West Virginia, two thousand and three, as amended, Traffic Law, Chapter one fourteen, Article five, to conform therewith.

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

Section 1. Two Hour Parking Zone between 8:00 A.M. and 6:00 P.M. on the south side of Monongalia Street from the intersection of Maryland Avenue and Monongalia Street to the intersection of Ohio Avenue and Monongalia Street is hereby repealed.

Section 2. The Traffic Control Map and Traffic Control File, established by the Code of the City of Charleston, West Virginia, two thousand and three, as amended, Traffic Law, Chapter one fourteen, Article five, shall be and hereby are, amended to conform to this Ordinance.

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

The question being on the passage of the Bill. A roll call was taken and there were; yeas – 25, absent-3, as follows:

YEAS: Burka, Burton, Deneault, Dodrill, Ealy, Haas, Harrison, Hoover, Kirk, Miller Minardi, Nichols, Persinger, Reishman, Richardson, Russell, Salisbury, Sheets, Smith, Snodgrass, Stajduhar, Talkington, Ware, White, Mayor Jones.

ABSENT: Davis, Clowser, Lane.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7565, passed.

2. Your Committee on Streets and Traffic has had under consideration Bill No. 7566, and reports the same to Council with the recommendation that the bill do pass.

Bill No. 7566 A Bill to amend and re-enact Ordinance No. 7511 passed by Council on March 5, 2012 relating to a Two Hour Parking Zone on the east side of the easterly lane of Leon Sullivan Way from Smith Street to a point 496 feet south of Smith Street and on the west side of the easterly lane and east side of the westerly lane from Smith Street to a point 397 feet south of Smith Street and amending the Traffic Control Map and Traffic Control File established by the Code of the City of Charleston, West Virginia, two thousand three, as amended, Traffic Law, Section 263, Division 2, Article 4, Chapter 114, to conform therewith.

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

Section 1. A Two Hour Parking Zone on the east side of the easterly lane of Leon Sullivan Way from Smith Street to a point 496 feet south of Smith Street and on the west side of the easterly lane and east side of the westerly lane from Smith Street to a point 397 feet south of Smith Street is hereby established.

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

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

The question being on the passage of the Bill. A roll call was taken and there were; yeas – 25, absent-3, as follows:

YEAS: Burka, Burton, Deneault, Dodrill, Ealy, Haas, Harrison, Hoover, Kirk, Miller Minardi, Nichols, Persinger, Reishman, Richardson, Russell, Salisbury, Sheets, Smith, Snodgrass, Stajduhar, Talkington, Ware, White, Mayor Jones.

ABSENT: Davis, Clowser, Lane.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7566, passed.

3. Your Committee on Streets and Traffic has had under consideration Bill No. 7568, and reports the same to Council with the recommendation that the bill do pass.

Bill No. 7568: A Bill to repeal ordinance number 6359 passed by Council on July 21, 1997 relating to a One Hour Parking Tow Away Zone on the Southerly side of Smith Street from a point 247 feet west of Ruffner Avenue to a point 335 feet west of Ruffner Avenue, and that the Traffic Control Map and Traffic Control File, established by the Code of the City of Charleston, West Virginia, as amended, Chapter 114 - Traffic Ordinance, Article IV, Division 2, to conform herewith.

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

That Bill number 6359 passed by Council on July 21, 1997 relating to a One Hour Parking Tow Away Zone on the Southerly side of Smith Street from a point 247 feet west of Ruffner Avenue to a point 335 feet west of Ruffner Avenue, and that the Traffic Control Map and Traffic Control File established by the Code of the City of Charleston, West Virginia, as amended, Chapter 114 - Traffic Ordinance, Article IV, Division 2, is amended to conform herewith.

All prior Ordinances inconsistent with this Ordinance are hereby repealed to the extent of said inconsistency and reenacted to conform herewith.

The question being on the passage of the Bill. A roll call was taken and there were;

yeas – 25, absent-3, as follows:

YEAS: Burka, Burton, Deneault, Dodrill, Ealy, Haas, Harrison, Hoover, Kirk, Miller, Minardi, Nichols, Persinger, Reishman, Richardson, Russell, Salisbury, Sheets, Smith, Snodgrass, Stajduhar, Talkington, Ware, White, Mayor Jones.

ABSENT: Davis, Clowser, Lane.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7568, passed.

4. Your Committee on Streets and Traffic has had under consideration Bill No. 7569, and reports the same to Council with the recommendation that the bill do pass.

Bill No. 7569 A Bill to create a No Parking Tow Away Zone on the Southerly side of Virginia Street, East between Capitol Street and Hale Street from 6AM to 6PM and amending the Traffic Control Map and Traffic Control File established by the Code of the City of Charleston, West Virginia, two thousand three, as amended, Traffic Law, Section 263, Division 2, Article 4, Chapter 114, to conform therewith.

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

Section 1. A No Parking Tow Away Zone on the Southerly side of Virginia Street, East between Capitol Street and Hale Street from 6AM to 6PM is hereby established.

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

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

The question being on the passage of the Bill. A roll call was taken and there were; yeas – 25, absent-3, as follows:

YEAS: Burka, Burton, Deneault, Dodrill, Ealy, Haas, Harrison, Hoover, Kirk, Miller, Minardi, Nichols, Persinger, Reishman, Richardson, Russell, Salisbury, Sheets, Smith, Snodgrass, Stajduhar, Talkington, Ware, White, Mayor Jones.

ABSENT: Davis, Clowser, Lane.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7569, passed.

FINANCE

Councilperson Bobby Reishman, Chairperson of the Council Committee on Finance, submitted the following reports.

1. Your Committee on Finance has had under consideration Resolution No 289-13, and reports the same to Council with the recommendation that the resolution be adopted.

Resolution No. 289-13: “Authorizing approval of FY 2013-2014 Parking System Budget as indicated on the attached list of accounts.”

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

That the FY 2013-2014 Parking System Budget as indicated on the attached list of accounts is hereby approved.

The question being on the adoption of the Resolution. A roll call was taken and there were; yeas – 25, absent-3, as follows:

YEAS: Burka, Burton, Deneault, Dodrill, Ealy, Haas, Harrison, Hoover, Kirk, Miller Minardi, Nichols, Persinger, Reishman, Richardson, Russell, Salisbury, Sheets, Smith, Snodgrass, Stajduhar, Talkington, Ware, White, Mayor Jones.

ABSENT: Davis, Clowser, Lane.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 289-13, adopted.

2. Your Committee on Finance has had under consideration Resolution No 290-13, and reports the same to Council with the recommendation that the resolution be adopted.

Resolution No. 290-13 : “Authorizing the Mayor to sign and submit Community Participation Program grant information sheets and all related documents for thirteen agencies located within the City of Charleston.”

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

That the Mayor is hereby authorized and directed to sign and submit Community Participation Program grant information sheets and all related documents for the following agencies located within the City of Charleston:

Charleston Area Alliance	13LEDA0039	\$30,000
Charleston Distance Run, Inc.	13LEDA0449	\$ 4,900
Charleston East End Main Street	13LEDA0450	\$ 2,000
Charleston West Side Main Street	13LEDA0041	\$ 5,000
Children’s Theatre of Charleston	13LEDA0451	\$13,500
Give Kids A Smile	13LEDA0043	\$ 5,000
Good News Mountaineer Garage	13LEDA0460	\$ 7,900
Kanawha City Community Association	13LEDA0465	\$19,950
Thanks! Plain and Simple	13LEDA0042	\$ 4,000
The Arc of Three Rivers	13LEDA0038	\$10,000
WV Humanities Council	13LEDA0480	\$ 3,000
WV Senior Sports Classic	13LEDA0040	\$ 2,500
YWCA Sojourner’s Shelter	13LEDA0482	\$20,750

The question being on the adoption of the Resolution. A roll call was taken and there were; yeas – 25, absent-3, as follows:

YEAS: Burka, Burton, Deneault, Dodrill, Ealy, Haas, Harrison, Hoover, Kirk, Miller Minardi, Nichols, Persinger, Reishman, Richardson, Russell, Salisbury, Sheets, Smith, Snodgrass, Stajduhar, Talkington, Ware, White, Mayor Jones.

ABSENT: Davis, Clowser, Lane.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 290-13, adopted.

3. Your Committee on Finance has had under consideration Resolution No 291-13, and reports the same to Council with the recommendation that the resolution be adopted.

Resolution No. 291-13: “Authorizing the Mayor to receive and administer grant funds from the Homeland Security State Administrative Agency in the amount of \$47,367 to maintain the equipment on State-owned regional response (RRT) vehicles housed and used at the Charleston Fire Department.”

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

That the Mayor is hereby authorized and directed to receive and administer grant funds from the Homeland Security State Administrative Agency in the amount of \$47,367 to maintain the equipment on State-owned regional response (RRT) vehicles housed and used at the Charleston Fire Department.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 291-13 adopted.

4. Your Committee on Finance has had under consideration Resolution No 292-13, and reports the same to Council with the recommendation that the resolution be adopted.

Resolution No. 292-13: “Authorizing the Mayor to receive and administer grant funds from the Federal Emergency Management Agency (FEMA) in the amount of \$135,601 to purchase diving equipment and provide training for members of the Charleston Police Department’s Dive Team.”

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

That the Mayor is hereby authorized and directed to receive and administer grant funds from the Federal Emergency Management Agency (FEMA) in the amount of \$135,601 to purchase diving equipment and provide training for members of the Charleston Police Department’s Dive Team.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 292-13 adopted.

5. Your Committee on Finance has had under consideration Resolution No 293-13, and reports the same to Council with the recommendation that the resolution be adopted.

Resolution No. 293-13 : “Authorizing the Mayor or his designee to sign and submit an application to the Vandalia Rotary Club for funds not to exceed \$2,000 to purchase trail building materials for use on the development of the new Hamilton Trail adjacent to Danner Park.”

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

That the Mayor or his designee is hereby authorized and directed to sign and submit an application to the Vandalia Rotary Club for funds not to exceed \$2,000 to purchase trail building materials for use on the development of the new Hamilton Trail adjacent to Danner Park.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 293-13 adopted.

6 .Your Committee on Finance has had under consideration Resolution No 294-13, and reports the same to Council with the recommendation that the resolution be adopted.

Resolution No. 294-13 – A Resolution authorizing the acquisition and lease of office space for the Metropolitan Drug Enforcement Network Team.

WHEREAS, the purpose of the Metropolitan Drug Enforcement Network Team (“MDENT”) is to develop and enhance cooperation between local and federal agencies and to achieve maximum cooperation in a combined law enforcement effort to address drug and violent crime related offenses primarily in Kanawha County and Charleston, West Virginia;

WHEREAS, the City of Charleston is the fiscal agent for MDENT and in that capacity prepares, submits and oversees the administration of MDENT funds;

WHEREAS, the Charleston Police Department (the “Police Department”) is an agency of the City of Charleston and a participating agency of MDENT;

WHEREAS, for several years MDENT has leased property from a private owner for use as office space to conduct the operations of the task force;

WHEREAS, MDENT has determined and recommended, through consideration and vote of its board, that it is more efficient, beneficial and cost effective to acquire the property being used as office space instead of leasing said property;

WHEREAS, based on information and belief, the participating agencies of MDENT have considered the recommendation of MDENT and concur with those recommendations;

WHEREAS, the participating agencies of MDENT desire to acquire office space for the purpose of facilitating joint operations of the task force;

WHEREAS, at the request of MDENT by and through its participating member the Kanawha County Sheriff's Department, the Kanawha County Commission has agreed via Order approved on December 13, 2012, to purchase that certain premises located at 2061 Roxalana Road, Dunbar, Kanawha County, West Virginia, from Ronald and Linda Rowley (the "Property") with the intent that the Kanawha County Commission will be provided with MDENT funds to cover the purchase price of the Property and will subsequently lease the Property to MDENT;

WHEREAS, upon acquisition of the Property by the Kanawha County Commission, the participating agencies of MDENT desire to execute a Lease Agreement, attached as Exhibit A hereto, whereby the Kanawha County Commission grants and leases unto MDENT the aforementioned Property as office space, pursuant to the terms and conditions set forth therein;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF CHARLESTON, WEST VIRGINIA, AS FOLLOWS:

1. That the City of Charleston, in its capacity as the fiscal agent for MDENT, that prepares, submits and oversees the administration of MDENT funds, approves the expenditure of up to One Hundred Fifty Five Thousand Dollars (\$155,000.00) of MDENT funds to be used to purchase the Property.
2. That the City of Charleston, in its capacity as the fiscal agent for MDENT, that prepares, submits and oversees the administration of MDENT funds, approves the Lease Agreement between the Kanawha County Commission and MDENT.
3. That the City of Charleston, in its capacity as fiscal agent for MDENT, authorizes disbursement of MDENT funds as required by that certain Lease Agreement and provided for in that certain MDENT Memorandum of Understanding dated July 1, 2011.
4. That the City of Charleston, by and through its Charleston Police Department, a participating agency of MDENT, approves the Lease Agreement with the Kanawha County Commission and further authorizes the Mayor or Chief of Police to execute the Lease Agreement with the Kanawha County Commission, subject to final review and approval by legal counsel for the City.

To the extent applicable, this authorization is granted by Resolution pursuant to the Municipal Code of the City of Charleston Chapter 3, Article II, Section 3-12.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 294-13 adopted.

7. Your Committee on Finance has had under consideration Resolution No 295-13, and reports the same to Council with the recommendation that the resolution be adopted.

Resolution No. 295-13 _____ – A Resolution authorizing the acceptance of an easement from Oak Bridge Apartments, Inc. on property along the common boundary line with the Chilton Reserve, as more fully described in the agreement attached as Exhibit A hereto (the “Property”), for the purpose of permitting the creation and maintenance of a walking trail thereon.

WHEREAS, Oak Bridge Apartments, Inc. is owner of the Property in the south hills area of Charleston, as more fully described in the agreement attached as Exhibit A hereto; and

WHEREAS, the City of Charleston (“City”) is the owner of property in the south hills area of Charleston known as the “Chilton Reserve”; and

WHEREAS, the Charleston Land Trust (“Land Trust”), an agency of the City of Charleston created by ordinance, is charged with managing and maintaining "public trust lands" for preservation of green space and woodlands, and promoting the preservation of scenic green space areas; and

WHEREAS, the Land Trust and the City wish to develop walking trails within the Chilton Reserve for the public’s recreational use; and

WHEREAS, Oak Bridge Apartments, Inc. wishes to name the City of Charleston as the holder of an easement on the Property so that a public walking trail can be created and maintained thereon; and

THEREFORE, Be It Resolved By The Council Of The City Of Charleston, West Virginia that:

The Mayor is hereby authorized to enter into the Hiking Trail Easement Agreement, accepting an easement from Oak Bridge Apartments, Inc. to the City of Charleston on property along the common boundary line with the Chilton Reserve as more fully described in the agreement attached as Exhibit A hereto, for the creation and maintenance of a public walking trail.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 295-13 adopted.

8. Your Committee on Finance has had under consideration Resolution No 296-13, and reports the same to Council with the recommendation that the resolution be adopted.

Resolution No. 296-13 – A Resolution authorizing the acceptance of an easement from Bobbi L. Skaff on property along the common boundary line with the Chilton Reserve, as more fully described in the agreement attached as Exhibit A hereto (the “Property”), for the purpose of permitting the creation and maintenance of a walking trail thereon.

WHEREAS, Bobbi L. Skaff is owner of the Property in the south hills area of Charleston, as more fully described in the agreement attached as Exhibit A hereto; and

WHEREAS, the City of Charleston (“City”) is the owner of property in the south hills area of Charleston known as the “Chilton Reserve”; and

WHEREAS, the Charleston Land Trust (“Land Trust”), an agency of the City of Charleston created by ordinance, is charged with managing and maintaining "public trust lands" for preservation of green space and woodlands, and promoting the preservation of scenic green space areas; and

WHEREAS, the Land Trust and the City wish to develop walking trails within the Chilton Reserve for the public’s recreational use; and

WHEREAS, Bobbi L. Skaff wishes to name the City of Charleston as the holder of an easement on the Property so that a public walking trail can be created and maintained thereon; and

THEREFORE, Be It Resolved By The Council Of The City Of Charleston, West Virginia that:

The Mayor is hereby authorized to enter into the Hiking Trail Easement Agreement, accepting an easement from Bobbi L. Skaff to the City of Charleston on property along the common boundary line with the Chilton Reserve as more fully described in the agreement attached as Exhibit A hereto, for the creation and maintenance of a public walking trail.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 296-13 adopted.

9. Your Committee on Finance has had under consideration Resolution No 297-13, and reports the same to Council with the recommendation that the resolution be adopted.

Resolution No. 297-13 : “Authorizing the Mayor or City Manager to sign Change Order No. 1 with Fields Excavating, Inc., in the amount of \$18,833.79, for the addition of two foot valves and associated hardware to the pump installations on the Court Street Pump Station Improvements project. The change order increases the contract price from \$472,500.00 to \$491,333.79.”

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

That the Mayor or City Manager is hereby authorized and directed to sign Change Order No. 1 with Fields Excavating, Inc., in the amount of \$18,833.79, for the addition of two foot valves and associated hardware to the pump installations on the Court Street Pump Station Improvements project. The change order increases the contract price from \$472,500.00 to \$491,333.79

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 297-13 adopted.

10. Your Committee on Finance has had under consideration Resolution No 298-13, and reports the same to Council with the recommendation that the resolution be adopted.

Resolution No. 298-13 : “Authorizing the Mayor or City Manager to enter into a contract with Finley Fire Equipment, in the amount of \$496,916.00, for purchase of a fire apparatus for the Charleston Fire Department. The original price of the pumper truck was \$514,291.00. The vendor discounted costs on the interest and chassis for the new unit to reduce the price by \$17,375.00, resulting in the total of \$496,916.00. The new truck is scheduled for delivery in approximately seven months.”

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

That the Mayor or City Manager is hereby authorized and directed to enter into a contract with Finley Fire Equipment, in the amount of \$496,916.00, for purchase of a fire apparatus for the Charleston Fire Department. The original price of the pumper truck was \$514,291.00. The vendor discounted costs on the interest and chassis for the new unit to reduce the price by \$17,375.00, resulting in the total of \$496,916.00. The new truck is scheduled for delivery in approximately seven months.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 298-13 adopted.

11. Your Committee on Finance has had under consideration Resolution No 299-13, and reports the same to Council with the recommendation that the resolution be adopted.

Resolution No. 299-13 : “Authorizing the Finance Director to amend the FY 2012-2013 General Fund budget as indicated on the attached list of accounts.”

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

That the Finance Director is hereby authorized and directed to amend the FY 2012-2013 General Fund budget as indicated on the attached list of accounts.

The question being on the adoption of the Resolution. A roll call was taken and there were; yeas – 25, absent-3, as follows:

YEAS: Burka, Burton, Deneault, Dodrill, Ealy, Haas, Harrison, Hoover, Kirk, Miller Minardi, Nichols, Persinger, Reishman, Richardson, Russell, Salisbury, Sheets, Smith, Snodgrass, Stajduhar, Talkington, Ware, White, Mayor Jones.

ABSENT: Davis, Clowser, Lane.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Resolution No. 299-13, adopted.

12. You committee on Finance has under consideration a bid submitted by Stephens Auto Center, in the amount of \$37,976 for purchase of two (2) Ford E-250 Cargo Vans (\$18,988 each) to be used by the City's Construction Crew and the Stormwater Management Unit of the City Engineering Department. To be charged to the following accounts: \$18,988 - 001-975-00-412-4-459, City Manager/Construction—Capital Outlay, Equipment; \$18,988 - 001-975-00-420-4-459, Engineering/Stormwater—Capital Outlay, Equipment (SunTrust Equipment Finance & Leasing Corporation, Lease Purchase Escrow Account No. 08673, Equipment Schedule 1), and reports the same to council with the recommendation that the Committee Report be adopted.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared the committee report adopted.

13. Your Committee on Finance has had under consideration Bill No. 7571, as amended, and reports the same to Council with the recommendation that the resolution be adopted.

Bill No. 7571 as amended: "A BILL to amend Chapter 18 of the Municipal Code of the City of Charleston, as amended, for the purpose of creating a more uniform business license within the City of Charleston.

WHEREAS, the City desires to promote new business growth, encourage business development and improve processes and efficiencies in municipal business licensing; and

WHEREAS the City's current municipal business licensing process is not consistent with the City's goals and objectives in attracting and retaining new businesses; and

WHEREAS, the City's current municipal business licensing process consisting of 49 different rates and classifications is complicated, burdensome, difficult to administer and does not adhere to the City's desire to make it easier to conduct business in the city; and

WHEREAS, under authority granted under W. Va. Code § 8-13-4, municipalities have the ability to enact an ordinance creating an annual general municipal business license for multiple purposes; and

WHEREAS, THE City desires to promote new business growth, encourage business development and improve processes and efficiencies by streamlining and simplifying the municipal business licensing process;

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

That, in order to create a more uniform business license within the City of Charleston, Chapter 18 of the Municipal Code of the City of Charleston, as amended, is hereby amended to read as follows:

Chapter 18 - BUSINESSES
ARTICLE I. - IN GENERAL
Secs. 18-1—18-30. - Reserved.

ARTICLE II. - LICENSES GENERALLY

Sec. 18-31. - General Business License; License Fee

(a) General License Required: No person shall, without a currently valid city license, engage in or prosecute within the city any of the businesses, activities, trades or employments and the license taxes specified in this chapter are levied, annually unless otherwise provided, on every person engaging in or prosecuting within this city any such businesses, activities, trades or employments. For the purposes of this Chapter, business, activities, trades or employments is meant to include all kinds of vocations, occupations, professions, enterprises, establishments, and all other kinds of activities and matters, any of which are conducted for private revenue, profit, or benefit, either directly or indirectly, on any premises in this City or anywhere else within its jurisdiction. Any person engaged in the rental of two or more real property units for profit shall be considered to be engaging in business within the meaning of this Chapter. It shall be unlawful for any person, whether directly or indirectly, to commence, conduct, or carry on any business, in the City of Charleston without first having procured a General Business License from the City, complying with any and all regulatory ordinances now existing or hereafter to be adopted by said City, or without keeping such license in effect at all times by continued compliance with any and all regulatory ordinances or other law of this City. It shall be unlawful for any person, either directly or indirectly, to continue a business or non-profit enterprise when a license pertaining thereto has been suspended or revoked.

(b) License Fee: Except where a business license tax has been established elsewhere in Chapter 18 herein, licensees shall be issued a General Business License for a fee of \$25.00 per year, plus any applicable additional filing fees, license fees or service fees. Nothing in the section shall be interpreted to exempt any licensee from additional requirements set forth herein that may be applicable for specific types of businesses

Sec. 18-32. - Separate license required for each fixed place of business and each class of business.

Except as may be provided otherwise in this Code or other ordinance, any person who, at more than one fixed place of business within the city, engages in or prosecutes any business, activity, trade or employment for which a city license is required, or who within the city engages in or prosecutes more than one type of business, activity, trade or employment for which a city license is required shall obtain a separate license and pay the prescribed tax or fee for each such fixed place of business and for each such business, activity, trade or employment.

Sec. 18-33. - Application for and issuance of license; payment of license tax and filing tax fee; issuance of stamp or other evidence of license for coin-operated device.

(a) The licenses provided for in this chapter shall be issued in the form of a certificate by the city collector to any person making proper application on forms to be prescribed and furnished by the city collector, and tendering the license tax and a filing tax fee of \$0.50 for each license certificate requested. In addition to the required license certificate, there shall be required and issued at the time of the issuance to the person owning coin-operated devices a decalcomania stamp or other evidence of such license certificate, at a cost not to exceed \$0.50 each, for each coin-operated device licensed by the certificate.

(b) The city collector shall collect in full the proper taxes and fees and determine to his satisfaction that all of the conditions precedent to the granting of such license have been fulfilled by the applicant before issuing a certificate of license.

Sec. 18-34. - False statements prohibited.

It shall be unlawful for any person to knowingly make any false statement in any application for a city license, or in any tax return, report or other statement relating to any activity licensed by the city and which is required to be made to any city officer or agency.

Sec. 18-35. - Record of licenses issued; destruction of records after five years.

The city collector shall maintain on file a record of each license issued, which shall set forth the name and business address of the licensee, the date of issuance and the length of the term for which issued, the type of license, the amount of license tax paid, and the number of the license. Such records may be destroyed at the end of five years following their expiration when no renewal has been issued unless there is good cause for retention.

Sec. 18-36. - Conditions precedent to doing business.

Payment in full of the proper tax and fee as specified in this chapter, the issuance of a certificate of license under the provisions of section 18-33, the fulfillment of all terms and conditions of such grant and the payment of all delinquent taxes and fees or any interest or penalty due and owed the city shall be conditions precedent to the

transaction of any business, activity, trade or employment for which a license is required by this chapter.

Sec. 18-37. - Licensing not to legalize any act.

Nothing in this chapter and no payment of any license tax or the issuance of any certificate of license under the provisions of this chapter shall be deemed to legalize any act which otherwise may be in violation of law, or to exempt any person from any penalty prescribed for such violation.

Sec. 18-38. - Zoning ordinance must be complied with; responsibility of applicants for city licenses.

No payment of a license tax or the issuance of any certificate of license under the provisions of this chapter shall be deemed to validate the conduct of any business, activity, trade or employment at any address within the city at which such business, activity, trade or employment is prohibited or restricted under any provision of the zoning ordinance (appendix B to this Code) or any other city ordinance, notwithstanding that the certificate of license may purport to license such business, activity, trade or employment at such specific address; and it shall be the responsibility of each applicant for a city license to first ascertain that the address at which he proposes to engage in or prosecute the business, activity, trade or employment is one at which such business, activity, trade or employment is permitted by the zoning ordinance and all other ordinances of the city.

Sec. 18-39. - License a personal privilege.

Every license issued under the provisions of this chapter shall confer a personal privilege only to transact the business, activity, trade or employment which may be the subject of the license and shall not be exercised except by the person holding the license and shall not be assignable.

Sec. 18-40. - Effect of change in partners or name.

No change in the name of the firm, nor the taking in of one or more new partners, nor the withdrawal of one or more members of the firm, so long as at least one member remains the same, shall be considered as terminating the privileges of any license granted to such partners or firm.

Sec. 18-41. - Expiration date; annual renewal; tax prorated upon start of business; minimum fee.

(a) Licenses shall expire at midnight on June 30 subsequent to the date of issuance and shall be renewable annually; except such licenses for which the tax or fee is by the day, week, month or other period less than a year and except as may be provided otherwise by this Code or other ordinance.

(b) The license tax or fee for an initial license upon the commencement of business shall be the full amount of the annual tax unless proration is authorized.

(c) The city collector shall refuse to renew an annual license on any business which has failed to file any tax return or permit application as required by any provision of this chapter or which has failed to pay any delinquent taxes or fees or any interest or penalty due and owed the city by reason of operating a business within the city's jurisdiction. Any business which has been adversely affected by an order or decision of the city collector or his representative relating to the granting of a renewal certificate may appeal such determination by requesting a hearing from the city collector or his examiner within 30 days from receipt of such order or decision.

(d) The city collector shall issue a ruling within a reasonable time from date of the hearing. An appeal may be taken by the business to the circuit court of the county within 30 days after he shall have received notice from the city collector of his determination as provided in this section.

Sec. 18-42. - Display of license.

Each person to whom a city license has been issued shall keep such license conspicuously posted upon or within the premises to which such license relates. Each licensee having no fixed place of business shall carry his license upon his person at all times while engaging in the licensed business or any transaction incidental to such business, and shall display such license upon request of any person with whom he is transacting business or any city official.

Sec. 18-43. - Duplicate licenses for those lost, misplaced or destroyed.

Any person losing, misplacing or destroying any license issued under the provisions of this chapter may, by application to the city collector, procure a duplicate of such license, upon satisfactory proof of the loss of the original.

Sec. 18-44. - Percentage penalties when business transacted without a license.

If any person engages in or prosecutes any business, activity, trade or employment without obtaining a license before commencing the business, activity, trade or employment or continues the business, activity, trade or employment after the termination of the effective period of any such license, there shall be added to the amount of the license tax required by the provisions of this chapter a penalty equal to five percent of the amount of such license tax if the failure to pay the required license tax is for not more than one month, with an additional five percent for each additional month or fraction during which failure continues, such penalty not to exceed 50 percent of the required license tax. Such penalties shall be waived if the failure to pay the required license tax was due to reasonable cause and not due to willful neglect.

Sec. 18-45. - Collection of back taxes.

Any person engaging in or prosecuting any business, activity, trade or employment contrary to the provisions of this chapter, whether without obtaining a license before commencing the business, activity, trade or employment, or by continuing the business, activity, trade or employment after the termination of the effective period of any such license, shall, in addition to all other penalties provided for in this chapter, be liable to the payment of all back taxes and penalties for a period not exceeding five years.

Sec. 18-46. - Collection by action or suit.

The city collector may collect any license tax and penalty unpaid under the provisions of this chapter by civil action or other appropriate proceeding, including suit in the court of any justice of the peace.

Sec. 18-47. - Collection by distraint.

The city collector or his agents may distraint upon any personal property, including intangibles, of any person delinquent in the payment of taxes and penalties accrued and unpaid under the provisions of this chapter.

Sec. 18-48. - Prosecution for violations; recourse of city to seek injunctions.

If any person engages in or prosecutes any business, activity, trade or employment contrary to any of the provisions of this Code, whether without first obtaining a license or by continuing the business, activity, trade or employment after the termination of the effective period of such license, or by any violation of the terms and conditions of such license, he shall be subject to immediate prosecution in the municipal court; and, in addition, the city solicitor may, in the name of the city, seek such injunctive relief as may be appropriate in any court of competent jurisdiction.

Sec. 18-49. - Suspension and revocation of licenses, public hearings upon appeal from revocation.

The city collector, upon reasonable notice to the licensee, may summarily revoke any license issued by him pursuant to the provisions of this Code for any reason which would have been grounds for denial of such license when first issued, for violation of any term or condition of such license; for violation of any pertinent provision of state law, this Code or other ordinance; or for the perpetration or attempted perpetration of fraud, malpractice or

any person having an interest in any license so revoked and who feels aggrieved by such action may request the city collector to further investigate the grounds for revocation and to reconsider his action; and if the collector accedes to such request, he may suspend or reinstate the license pending his final decision. If the city collector refuses to accede to such request or if, upon reconsideration, he affirms his revocation of the license, the party so aggrieved may appeal to the city council, which shall, without

delay, afford such person a public hearing at which he may appear in person or by counsel, and may have the attendance of witnesses, books and papers in his behalf, and may testify in person. The decision of the city council following such hearing shall be final, subject only to such judicial review as may be provided by law.

Secs. 18-50—18-80. - Reserved.

ARTICLE III. - AUCTIONEERS

Sec. 18-81. - Auctioneers.

Each auctioneer and apprentice auctioneer working in his/her profession in the city, before going to work in his/her profession or engaging in such businesses shall obtain from the city, following the process set forth in this article, a General Business License to engage in the business. Said license will expire on the 30th day of June each year but shall be renewable upon the payment of the annual license fee so long as all other requirements of this article are complied with.

Sec. 18-82. - Definitions.

As used in this article: "Auctioneer" means and includes a person who sells goods or real estate at public auction for another on commission or for other compensation. "Auctioneer" does not include:

- (1) Persons conducting sales at auctions conducted by or under the direction or pursuant to any sale required by law to be at auction;
- (2) The owner of any real or personal property when personally sold at auction by such owner and such owner has not personally conducted an auction within the previous 12-month period;
- (3) Persons conducting sales pursuant to a deed of trust or other security agreement;
- (4) Fiduciaries of estates when selling real or personal property of such estate; and
- (5) Persons conducting sales on behalf of charitable, religious, fraternal or other nonprofit organizations.

Public auction means any public sale of real or personal property where offers or bids are made by prospective purchasers and the property sold to the highest bidder.

Auction house means a place of business where goods, wares, merchandise, or personal property of any kind are regularly sold or disposed of for value by public auction.

Sec. 18-83. - Requirements for license; duties of license; revocation or suspension of license.

(a) Each person seeking a license hereunder after the effective date of this section shall submit satisfactory evidence to the city collector showing:

- (1) That he/she has successfully completed the licensing requirements of the W. Va. Code, art. 19-2C, and has obtained a license from the State of West Virginia; (Department of Agriculture;)
- (2) All other information required by the city collector.

(b) Each licensee shall promptly produce for inspection such license at all sales conducted by or participated in by such licensee when requested to do so by any person and shall keep complete and accurate records of all transactions engaged in for a period of twelve months which records shall be open to inspection by the city collector of his/her authorized representative.

(c) The city collector may, by order, suspend or revoke any license hereunder for any violation of this article or for any of the following reasons:

- (1) Obtaining a license through false or fraudulent representation;
- (2) Making any substantial misrepresentation in any application for an auctioneer's license;
- (3) Engaging in a continued and flagrant course of misrepresentation or for making false promises through an agent, advertisement or otherwise;
- (4) Failing to account for or remit within a reasonable time any money belonging to others that comes into his possession;
- (5) Being convicted in any court of competent jurisdiction in this state or any other state of a criminal offense involving moral turpitude or a felony for failing to notify the city of such conviction within fifteen days of conviction;
- (6) Engaging in any conduct of an auctioneer which demonstrates dishonesty or incompetency;
- (7) Engaging in any conduct that constitutes fraudulent or dishonest dealing;
- (8) Acting as an attorney for a client;
- (9) Failing to satisfy tax and other obligations imposed by the city; and
- (10) Upon the revocation of a license granted by the commissioner of agriculture of the state.

Secs. 18-84—18-110. - Reserved.

ARTICLE IV. - BARBERS AND BEAUTICIANS

Sec. 18-111. - Duty of health commissioner.

It shall be the duty of the health commissioner to promulgate and proclaim such rules and regulations as will effectively implement the provisions of this article.

Sec. 18-112. - License required.

Each beautician or barber and apprentice or student beautician or barber, working at his profession in the city, before going to work at his profession or engaging in such businesses, shall obtain from the city a license to engage in the business, to expire on June 30 of each year. The applicant shall pay to the city collector the sum of \$2.00, which is to be turned into the city treasury. The applicant shall keep posted in a conspicuous place in his booth or near his chair or place of work his license certificate.

Sec. 18-113. - Shops or schools.

(a) It shall be unlawful for any beauty shop, barbershop or beauty or barber school to open for business without first obtaining from the city collector a license, which may be transferred.

(b) The license fee for beauty shops and barbershops shall be \$25.00 for each shop, and the fee for schools of beauty culture or barbering shall be \$25.00 for each such school.

(c) All beauty shops and barbershops and schools of beauty culture and barbering actively engaged in their respective field on November 6, 1938, are exempt from the provisions of subsection (b) of this section provided application was made within 60 days from November 6, 1938.

(d) All license and registration fees provided for in this section shall expire on June 30 of each year.

Secs. 18-114—18-140. - Reserved.

ARTICLE V. - BOWLING ALLEYS AND BILLIARD, POOL AND BAGATELLE TABLES

Sec. 18-141. - License fees.

The annual license fee to keep or maintain a bowling alley, a billiard, pool or bagatelle table, or table of like kind, for public use, where any charge is made for its use, shall be \$25.00; but if more than one of such alleys or tables are kept or maintained in the same building by the same person, the fee shall be \$25.00 for the first one and \$15.00 for each additional one.

Sec. 18-142. - Gambling; intoxicating liquor prohibited.

A licensee under this article, his agents or employees, shall not permit any person in any manner to bet or wager anything of value upon any game played upon such alleys or tables. Such licensee, his agents or employees, shall not permit anyone to bring any intoxicating liquors of any kind into such building or other place where such alleys or tables are located.

Sec. 18-143. – Minors prohibited.

Persons keeping or maintaining billiard, pool or bagatelle tables, or other tables of like kind, their agents or employees, shall not permit any person under the age of 18 years to play at such tables and shall not permit any such person under the age of 18 years to remain or loiter, whether playing at such tables or not, in the room where such tables are located.

Secs. 18-144—18-170. - Reserved.

ARTICLE VI. - CARNIVALS, CIRCUSES AND SHOWS

DIVISION 1. - GENERALLY

Sec. 18-171. - Exempted shows.

The provisions of this article shall not apply to any educational, literary, dramatic, musical or benevolent society, or volunteer fire company, not conducted for private profit, where such exhibitions are confined to the county, unless professional or paid talent, other than a director, is employed in such exhibitions.

Sec. 18-172. - Street fairs and carnivals.

It shall be unlawful for any person to exhibit in the city any unlicensed street fair, carnival or like show. Any traveling or temporary exhibition or show which is conducted for more than one day, including a merry-go-round, roller coaster, shooting gallery, cane rack, doll rack, knife rack or striking machine, or human laundry device, or devices of like kind or character, shall be deemed a carnival within the meaning of this section.

Sec. 18-173. - Filing with city collector of list of all rides and concessions; bond for municipal taxes.

The proprietor, professional director, manager, owner of the rides, or other person who owns the predominant percentage of such rides shall be responsible for the purchase and display of all applicable licenses provided for in this article. Such person shall furnish to the city collector's office prior to the first performance at any location a list of the rides, concessions and other attractions to be displayed along with a statement

indicating the duration of the performance in the city. In addition, such person shall, prior to the first performance at any location, post a \$5,000.00 cash bond or a \$5,000.00 surety bond, the sufficiency of such surety to be solely in the discretion of the city collector or his authorized representative as surety for all municipal taxes. If such person has not made an accounting with the city collector's office within five days after the last performance as indicated in the document filed with the city collector, the city may elect to forfeit the bond under the terms and conditions of the bond without further notice to the principal on the bond.

Secs. 18-174—18-190. - Reserved.

DIVISION 2. - LICENSES

Sec. 18-191. - License tax imposed on certain itinerant shows.

The license tax to exhibit a circus or menagerie, a circus and menagerie combined, wild west show, or other itinerant show not exhibited in a theater, opera house or other permanent place for public shows, shall be based upon the number of railroad cars or motor trucks used to transport the property or equipment of such shows, but not including railroad cars or motor trucks used to transport the personnel. If railroad cars are used, the fee shall be \$4.00 for each car for each day on which any performance is given. If motor trucks are used, the fee shall be \$3.00 for each truck for each day on which any performance is given.

Sec. 18-192. - Alternative license procedure.

In lieu of the licensing procedure and the fees established in sections 18-191, an all-inclusive license may be obtained by the licensee, at his option, at a fee of \$30.00 per day for each location in the city in which the circus or menagerie, a circus and menagerie combined, wild west show, or other itinerant show is exhibited.

Secs. 18-193—18-230. - Reserved.

ARTICLE VII. - COIN-OPERATED MACHINES AND DEVICES

DIVISION 1. - GENERALLY

Sec. 18-231. - Pay telephones and postage stamp vending devices excluded.

The term "coin-operated machine or device" when used in this article shall not be deemed to mean or include any pay telephone or postage stamp vending machine operated on the coin-in-the-slot principle.

Secs. 18-232—18-250. - Reserved.

DIVISION 2. - LICENSE

Sec. 18-251. - Application; stamp and owner identification on machine.

Application for the licenses required in this division shall contain the number of such machines or devices to be kept or maintained by the licensee within this city during the ensuing license year. One license certificate shall be issued to each person keeping or maintaining such machines or devices as aforesaid, but the city collector shall issue to any such licensee a decalcomania stamp or other evidence of license for each such machine or device, which decalcomania stamp or other evidence of license shall be securely attached to the side or front of each such machine or device properly protected and plainly visible. Every such machine or device shall also bear on the side or front so as to be plainly visible the name and address of the person keeping or maintaining such machine or device.

Sec. 18-252. - Proprietor responsibility; liability; impounding and sale.

(a) The proprietor or owner of the business conducted in the place where a machine regulated in this article is kept or maintained is charged with the responsibility of satisfying himself that such decalcomania stamp or other evidence of license is so attached before permitting its installation in his place of business; and if the owner of any coin-operated machine or device refuses, neglects or fails to pay the license fee due upon any such machine or device, the proprietor or owner of the business conducted in the place where such machine is installed, operated or maintained shall be liable for the payment of such license fee.

(b) Upon the refusal or failure of the proprietor or owner to pay such fee, the city collector or his agents may take such machine or device into possession and deliver it to the chief of police. The chief of police on his own initiative, or upon order or direction of the city collector or his agents, may take such machine or device into possession. In either event, the machine or device shall be impounded until such license fee is paid.

(c) If the license fee and penalties are not paid to the city collector within ten days after the date of such impounding, the city collector shall sell such machine or device in the manner provided by law for the sale of personal property for taxes, and from the proceeds shall discharge and pay the license fee due on such machine or device; and his costs, including cost of impounding, storage, penalties and other fees due the city and the balance, if any, shall be forfeited to the city.

Sec. 18-253. - Store exemption; evidence.

(a) Except where the principal business of the operation of the store is the operation of such machines or devices, no license fee shall be required of persons keeping or maintaining such machines or devices owned by them in their own licensed stores.

(b) Any person exempt from such license shall obtain from the city collector a license receipt, decalcomania stamp, or other evidence of exemption at a cost not to exceed

\$0.50 each, showing that he is so exempt, which shall be effective for the period as provided for annual licenses in this article; but to obtain such license receipt or other evidence of exemption, he shall make an affidavit and produce such other evidence as to the fact entitling him to such exemption as the city collector, in his discretion, may require, which shall be on a form to be prescribed by the city collector.

Sec. 18-254. - Special provisions for certain nonprofit organizations.

(a) A \$25.00 license fee shall be required of any person keeping or maintaining within the city penny-coin-in-the-slot machines or devices, which are not gambling devices under the laws of this state, if the owner, operator or sponsor of such machines or devices attaches to his application upon making application for such license the affidavit of the president or other chief official of a corporation or association organized and existing under the laws of the state for benevolent, civic, educational, eleemosynary or philanthropic purposes, stating that:

(1) Not less than 20 percent of the gross receipts of such automatic machines or devices are payable to such association or corporation;

(2) The gross receipts paid to such association or corporation shall be used solely for benevolent, civic, educational, eleemosynary and philanthropic purposes; and

(3) The execution of the affidavit has been by a duly constituted meeting of the trustees, director or members of such association or corporation.

(b) Upon the issuance of a license for which the \$25.00 fee shall be charged under subsection (a) of this section, a decalcomania stamp shall be issued for each machine for which such license is issued showing such exemption.

Secs. 18-255—18-350. - Reserved.

ARTICLE VIII. - GOING OUT OF BUSINESS SALES, FIRE SALES AND SIMILAR SALES

DIVISION 1. - GENERALLY

Sec. 18-351. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Closing-out sale includes but is not limited to all sales advertised, represented or held forth under the designation of "quitting business," "going out of business," "discontinuance of business," "selling out," "liquidation," "lost our lease," "must vacate," "forced out," "removal," "branch store-discontinuance sale," "building coming down," "end," "final days," "last days," "lease expires," "we give up sale," "we quit sale," "warehouse closing sale," "reorganization sale" and any other advertising or designation by any other expression or characterization similar to any of the foregoing

and giving notice to the public that the sale will precede the abandonment of a business location.

Defunct business sale includes but is not limited to all sales advertised, represented or held forth under the designation of "adjuster's sale," "administrator's sale," "assignee's sale," "bankrupt sale," "bankrupt stock sale," "benefit of administrator's sale," "benefit of creditor's sale," "benefit of trustee's sale," "creditor's committee sale," "creditor's sale," "executor's sale," "insolvent sale," "mortgage sale," "receiver's sale," "trustee's sale" and any other advertising or designation by any other expression or characterization similar to any of the foregoing and conveying the same meaning or giving notice to the public of a sale resulting from death, business failure or other adversity.

Sale of goods damaged by fire, smoke or water includes but is not limited to all sales advertised, represented or held forth under the designation of "fire sale," "smoke damage sale," "water damage sale," "flood damage sale," "insurance sale" and any other advertising or designation by any other expression or characterization similar to any of the foregoing and giving notice to the public that the goods, wares or merchandise offered for sale have been damaged.

Unusual purchase or addition means any purchase of goods, wares or merchandise during the 90 days preceding the application for a license the total value of which is at least 25 percent greater than purchases made by the applicant for a like 90-day period during any one of three years next immediately preceding the year in which the application is made or his peak purchases for any 90-day period if he has been in business for less than three years.

Sec. 18-352. - Findings of city council.

The city council finds and declares that certain sales of goods, defined in this chapter as "closing-out sales," "sales of goods damaged by fire, smoke or water" or "defunct business sales" have been advertised and conducted in such manner as to mislead and defraud the public or otherwise harm the public and that such sales should be licensed and regulated to prevent misrepresentation and fraud and to protect and promote the public welfare.

Sec. 18-353. - Opening of a similar business within one year of sale prohibited.

Opening of a business similar to the one for which the sale licensed pursuant to this article was conducted except the licensed sale of goods damaged by fire, smoke or water by the person, partner of a partnership, officer of an association, or principal stockholder of a corporation who or which conducted the sale upon the same premises within one year of the termination of the sale shall constitute a violation of this article. Every day in which business is conducted within the prohibited period of one year shall constitute a separate violation of this article.

Sec. 18-354. - Records.

(a) Suitable books and records concerning any sale under this article shall be kept by the licensee for the duration of the licensed sale and one year thereafter and shall be open for inspection by the city collector or his duly authorized representative.

(b) Upon the termination of a sale licensed under this article, the applicant shall within 30 days of such termination file a statement with the recorder stating:

(1) The total retail value of the goods, wares or merchandise not disposed of during the sale; and

(2) Their ultimate disposition and if transferred to another, the name and address of the transferee.

Secs. 18-355—18-380. - Reserved.

DIVISION 2. - LICENSE

Sec. 18-381. - Required; exceptions.

(a) It shall be unlawful for any person in this city to advertise or conduct any sale of any goods, wares or merchandise which is a closing-out sale, a sale of goods damaged by fire, smoke or water, or a defunct business sale unless a license is first obtained to conduct such a sale from the city collector as provided in this article.

(b) This article, however, shall not be construed to apply to or affect the following persons:

(1) Persons acting pursuant to an order or process of a court of competent jurisdiction.

(2) Persons who are required to file an accounting with a court of competent jurisdiction.

(3) Persons acting in accordance with their powers and duties as public officers such as sheriffs, constables, marshals and city police officers.

(4) Any publisher or employee of a newspaper or magazine or any operator or employee of a radio or television broadcasting station who publishes or broadcasts any such advertisement in good faith without knowledge of its false, deceptive and misleading character or without knowledge that the provisions of this article are not being complied with.

(5) Persons conducting sales by and on behalf of licensed insurers.

Sec. 18-382. - Application requirements.

(a) Any person desiring to conduct a sale regulated by this article shall make a written application under oath to the city collector. If the application is for a closing-out sale or a defunct business sale, it shall be filed at least ten days prior to the date on which such sale is to commence. If the application is for a sale of goods damaged by fire, smoke or water, it may be made at any time prior to the date on which such sale is to commence.

(b) All applications for a licensed sale regulated by this article shall set forth the following information:

(1) The name and address of the applicant, who must be the true owner of the goods, wares or merchandise to be sold, and if the applicant is a partnership, the names and addresses of all partners, or if the applicant is a corporation or association, the date and place of incorporation or organization, the address of the principal office within the state and its office in this city and the names and addresses of all the officers of the applicant.

(2) The name and address of the person who will be in charge of and responsible for the conduct of such sale.

(3) The exact address of the place at which the proposed sale is to be conducted and the length of time the applicant has been engaged in business at such location.

(4) The date on which it is proposed to begin the sale.

(5) The nature of the occupancy where such sale is to be held whether by lease or otherwise and the effective date of termination of such occupancy.

(6) The reason for the urgent and expeditious disposal of the goods, wares or merchandise to be offered at such sale.

(7) A statement of the descriptive name of the sale and the reasons why the name is truthfully descriptive of the sale.

(8) A statement that the business is to be terminated permanently or reopened at another location, the location of the premises at which the business is to be moved, if the applicant intends to resume the operation of the business upon the termination of the sale, and the name or designation under which such business is to be resumed.

(9) A full, complete, detailed and itemized inventory of the goods, wares and merchandise to be offered at such sale as disclosed by applicant's records, which inventory shall:

a. Itemize the goods to be offered for sale and contain sufficient information concerning each item, including quantity, make, brand name, model and manufacturer's number, if any, to clearly identify it.

b. List separately any goods to be offered for sale which were purchased and received during a 90-day period immediately prior to the date of making application for the license.

c. The total retail value of the inventory of goods, wares and merchandise to be offered at such sale based on the inventory used for applicant's most recent federal income tax return adjusted for sales and purchases.

d. If the application is for a license to conduct a sale of goods damaged by fire, smoke or water and the applicant was not the owner at the time when the goods, wares and merchandise to be offered at the contemplated sale were damaged, he shall attach to the application certified copies of the bill of sale and all other documents connected with such transfer obtained by him from the previous owner of such goods, wares and merchandise.

e. If the application is for a license to conduct a defunct business sale and the applicant was not the owner of the goods, wares and merchandise to be offered at the contemplated sale at the time of occurrence of the circumstances warranting the termination of such business, he shall attach to the application certified copies of the

bill of sale and the official appraisal made by the trustee, receiver, assignee for benefit of creditor, referee in bankruptcy or the personal representative of a decedent.

(10) A statement that no goods will be added to the inventory after the application is made.

(11) A statement that all goods included in such inventory have been purchased by the applicant for resale on bona fide orders without cancellation privileges and that such inventory comprises no goods purchased on consignment.

(12) A statement that no merchandise listed in the inventory has been the subject of a licensed sale conducted within one year prior to the date of the application unless such merchandise was damaged by fire, smoke or water while in the possession of the applicant.

Sec. 18-383. - Investigation of application; grounds for denial of license.

Upon receipt of the application, the city collector may, in his discretion, make or cause to be made an examination or order an investigation of the applicant and all the facts contained in the application and inventory in relation to the proposed sale. A license shall be denied or refused if any one or more of the following facts or circumstances are found by him to exist:

(1) That the applicant has not been the owner of the business advertised or described in the application for a license under this division for a period of at least three months prior to the date of the application or, if the applicant is a partnership, corporation or association, controlling interest in the corporation or association was transferred within six months prior to the date of the application for a license under this division except:

a. Where the application is for a license for a sale of goods damaged by fire, smoke or water or a defunct business sale and the inventory listed in the application contains only those goods, wares or merchandise which were on the premises at the time of the occurrence of the circumstances warranting the granting of a license under this division.

b. Upon the death of a person doing business in this city, his heirs, distributees, devisees, legatees or their successors and assigns shall have the right to apply at any time for a license under this division.

c. Where a business is required or compelled to be discontinued because the premises whereupon it is being conducted has been condemned, taken for purposes of urban renewal or development, or because the premises must be vacated because of legal or judicial proceedings.

(2) That in the case of a closing-out sale, the applicant either as owner, partner, member of an association, or principal stockholder of a corporation was granted a prior license under this division within one year preceding the date of the filing of the application.

(3) That the inventory contains goods, wares or merchandise not purchased by the applicant for resale on bona fide orders without cancellation privileges.

(4) That the inventory contains goods, wares or merchandise purchased by the applicant on consignment except if the consigned goods, wares or merchandise have been damaged while in the consignee's possession.

(5) That the applicant except in the case of an application for a license to conduct a sale of goods damaged by fire, smoke or water or a defunct business sale either as owner, partner, officer of an association, or principal stockholder of a corporation was granted a prior license hereunder within one year preceding the date of the filing of the application at the particular location for which the license is sought or within one year prior to the date of filing of the application has conducted a sale in connection with which he advertised or represented that the entire business conducted at the particular location for which the license is sought was to be closed out or terminated.

(6) That the applicant has within one year, prior to the filing of the application, been convicted of a violation of this article or a violation of W. Va. Code article 11B of chapter 47 (W. Va. Code § 47-11B-1 et seq.).

(7) That the goods, wares or merchandise as described in the inventory were transferred or assigned to the applicant prior to the date of the filing of the application and that such transfer or assignment was not made for a valuable and adequate consideration.

(8) That the inventory contains goods, wares or merchandise purchased by the applicant or added to his stock in contemplation of such sale and for the purpose of selling the same at such sale. For this purpose any unusual purchase or addition to the stock of such goods, wares and merchandise made within 90 days prior to the date of the filing of such application shall be presumptive evidence that such purchase or additions were made in contemplation of such sale and for the purpose of selling the same at such sale.

(9) That any representation made in the application is false.

Sec. 18-384. - Duration of sale; license fee.

A license to conduct a sale issued pursuant to this article shall be good for no more than a period of 30 consecutive calendar days and may be renewed for one consecutive period not exceeding 30 consecutive calendar days upon the affidavit of the applicant that the goods listed in the inventory have not been disposed of and that no new goods have been or will be added to the inventory previously filed pursuant to this article by purchase, acquisition on consignment, or otherwise. The application for renewal shall be made not more than ten days prior to the time of the expiration of the license and shall contain a new inventory of the goods remaining on hand at the time the application for renewal is made which new inventory shall be prepared and furnished in the same manner and form as the original inventory. The city collector shall receive from the applicant for such license, upon the granting, a fee of \$25.00 and upon the renewal another fee of \$25.00. The applicant shall not be entitled to a refund of the fee paid if his license is revoked.

Sec. 18-385. - Closing-out business sales at auction.

(a) Application. Any person proposing to hold an auction sale for the purpose of disposing of a stock in trade in order to discontinue business shall, at the time of applying for a license under the provisions of this article, include within his sworn application in addition to other required information:

- (1) The time and place of each proposed auction sale;
- (2) The name, address and occupational history of each person who will participate in conducting the sale by auction;
- (3) A true and correct detailed inventory, item by item, and article by article, listing each separate article proposed to be sold at such sale, each item so listed having set opposite it its description and identifying number, together with the true and actual cost of such item; and
- (4) Such other information concerning the auction sale as may be reasonably requisite.

(b) Endorsement of license; increased license fee. A license under this article, when an application has been made pursuant to the provisions of subsection (a) of this section, shall be endorsed by the city collector to authorize the owner of the goods, wares or merchandise to be sold by auction, but only after the collector shall be satisfied that such sale is to be made in good faith for the purpose permitted in this article and in compliance with all the provisions of this article, and upon the payment of a fee of \$100.00 in lieu of the \$25.00 fee specified in section 18-384

(c) Labeling of articles to be sold. Before the beginning of any sale by auction, the licensee shall cause to be attached to each article to be sold a card or ticket with a number corresponding to the number opposite the description of such article contained in the inventory included in the application for license.

(d) Misrepresentation. At all sales by auction, the licensee and all persons participating in the conducting of such sale shall truly and correctly represent at all times to the public attending the auction the actual facts in respect to the quality and manufacture of each article offered for sale. No misleading statements, advertising, signs or posters shall be permitted in connection with such sale.

(e) Cappers, boosters and shillers; prizes. No person shall act at any sale by auction as bidder, or what is commonly known as a capper, booster or shiller, or offer or make any false bid or offer any false bid to buy or pretend to buy any article sold or offered for sale at such sale. The giving of prizes or other like inducement is hereby prohibited.

(f) Supervision of sale. The person to whom a license has been granted, if an individual, or if a firm or corporation the person who has been in charge of the business, shall at all times during a sale by auction remain in continuous attendance for the purpose of supervising such sale in order that the provisions of this article may be complied with.

Sec. 18-386. - Revocation of license; grounds.

The city collector may, on his own initiative, or shall, upon the written and verified complaint of any resident of this state, investigate any person licensed by him under the provisions of this article to determine if such person is violating or has violated this article. The city collector shall immediately revoke such person's license if, after such

investigation, he shall determine that:

- (1) Any sale by the applicant is conducted in violation of any provision of this article;
- (2) The applicant has made any material misstatement in his application for the license;
- (3) The applicant has failed to include in the inventory required by the provisions of this article the goods, wares or merchandise required to be contained in such inventory;
- (4) The applicant has added or permitted to be added to such sale or offered or permitted to be offered at such sale any goods, wares or merchandise not described in the original application and inventory; or
- (5) The applicant made or permitted to be made any false, misleading or deceptive statements in advertising the sale, whether written or oral, or in displaying, ticketing or pricing goods, wares or merchandise offered for sale.

Sec. 18-387. - Notice of denial, refusal or revocation of license; judicial review.

Whenever the city collector shall deny or refuse to issue a license or shall revoke any license, he shall make and enter an order to that effect and shall cause a copy of such order to be served in person or by certified mail, return receipt requested, on the applicant or person licensed by him, as the case may be. Such order shall be accompanied by findings of fact and conclusions of law upon which such order was made and entered. Any person adversely affected by an order made and entered by the city collector shall be entitled to such judicial review as may be provided by law.

Sec. 18-388. - Branch stores and warehouses.

If the applicant owns, conducts or operates more than one store or warehouse in connection with such store or warehouse specified in the application, the license issued will apply only to the one store or warehouse for which it was issued; and no other store or warehouse may advertise or represent in any way that it is cooperating with or participating in any way in the licensed sale, nor shall the licensed store or warehouse or any person advertise or represent that any other person, store or warehouse is cooperating with or participating in the licensed sale. The licensed sale conducted by any store or warehouse of a chain or group of stores or warehouses shall be conducted solely at the location of the store or warehouse for which the license was obtained; and no goods, wares or merchandise shall be brought from any other store or warehouse and placed on sale at the store or warehouse licensed to conduct a sale under this article.

Sec. 18-389. - Substitution, addition and commingling of goods voids license; change of time or place of sale; certain purchases prohibited.

(a) Any substitution for or addition to goods described in an inventory filed pursuant to this article or any change in the time or place for a sale conducted pursuant to this article shall be unlawful and shall void any license issued to conduct a sale pursuant to this article and such license shall be revoked.

(b) In the case of a sale licensed under this article conducted by any person licensed under this article in addition to conducting a business or selling other goods, wares or merchandise not included in the inventory accompanying the application, the goods to be sold at such sale shall be clearly and distinctly segregated, marked or identified and advertised, if at all, so that both on display and in advertising such goods may be readily distinguished from other stocks and their identity readily ascertained. Any commingling of such goods with other stocks of such person in such a manner as to cause the goods to lose their separate identity either on display or in advertising shall be unlawful.

Sec. 18-390. - Copy of application, inventory and license to be posted; license to be referred to in advertisements.

A copy of the application for a license to conduct a sale under this article, including a copy of the inventory filed with the application, shall be posted in a conspicuous place in the sales room or place where the inventoried goods are to be sold so that the public may be informed of the facts relating to the goods before purchasing any goods. Any advertisement or announcement published in connection with the sale shall conspicuously show on its face the number of the license, the date of its expiration, and if applicable, the location where the business is to be resumed.

Secs. 18-391—18-420. - Reserved.

ARTICLE IX. - HANDGUN DEALERS

DIVISION 1. - GENERALLY

Sec. 18-421. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Chief of police means the chief of police of the city or his designated subordinate.

Dealer means any individual, corporation, partnership or venture which engages in any business, activity, trade or employment.

Firearm means any handgun, shotgun, rifle or any other object which expels a projectile by action of an explosion.

Handgun means any firearm which can be used and held with one hand.

Purchaser means any person who purchases or proposes to purchase a firearm from a dealer.

Record means any record of conviction for a felony involving violence or injury, the threat or the use of any firearm provided that there has been no pardon for the conviction, and provided further that the subject person has not had his civil rights restored, or any record of voluntary or involuntary confinement or treatment for mental health within three years prior to the registration form for a purchase of a handgun where the subject person has not been released from confinement or had treatment successfully terminated by the treating physician, or any criminal charge for which a warrant or indictment is currently pending.

Sale, sell or purchase means and includes a sale, lease, trade, rental, loan or any transfer, permanent or temporary, for valuable consideration.

Sec. 18-422. - Penalties.

Any person, dealer or purchaser who shall violate any of the provisions of this article or who shall provide false or misleading information shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine not to exceed \$1,000.00 or imprisonment for a term not to exceed 30 days, or both such fine and imprisonment in the discretion of the court. Each sale in violation of any provision of this article shall constitute a separate offense. Any dealer convicted under this section shall automatically lose his license to transact business in the city for a period of two years. Upon the expiration of the two-year period, the dealer may reapply for a handgun sales license under the same terms and conditions as any other prospective dealer.

Sec. 18-423. - Jurisdiction.

The municipal court and the county magistrate and circuit courts shall have concurrent jurisdiction for violations of this article.

Sec. 18-424. - Exceptions.

(a) This article shall not apply to the following transactions:

- (1) Sales between dealers who have a current handgun sales license issued by the city; and
- (2) The pledge of handgun to a pawnbroker as security for a loan.

(b) The chief of police may authorize the purchase of three additional handguns in a 30-day period by written authorization, which authorization shall be appended to and made a permanent part of the registration form.

(c) The provisions of section 18-426 relating to the waiting period shall not apply to transactions made at exhibitions or gun shows which are authorized by the chief of police; however, all other provisions of this article shall apply; and further, there shall be displayed at any such exhibition or show a warning that no person may purchase more than one handgun per 30 days.

Sec. 18-425. - Requisites for sale.

No person or dealer shall sell any handgun to any other person without first obtaining the following:

(1) A registration form which shall include the name and current residence address of the purchaser; the name and address of the seller shall be verified, signed and dated by the purchaser and time-stamped by the seller, and shall contain statements that the handgun is for the use of the purchaser and is not for resale within a 30-day period, and the purchaser has not purchased any other handgun within the 30-day period immediately prior to the date on the registration form.

(2) Satisfactory proof of identification, including one unexpired photo identification showing the name of the prospective purchaser issued by the state or any agency of the state, plus one other document not more than 90 days old, showing a name and address identical to that shown on the photo identification.

(3) A signed and dated acknowledgement of receipt of the handgun by the applicant, which acknowledgement shall be time-stamped by the dealer.

A copy of the registration form shall be provided to the chief of police.

Sec. 18-426. - Waiting period.

No sale may take place unless a period of at least 72 hours expires from the time the registration form is provided to the chief of police until the handgun is delivered to the purchaser. During the waiting period, the chief of police may conduct a search of available records to determine if the prospective purchaser has a record.

Sec. 18-427. - Reports.

Any person or dealer who sells any handgun shall, within 24 hours of delivery of the handgun, file with the chief of police a copy of the registration form required by this division, together with a notation stating the date and time the transaction was completed, the manufacturer, model and serial number of the handgun, and sworn verification that the identification required by this division was obtained. The dealer shall maintain a permanent record book which includes a copy of the registration form with the above notation. The permanent record book shall be open to inspection by any law enforcement officer during normal business hours.

Sec. 18-428. - Prohibited sales.

No person or dealer shall knowingly sell any handgun to any other person who has acquired a handgun within the previous 30 days or who has a record, whether such record is made known by the chief of police or otherwise, or under any circumstances which would constitute a violation of any provision of this Code. No person shall purchase a handgun if such person has acquired a handgun within the previous 30 days or has a record, or under any circumstances which would constitute a violation of any provision of this Code.

Secs. 18-429—18-450. - Reserved.

DIVISION 2. - LICENSE

Sec. 18-451. - Required.

No dealer shall sell any handgun to any other person without first obtaining a handgun sales license from the city.

Sec. 18-452. - Application for license.

(a) Application for a handgun sales license shall be made to the city collector upon forms furnished by the city, and shall set forth the following:

(1) The name of the dealer seeking the handgun sales license. If the dealer is a business, the business must identify all personnel authorized to sell any handgun on behalf of the business.

(2) Whether the applicant is an individual, partnership or corporation; if an individual, his name, social security number and business and residence address; if a partnership, the name and business and residence address of each general partner; if a corporation, the name, date and state under which such corporation was organized; and with respect to any partnership or corporation, the name and business address of any personnel responsible for supervising the sale, lease, trade or transfer of any handgun.

(3) The address at which any inventory of handguns shall be kept.

(b) Each application shall be signed and verified under oath by the applicant, if an individual, by a duly authorized general partner, if a partnership, and by a duly authorized officer if a corporation.

Sec. 18-453. - Annual license for each fiscal year; license fee.

A handgun sales license shall be valid unless revoked, until June 30 of the then current fiscal year. It shall be the licensee's obligation to apply annually to renew his license. The fee shall be \$25.00 for each such fiscal year.

Sec. 18-454. - Revocation.

(a) The city collector may immediately revoke a handgun sales license, for a period not to exceed two years, upon evidence or credible information at any time that:

(1) The licensee has knowingly made any false or materially incorrect statement in the application or any request for renewal of a license.

(2) The licensee has violated or permitted the violation of any provision of this Code, or any state or federal law relating to the sale of a handgun.

(3) The licensee has refused to permit inspection of his premises or business

records required to be maintained by this article upon request by any agent of the city collector or the city police.

(b) The city collector shall notify the licensee of the revocation by first class mail and shall also advise the licensee that he may demand, by written notice received by the city collector within ten business days of the revocation, an impartial and public hearing before the municipal court to determine whether the license revocation was proper. The licensee shall have no recourse if he fails to timely demand such hearing. Upon the expiration of the period of revocation, the dealer may reapply for a handgun sales license under the same terms and conditions as any other prospective dealer.

Secs. 18-455—18-490. - Reserved.

ARTICLE X. - HAWKERS AND PEDDLERS

Sec. 18-491. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Hawker or peddler means any person who shall carry goods, wares or merchandise from place to place, either in person or by agent or employee, and sell, for delivery at the same time, any such goods, wares or merchandise to any purchaser, at wholesale or retail, and any person who shall solicit for the purpose of rendering any service, shall be deemed a hawker or peddler under this article.

Sale means and includes both sales for money payment or for barter, and offers to make any such sale and offers to render any service or the rendering of any service.

Sec. 18-492. - Exemptions; exemption receipt.

(a) The provisions of this article shall not apply to any person who sells any goods, wares or merchandise to be delivered in the future, or to any of the following who offer immediate delivery of the goods, wares or merchandise being sold:

(1) Any person engaged within this city in the business or calling of agriculture, horticulture or grazing, who sells or sell individually or collectively, one or more for the other or others, the products derived from his business or calling;

(2) Any person engaged in the maintenance or operation of a retail merchandise store to exchange goods, wares or merchandise from such store for agricultural, horticultural or grazing products or to resell any such products received in due course of such business, nor to any other retail business concern, established and operating continuously for one year or more within this city in the sale of any product or products over regular routes;

(3) Any wholesaler or jobber selling soft drinks or nonintoxicating beer for which he is duly licensed by this city;

(4) Any person who sells petroleum products, ice, wood, meat, milk, ice cream, bread, cakes, pies and other bakery products, butter and eggs, manufactured, grown or produced by any such person and not purchased by him for resale;

(5) Any sales by societies, groups or organizations acting for charitable, religious or benevolent purposes;

(6) Any agent or salesman selling manufactured products, except green groceries and canned or bottled fruit products, produced by his employer, and who sells such items to retail dealers for the purpose of resale; or

(7) Any person having a stock of goods or merchandise, or manufacturing or processing plant kept or operating at a fixed situs in the city, and declared for taxation in the county where located, and using a vehicle over a fixed route for the purpose of selling or distributing at wholesale his merchandise, stock of goods or plant products.

(b) Any person exempt from license as provided in this section shall obtain from the city collector a license receipt, without cost, showing that he is so exempt, which shall be effective for the period as provided for annual licenses in this chapter; but to obtain such license receipt, he shall make an affidavit and produce such other evidence as to the fact entitling him to such exemption as the city collector in his discretion may require, which shall be on a form to be prescribed by the city collector.

Secs. 18-493—18-520. - Reserved.

ARTICLE XI. - HOME SOLICITATION SALES

Sec. 18-521. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Consumer sale means a sale, whether for cash or credit, of goods, services or an interest in land in which the:

(1) Sale is made by a seller who regularly engages as a seller in transactions of the same kind;

(2) Buyer is an individual; and

(3) Goods, services or interest in land are purchased primarily for personal, family, household or agricultural purposes.

Home solicitation sale means a consumer credit sale in excess of \$25.00 in which the buyer receives a solicitation of the sale at a place other than the seller's business establishment at a fixed location and the buyer's agreement or offer to purchase is there given to the seller or a person acting for the seller. The term does not include a sale made pursuant to a preexisting open-end credit account with the seller in existence for at least three months prior to the transaction; a sale made pursuant to prior negotiations between the parties at the seller's business establishment at a fixed location; a sale of motor vehicles, mobile homes or farm equipment; or a sale which

may be rescinded under the federal Truth in Lending Act (being title I of the federal Consumer Credit Protection Act). A sale which would be a home solicitation sale if credit were extended by the seller is a home solicitation sale although the goods or services are paid for, in whole or in part, by a consumer loan in which the creditor is subject to claims and defenses arising from the sale.

Seller includes an individual, firm, copartnership, joint venture, association, corporation, trust, estate or any other group or combination acting as a unit, other than a bona fide service club, civic body, charitable society or like organization not organized for profit. Any person convicted of a misdemeanor under this article shall have his license revoked pursuant to the applicable provisions of this chapter.

Sec. 18-523. - License for home solicitation sales; registration.

(a) It shall be unlawful for a person to engage in the business of soliciting or making home solicitation sales unless he shall first pay a license fee of \$25.00 and apply for and obtain a license from the city collector, in accordance with this section. No such license may be assigned or transferred.

(b) Each application for a license as required by this section shall be under oath and contain the information which the city collector may require, including without limitation the name and address of the applicant, the name and social security number of each person who will solicit or sell on behalf of the applicant and the nature, type, manufacturer and source of all goods, wares, services and merchandise to be sold.

(c) Each such application shall be accompanied by either a bond in the penal sum of \$3,000.00 with a solvent corporate surety licensed to do business in the state, or a cash bond in an equal amount. All such bonds shall be conditioned upon the making of final delivery of the goods, wares, services and merchandise to be sold, in accordance with the terms of any agreement between the buyer and the seller and with the provisions of this article. Any person incurring any pecuniary or other loss or damage by reason of the violation of such agreement or of this article shall have the right of action on such bond for the recovery of all damages to which such person may be entitled.

(d) Any license issued pursuant to this section may be revoked by the city collector in accordance with the applicable provisions of this chapter.

(e) Each person holding such a license shall pay an annual license fee of \$25.00 on July 1.

(f) In addition to obtaining such license, no person shall engage in the business of soliciting or making home solicitation sales unless he shall first register with the department of consumer protection. Such registration shall be effected by filing with such department in form prescribed by such department all information which such department may require.

Secs. 18-524—18-550. - Reserved.

ARTICLE XII. - HOTELS, TOURIST HOMES AND EATING PLACES

Sec. 18-551. - License required; fee.

The annual license fee to keep or maintain a hotel, tavern or tourist's home, where rooms are kept or maintained for transient guests, the charge for which is for a period of less than three days, or to keep and maintain a restaurant, or other eating place, not operated in connection with a hotel, tavern or tourist's home, shall be \$25.00.

Sec. 18-552. - Hotels and taverns.

Every building where food and lodging are usually furnished to travelers, and payment required, shall be deemed a hotel or tavern. Every person licensed to keep or maintain a hotel or tavern shall constantly provide such licensed establishment with lodging and food for travelers.

Secs. 18-553—18-580. - Reserved.

ARTICLE XIII. - INSURANCE COMPANIES AND AGENTS

Sec. 18-581. - License required; fee.

The annual license fee on every insurance company, or its agent, to carry on or transact business in the city shall be \$25.00.

Secs. 18-582—18-610. - Reserved.

ARTICLE XIV. - ITINERANT VENDORS

DIVISION 1. - GENERALLY

Sec. 18-611. - Definitions; exemptions.

(a) The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Itinerant vendor means and includes all persons, whether working independently or as part of an organized event under the umbrella of a promoter, sponsor, or organizer of an event, who engage or conduct within this city, either in one locality or in traveling from place to place, a temporary or transient business of selling goods, wares and merchandise; and who, for the purpose of carrying on such business, use, lease or occupy either in whole or in part, a room, building or other structure, or who use, lease or occupy for such purposes a room in any hotel or other structure, for the exhibition

and sale of such goods, wares and merchandise; and the person so engaged shall not be relieved from the provisions of this article by reason of association temporarily with any local dealer, trader, merchant or auctioneer, or by conducting such temporary or transient business in connection with or as part of the business of, or in the name of, any local dealer, trader, merchant or auctioneer.

(b) The provisions of this article shall not apply to special sales nor to persons conducting special sales within the purview of article VIII of this chapter; nor to sales made to persons engaged in wholesale or retail business by commercial travelers or selling agents in the usual course of business; nor to hawkers or peddlers in the streets, roads or highways, from packs or vehicles as defined in section 18-491; nor to persons selling meat or the products of the farm, garden or dairy; nor to any sales of goods, wares or merchandise on the grounds of any agricultural association during the continuance of any annual fair held by such association; nor to any sales by societies acting for charitable, religious or benevolent purposes; nor to judicial sales directed by law, or under the orders of any court; nor to the sales of the common necessities of life in any public market place.

Sec. 18-612. - Violations.

Every itinerant vendor who sells or exhibits for sale at public or private sale any goods, wares or merchandise without first obtaining a license and in all other respects complying with the provisions of this article, or who makes any false statement in reference to the matter set out in section 18-631; and every person, whether principal or agent, who, by circular, handbill, newspaper, or in any manner advertises such sale before proper licenses are issued to the vendor, and before he has complied with the provisions of this chapter, shall be guilty of a violation of this section, and shall be punished as provided in section 1-8.

Sec. 18-613. - Scope of article.

The provisions of this article shall not apply to:

- (1) Sales at trade shows or conventions, expos, arts and crafts fairs, and other similar events, or sales by entities at events registered with the Charleston Regatta Commission, or sales by entities at events hosted by a nonprofit or political subdivision;
- (2) Special sidewalk sales, festivals or other special events allowed by special permit or ordinance; or
- (3) Any city-sponsored event.

Secs. 18-614—18-630. - Reserved.

DIVISION 2. - LICENSE

Sec. 18-631. - Application for license for certain class of sales.

Each applicant for an itinerant vendor's license who proposes to advertise, represent or hold forth a sale of goods, wares or merchandise as a bankrupt, insolvent, assignee,

trustee, executor, administrator, receiver, attorney, manufacturer's wholesale sale, or a sale of any goods damaged by smoke, fire, water or otherwise shall state in writing, under oath, to the city collector at the time he makes application for a license, all the facts relating to the reason and character of such sale as proposed to be advertised, held forth or represented, including a statement of the names of the persons from whom such goods, wares or merchandise were purchased and the date of the delivery to the person applying for license; the place, if any, where such goods, wares or merchandise were previously exposed for sale, and such details as are necessary to locate exactly and identify fully all such goods, wares and merchandise proposed to be sold. Such applicant shall also include in such statement the name and residence of the owner in whose interest the business is conducted.

Sec. 18-632. - Denial of license when special sales license required instead; preservation of applications and availability to public.

(a) The city collector, upon receipt of a sworn application as provided in section 18-631 shall, before issuing the license applied for, first satisfy himself that the proposed sales are not within the purview of article VIII of this chapter; and the city collector shall not issue an itinerant vendor's license for any purpose for which a special sales license is required under the provisions of article VIII of this chapter.

(b) Each application as provided in section 18-631 shall be kept on file in the office of the city collector, and a record shall be kept by the city collector of all such statements in convenient form and open to public inspection.

Sec. 18-633. - License fee.

The annual license fee to carry on the business of itinerant vendor shall be \$25.00.

Sec. 18-634. - Bond required.

Every itinerant vendor shall execute a continuing bond in the form prescribed by the city collector, with satisfactory corporate surety, in the penalty of \$5,000.00, payable to the city, conditioned that such itinerant vendor will pay all damages accruing to any person by reason of any act or action done, performed or taken by such itinerant vendor in or about the conduct of his business, and further conditioned that such itinerant vendor will pay all taxes, fees and penalties imposed by this city; however, the aggregate liability of the surety for all such damages, taxes, fees and penalties shall, in no event, exceed the sum of the bond. This bond shall be filed with the city collector and shall be open to inspection during business hours to any person desiring to inspect it.

Secs. 18-635—18-660. - Reserved.

ARTICLE XV. - JUNK DEALERS

DIVISION 1. - GENERALLY

Sec. 18-661. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Itinerant junk collector includes only such persons who gather junk from place to place with the aid of a cart or vehicle, hand-drawn or propelled, who have no fixed place of business.

Junk means old or scrap gold, copper, brass, rope, rags, batteries, paper, rubber, automobile parts, iron, steel and other old scrap ferrous or nonferrous metals.

Junk dealers includes all persons engaged in the business of buying or selling junk.

Junk dealer's agents includes all persons who buy or sell junk for or on behalf of a junk dealer, but the term shall not be construed to include any persons regularly employed upon a salary by a regularly licensed junk dealer engaged in such business within the city.

Nonresident junk dealer or nonresident junk dealer's agent shall include all persons who act as junk dealers or junk dealer's agents who are nonresidents of the city, and all firms so engaged whose members are nonresidents of the city and all corporations which have not been admitted to hold property and transact business in the state.

Secs. 18-662—18-680. - Reserved.

DIVISION 2. - LICENSE

Sec. 18-681. - Required; resident license.

(a) No person within the city shall engage in the business of junk dealer, junk dealer's agent or itinerant junk collector without a license, which license shall be issued as provided in this article.

(b) No resident license shall be issued to any junk dealer, junk dealer's agent or itinerant junk collector who has not been a resident of the city for a period of at least one year prior to the application of such license.

Sec. 18-682. - Officers' or agents' residence.

No corporation or firm shall engage in the business of junk dealer or junk dealer's agent in the city unless the officers or agents of such corporation or firm who engage in the business of junk dealer or junk dealer's agent, in behalf of such corporation or firm

shall be eligible to be duly licensed as resident junk dealers or junk dealer's agents in accordance with the provisions of this article.

Sec. 18-683. - Certification of agents.

Every resident junk dealer shall certify to the city collector the name or names of the agents for whom he desires a license certificate and shall give to each agent so engaged by him a certificate of authority, which certificate the agent shall at all times keep with his license; and no such junk dealer's agent's license shall be valid and effective without such certificate of authority.

Sec. 18-684. - License not transferable; former convictions.

(a) No license under this division shall be transferable.

(b) No one who has been convicted of a felony shall be licensed as a junk dealer, junk dealer's agent or itinerant junk collector, and no one convicted of a misdemeanor in connection with the junk business within a five-year period prior to the passage of the ordinance from which this article is derived shall be licensed as a junk dealer, junk dealer's agent or itinerant junk collector.

Sec. 18-685. - Business not to engage agent ineligible for license.

No person engaged in the junk business shall engage a person as a junk dealer's agent who is ineligible to receive a resident junk dealer's or junk dealer's agent's license. Any license issued upon false statement or any improper license issued under this division shall be ipso facto void.

Secs. 18-686—18-720. - Reserved.

ARTICLE XVI. - MASSAGE PARLORS

DIVISION 1. - GENERALLY

Sec. 18-721. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Massage parlor means any shop, establishment or place of business wherein any person receives or alleges to receive all or any one or more of the following methods of treatment: oils, rubs, salt glows, hot or cold packs, all kinds of baths including steam rooms, body massage either by hand or by any mechanical or electrical apparatus or device, applying such movements as stroking, friction, rolling, vibration, kneading, cupping, pettrasage, rubbing, effecurage or topotement.

Masseur or masseuse means a person who practices or administers all or any one or more of the named subjects or methods of treatments as defined in this section.

Person means any individual, firm, corporation, copartnership, joint adventure, association or any group or combination acting as a unit and owning, operating or working in a massage parlor.

Sec. 18-722. - Enforcement.

The provisions of this article shall be enforced by the police department.

Sec. 18-723. - Inspections generally.

Every massage parlor shall, during business hours, be held open for inspection by duly authorized representatives of the various city departments concerned with the supervision and the enforcement of this article.

Sec. 18-724. - Rules and regulations generally.

In addition to any other law, rule or regulation adopted by the city or health department, the holder of any permit under this article shall be subject to the following rules and regulations:

- (1) Medical treatment of any kind shall not be given to any person unless authorized and under the supervision of a duly licensed physician.
- (2) No person who has any visible symptoms of a communicable disease, such as a rash, discharge or fever, or who is complaining of a sore throat may be attended by any person under this article or any person engaged in the practice of massage.
- (3) Each applicant for a permit under this article shall present a certificate from a registered physician, certifying that he and his employees are free from communicable disease.
- (4) Advertising that there is a nurse in attendance is prohibited unless there is a registered graduate nurse constantly in attendance during the business hours of the massage parlor.
- (5) Advertising that there is a doctor in attendance is prohibited unless there is a registered physician constantly in attendance during the business hours of the massage parlor.
- (6) A holder of a permit under this article shall exercise every precaution for the safety of patrons. Such permittee shall watch for early signs of fatigue or weakness and immediately discontinue whatever form of service is being given upon the appearance of such signs.
- (7) No massage parlor shall be conducted in direct connection with living quarters unless especially approved by the board of health.
- (8) The premises used for a massage parlor shall be well lighted and ventilated. They shall be kept clean, and the furniture and equipment shall be maintained in a safe and sanitary condition. There shall be an adequate supply of running hot and cold water during business hours. Bathing devices shall be thoroughly cleaned before the

use of each patron.

(9) All robes, towels, blankets and linens furnished for the use of one patron shall be thoroughly laundered before being offered to another.

(10) Uniforms or garments worn by an owner, instructor, operator or apprentice while attending patrons shall be of washable material and shall be kept in clean condition. The sleeves shall not reach below the elbow.

(11) The skin of the hands of those attending patrons shall be clean and in healthy condition, and the nails shall be kept short. The hands shall be washed thoroughly before giving the patron any attention.

(12) The permit holder shall notify the city collector of any change of name or address of his home or business.

(13) It shall be unlawful for any person to engage in the operation of a massage parlor without a permit issued pursuant to the provisions of this article.

(14) It shall be unlawful for any person to operate any massage parlor which does not conform to the sanitary or health regulations adopted by the health department.

(15) It shall be unlawful for any person to operate any massage parlor where any of the following activities take place:

- a. Sexual intercourse;
- b. Masturbation;
- c. Oral sexual activity;
- d. Touching or any manipulation of breasts or the genital area; or
- e. Other sexual activity contrary to the laws of the state or laws of the city.

(16) It shall be unlawful for any permit holder to permit disorderly conduct or the use of any immoral, profane or indecent language, or to permit the sale, giving away or use of beer or intoxicating liquors, narcotics or marijuana, or to permit a massage parlor to be a place of resort of thieves, prostitutes, narcotic addicts, narcotic peddlers or other disorderly persons.

Sec. 18-725. - Hours of operation.

No person shall open or cause to be opened or operated or cause to be operated within the city limits any massage parlor between the hours of 12:30 a.m. and 6:00 a.m. official city time.

Secs. 18-726—18-750. - Reserved.

DIVISION 2. - PERMIT

Sec. 18-751. - Required.

It shall be unlawful for any person to engage in the operation of a massage parlor without securing a permit from the city collector's office in accordance with the provisions established in this division. Nothing in this division shall be construed as applying to licensed practical nurses, orderlies, attendants or nurses aides working in hospitals, nursing homes and other establishments who are under the direction, control and supervision of a licensed practicing physician.

Sec. 18-752. - Application.

Any person applying for a permit to engage in the operation of a massage parlor under the provisions of this division shall first file with the city collector's office a written application for such permit, on a form to be provided, stating the name and address of the applicant, the name and address of the massage parlor, the name and address of the person the applicant represents, the names and addresses of all the masseurs and masseuses employed in the massage parlor.

Sec. 18-753. - Annual fee and application.

Any person making an application for a permit shall be required to pay an annual permit fee in the amount of \$25.00. The permit shall be nontransferable and the applicant shall, in addition to the annual fee, file a new application annually.

Sec. 18-754. - Investigations prior to issuance.

Prior to the issuance or renewal of any permit to operate a massage parlor:

(1) The fire chief shall inspect the site and the facilities to be used on the site to determine whether or not such facilities meet all requirements of the city fire code, and to establish any regulations for the operation of such massage parlor to conform with such code.

(2) The building commissioner shall inspect the site to determine the adequacy of sanitary facilities, restrooms, and to determine if such facilities meet all of the building code requirements.

(3) The health commissioner shall inspect the site to determine if the facilities meet the health code requirements.

(4) The collector shall not issue any permit to operate a massage parlor under this division until favorable recommendations from the fire chief, building commissioner and health commissioner are received by him.

Sec. 18-755. - Display.

All permits issued under this division shall be displayed in a conspicuous place in the massage parlor.

Sec. 18-756. - Revocation.

Any permit issued under this division may be revoked for the violation of any laws of the state, ordinances of the city or the provisions of this division.

Secs. 18-757—18-790. - Reserved.

ARTICLE XVII. - PARKING LOTS

DIVISION 1. - GENERALLY

Sec. 18-791. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Motor vehicle means every vehicle which is self-propelled and designed for operation on the streets.

Parking lot means any place, lot, parcel, yard or enclosure used in whole or in part for storing or parking three or more motor vehicles for charge. Garages and other places where motor vehicles are stored for hire within a building and for which a license fee is paid under another section of this Code shall be exempt from the provisions of this article.

Sec. 18-792. - Barriers.

All parking lots shall maintain a permanent, substantial barrier on or adjacent to lines abutting on any public street or sidewalk. Such barrier shall consist of at least a guard rail or wheel stop. If a permanent, substantial barrier consists of planting, the guard rail or wheel stop shall be a part of the barrier. Such a guard rail or wheel stop shall be so designed and installed that no portion of any vehicle parked on the lot shall extend over the property lines.

Sec. 18-793. - Maintenance and paving.

(a) Each licensee shall keep the sidewalks surrounding the parking lot free from dirt, ice, sleet and snow. Each licensee shall keep the parking area free from dirt, trash and debris.

(b) Parking lots shall be paved with a smooth black top or concrete surface.

(c) Lots opened or commencing operations after December 16, 1974, shall connect to existing sewer lines so that they may be properly drained.

Sec. 18-794. - Buildings.

Any building erected on a parking lot shall be of permanent construction built under plans approved by the building inspector, and shall be heated by means of heat generated through the use of electricity, gas or oil, or coal furnace. All buildings shall be maintained in a neat, orderly manner.

Sec. 18-795. - Entrances and exits.

On each street upon which a parking lot abuts, such parking lot shall have not more

than two entrances or exits, either or both, over the public sidewalks, which may or may not be combined. Driveways shall not exceed 26 feet in width at the curb or gutter line; adjacent driveways shall be separated by an island at least six feet in width.

Sec. 18-796. - Fire extinguishers.

Parking lots shall be equipped with proper fire extinguishing apparatus subject to the approval of the fire chief.

Sec. 18-797. - Lighting.

All parking lots operated after 6:00 p.m. shall be equipped with suitable outdoor lights, adequately illuminating such lots for the benefit of its patrons.

Sec. 18-798. - Blocking streets, alleys and sidewalks.

It shall be unlawful for the owner or operator of any parking lot to move, transfer or park, or cause to be moved, transferred or parked, any vehicle in his custody in such a manner as to block or otherwise interfere with the free movement of pedestrian or vehicular traffic on any street, alley or sidewalk.

Sec. 18-799. - Claim checks and signs.

(a) At the time of accepting a motor vehicle for storage or parking in a parking lot, the person operating the lot, his agent or employee, shall furnish to such persons parking their motor vehicles a distinctive check which shall be numbered to correspond to a coupon placed upon such motor vehicle, which check shall contain the name and address of the parking lot. Upon such check shall be written, printed, cut out or stamped the date and, if parking is charged for on an hourly basis, the time of acceptance of such motor vehicles. The foregoing provisions relating to claim checks shall not apply to any vehicle stored on a weekly and/or monthly fee basis.

(b) Each licensee shall maintain on his lot a permanently affixed sign suitable to appraise persons using such parking lot of the name of the licensee; the hours of the day or night when such places are open for parking or storing of motor vehicles; the rates charged and the closing hours of such parking lot. All such signs shall meet the requirements of all laws of the city, and shall be subject to the approval of the appropriate city officials charged with approving signs.

Secs. 18-800—18-820. - Reserved.

DIVISION 2. - LICENSE

Sec. 18-821. - Required.

No person shall establish, conduct, operate or maintain a parking lot without first

obtaining a license from the city, and no license shall be granted until the applicant shall file with the city collector a plat or drawing of such parking lot, showing the location, size and capacity of and the location, size and construction of any building on the lot, wall or railing surrounding the lot, and the location and type of lighting units, if any.

Sec. 18-822. - Application for license.

(a) Application for a parking lot license shall be made upon forms furnished by the city collector by the person intending to operate the parking lot and shall set forth the following:

(1) The name under which and the place where the parking lot is to be operated.

(2) Whether the applicant is an individual, partnership or corporation; if an individual, his name and business and residence address; if a partnership, the name and business and residence address of each partner; if a corporation, the name, date and state under which such corporation was organized, and the name and business address of the manager in charge.

(3) The maximum number of motor vehicles which can, at any one time, be stored upon the premises.

(b) Each application shall be signed and verified under oath by the applicant if an individual or by a duly authorized agent if a partnership or corporation.

Sec. 18-823. - Annual license for each fiscal year; license fee.

The license for the operation of a parking lot shall be applied for and issued annually as of July 1 for the then current fiscal year. The fee shall be \$25.00 for each fiscal year.

Sec. 18-824. - Revocation.

The city collector, subject to right of appeal, may revoke a license upon proof at any time that:

(1) The licensee has knowingly made any false or materially incorrect statement in his application.

(2) The licensee has knowingly violated or knowingly permitted or countenanced the violation of any provision of this division.

Secs. 18-825—18-860. - Reserved.

ARTICLE XVIII. - PAWNBROKERS

Sec. 18-861. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Pawnbroker includes any person engaged in the business of lending money on deposit or pledge of personal property or other valuable thing, other than securities or printed evidence of indebtedness, or in the business of purchasing personal property, such as articles made of or containing gold, silver, platinum or other precious metals or jewels of any description for the purpose of reducing or smelting them into any form different from their condition or construction when purchased, and reselling or marketing the product.

Sec. 18-862. - Annual license fee.

The annual license fee to engage in the business of pawnbroker shall be \$25.00.

Sec. 18-863. - Reports.

(a) All pawnbrokers doing business in the city shall be required to secure from the seller or pledger of any article proof of lawful ownership or a sworn affidavit of ownership of all articles pledged or sold to them.

(b) Each such business shall truly and accurately list each article pledged or sold in a permanent record book clearly showing the kind, character or any other special or unique quality or marking or serial or model number attached to or affixed to the article; the date and time of purchase or date and time pledged; the full name, residence address and mailing address of the seller or pledger; and any telephone number. This record book shall be open to inspection by any law enforcement officer in this city during normal business hours.

(c) Each such business shall report all the information required on each article pledged or sold in writing to the chief of police within 24 hours of purchase or pledge. The information required by this section shall be preserved for a period of not less than five years.

(d) All articles pledged or sold shall not be resold, given away, or loaned out or rented out or altered in any way for a period of ten calendar days after the purchase or pledge of the article.

(e) Any person having been found guilty of violating any provision of this section shall be subject to having his license revoked.

Secs. 18-864—18-890. - Reserved.

ARTICLE XIX. - SALVAGE YARDS

Sec. 18-891. - Definitions.

The following words, terms and phrases, when used in this article, shall have the

meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Fence means an enclosure, barrier or screen constructed of materials or consisting of plantings, natural objects or other appropriate means approved by the city collector and located, placed or maintained so as effectively to screen at all times salvage yards and the salvage contained in such yard from the view of persons passing upon the public roads of this city.

Salvage means old or scrap copper, brass, rope, rags, batteries, paper, rubber, trash, waste, junked, dismantled or wrecked machinery, machine or motor vehicles, or any parts of any junked, dismantled or wrecked machinery, machines or motor vehicles, iron, steel and other old or scrap ferrous or nonferrous materials.

Salvage yard means any place which is maintained, operated or used for the storing, keeping, buying, selling or processing of salvage, or for the operation and maintenance of a motor vehicle graveyard; and the term shall also include garbage dumps and sanitary fills.

Sec. 18-892. - Violations and penalties; injunctive relief to abate nuisances.

In addition to other remedies provided in this Code, it is determined that an unlicensed salvage yard is a nuisance, and it is further determined that the allowing of wrecked or damaged automobiles or other junk to remain unattended on a street or highway is also a nuisance and the city may apply to any court of competent jurisdiction for an injunction to abate such nuisances.

Sec. 18-893. - Reference to other provisions of this Code.

Nothing contained in this article shall be construed to affect, set aside or alter the provisions of article XV or XX of this chapter, or of chapter 54 of this Code.

Sec. 18-894. - License required; restrictions as to location; yards existing as of October 2, 1961.

It shall be unlawful for any person to operate or maintain a salvage yard in the city without a city license, and no license shall be granted for the operation or maintenance of a salvage yard in any zoning district other than an industrial district as provided by the zoning ordinance and no license shall be granted to a person to operate or maintain a salvage yard within 50 feet of a public street or highway, nor unless the view from such street or highway shall be obscured by a fence. Any person who was maintaining or operating a salvage yard or junkyard within the city prior to October 2, 1961, shall be granted a license if the view is obscured from any street or highway by a fence on his property line. Nothing in this section shall be construed to permit any person operating or maintaining a salvage yard or junkyard prior to October 2, 1961, to enlarge, expand or increase its size.

Sec. 18-895. - Issuance of license; fee; term; renewal.

The city collector shall have the sole authority to issue licenses for the establishment, maintenance and operation of salvage yards within the limits defined in this article and shall charge a fee of \$25.00 payable annually in advance. All licenses issued under this section shall expire with the expiration of June 30 next following the date of issue. A license may be renewed from year to year upon paying to the collector the sum of \$25.00 for each such renewal.

Sec. 18-896. - Requirements as to fences.

A fence constructed under this article shall be kept in good order and repair and at all times painted, and no advertisement shall be permitted on the fence other than the name of the person in whose name the license has been issued and the nature of the business conducted there.

Secs. 18-897—18-930. - Reserved.

ARTICLE XX. - SECONDHAND AUTOMOTIVE ACCESSORIES AND PARTS

Sec. 18-931. - License fee; not transferable or divisible.

There is imposed upon every person buying and selling secondhand automotive accessories and parts an annual license fee of \$25.00. Such license is not transferable, nor is the fee divisible.

Sec. 18-932. - Record of purchases; exhibiting; exception.

All persons procuring a license under this article shall be required to keep a complete record of all purchases of secondhand or used automotive parts, together with the date of purchase, the kind and character of merchandise purchased and the name of the seller and his address. No person shall be permitted to buy such merchandise unless the seller shall exhibit to the purchaser a bill of sale showing from whom the merchandise was purchased; however, dealers may sell to dealers without complying with the terms of this article.

Sec. 18-933. - Purchases from or sales to minors.

It shall be unlawful for any licensee under this article to purchase any merchandise from any person under the age of 16 years; and if any such person shall offer for sale any such merchandise, it shall immediately be the duty of the licensee to notify the chief of police.

Sec. 18-934. - Records open for inspection.

A licensee under this article shall at all times keep open for the inspection of any law enforcement officers his records of purchases.

Secs. 18-935—18-970. - Reserved.

ARTICLE XXI. - STORES

DIVISION 1. - GENERALLY

Sec. 18-971. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

General store means and includes any store or any mercantile establishment in which goods, wares or merchandise of any kind are purchased, ordered, sold or offered for sale either at retail or wholesale.

Special store means and includes any store or any mercantile establishment or establishments, in which goods, wares, or merchandise of any kind except cigarettes, tobacco products and soft drinks are purchased, ordered, sold or offered for sale, either at retail or wholesale, and which contains no coin-operated device, owned and operated by the store proprietor.

Sec. 18-972. - Coin-operated devices not considered stores.

For the purpose of this article, no coin-operated device shall be construed to be a store.

Secs. 18-973—18-990. - Reserved.

DIVISION 2. - LICENSE

Sec. 18-991. - Store license required.

It shall be unlawful for any person to establish, operate or maintain any store in the city without first having obtained a license to do so from the city collector as provided in this article.

Sec. 18-992. - Exemptions.

The establishment, operation or maintenance of stores by the following shall be exempt from the license tax imposed by this article:

- (1) The United States, the state and its political subdivisions;
- (2) Religious and charitable organizations;

(3) Any person engaged within this state in the business of producing agricultural products who, individually or collectively, sells in such store only agricultural products which he has produced.

Sec. 18-993. - Application for license; filing fee.

Any person desiring to establish, operate or maintain a store in this city shall apply to the city collector for a license to do so. The application for a license shall be made on the form which shall be prescribed and furnished by the city collector and shall set forth the name and address of the applicant, the name and location of such store, and such other facts as the city collector may require. If the applicant desires to operate more than one such store, he shall make a separate application for each such store. Each such application shall be accompanied by a filing fee of \$0.50 for each license requested and by the license tax prescribed in this division.

Sec. 18-994. - Return of application for correction; granting and display of license.

As soon as practicable after the receipt of any application under this division, the city collector shall carefully examine such application to ascertain whether it is in proper form and contains the necessary and requisite information. If upon examination the city collector shall find that any such application is not in proper form and does not contain the necessary and requisite information, he shall return such application for correction. If an application is found to be satisfactory, and if the filing fee and license tax, as prescribed in this division, shall have been paid, the city collector shall issue to the applicant a license for each store for which an application for license shall have been made. Each licensee shall display the license so issued in a conspicuous place in the store for which such license is issued.

Sec. 18-995. - Licenses and fees in addition to others.

The licenses and the license and filing fees provided for in this division shall be charged and collected in addition to any and all other license fees or taxes which may be chargeable against or heretofore chargeable against any person from whom a license is required under the provisions of this division and shall likewise be charged in addition to license fees or taxes which may be hereafter chargeable for any purpose whatsoever against such person by ordinance hereafter enacted unless such ordinance shall otherwise expressly provide.

Sec. 18-996. - Expiration and renewal of license.

All licenses under this division shall be so issued as to expire on June 30 of each year. On or before July 1 of each year, every person having a license shall apply to the city collector for a renewal for the next ensuing license year unless such person has ceased to operate such store or does not propose to continue operation of the store during the year next ensuing, in which event he shall notify the city collector that he has ceased operation of the store or that he proposes to cease operation of the store prior

to July 1 of the year next ensuing. All applications for renewal shall be made on the forms prescribed by the city collector. Each application for a renewal shall be accompanied by a filing fee of \$0.50 for each license requested and by the license tax as prescribed in this division.

Sec. 18-997. - License not assignable or transferable.

The license imposed by this division shall not be assignable and shall not be transferable.

Sec. 18-998. - Change of location of store.

Licenses issued under the provisions of this division may be altered so as to permit removal of the store to another location. In order to be effective at the new location, however, the certificate of license must show upon its face an endorsement of the change by the city collector.

Secs. 18-999—18-1030. - Reserved.

ARTICLE XXII. - STREET VENDORS

DIVISION 1. - GENERALLY

Sec. 18-1031. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Central vending district means the area bounded on the north by Washington Street, on the east by Broad Street, on the south by the Kanawha River, and on the west by Pennsylvania Avenue. Vending sites within the district shall be identified by the city collector in accordance with this division and such other regulation as the city collector may promulgate pursuant hereto. Such regulations promulgated by the city collector must be approved by the city council.

Street vendor means and includes any person, except itinerant vendors, who engages in or conducts, either as principal or agent, and whether working independently or as part of an organized event under the umbrella of a promoter, sponsor, or organizer of an event in the city, a business selling goods, wares, merchandise, food, confectionery or drink upon any street, sidewalk or public park.

Sec. 18-1032. - Penalties.

In addition to any penalties or sanctions provided in this article, the violation of any requirement of this article shall constitute an offense punishable in municipal court with

penalty for violation of a fine not to exceed \$500.00 and imprisonment of not more than 30 days, or both, for each such offense.

Sec. 18-1033. - Scope of article.

The provisions of this article shall not apply to:

- (1) Sales governed by article XIV of this chapter or sales made to dealers by commercial travelers or selling agents in the usual course of business;
- (2) Bona fide sales of goods, wares or merchandise by samples for future delivery;
- (3) Sales at trade shows or conventions, expos, arts and crafts fairs, and other similar events, or sales by entities at events registered with the Charleston Regatta Commission, or sales by entities at events hosted by a nonprofit or political subdivision;
- (4) Special sidewalk sales, festivals or other special events allowed by special permit or ordinance; or
- (5) Any city-sponsored event.

Sec. 18-1034. - Categories for street vending.

The types of businesses or activities that are permitted in the central vending district shall be defined by the following classifications:

- (1) Classification A: All nonfood items such as T-shirts, sweatshirts, arts/crafts, flowers, and any miscellaneous items that are not food products.
- (2) Classification B: All food products that do not require cooking such as fruits, vegetables and nonperishable food items that are prepackaged by the manufacturer.
- (3) Classification C: All food products that require cooking or heating or a health permit.

Sec. 18-1035. - Street sales.

(a) No person licensed as a vendor shall demonstrate, sell or offer for sale or barter any goods, wares, merchandise, food, confection or drink upon any street or sidewalk or any other city-owned property within the city except in accordance with all of the following provisions:

- (1) No merchandise shall be displayed or sold except in the locations designated in the rules and regulations of the city collector, and approved by the city council.
- (2) No merchandise shall be displayed or sold in a manner that blocks, obstructs or restricts the free passage of pedestrians or vehicles in the lawful use of the sidewalks, streets or public places or ingress or egress to the abutting property.
- (3) All merchandise shall be displayed or sold from portable tables, carts or containers as approved by the city collector. Each vendor shall remove all merchandise, packaging, paper, display tables, carts or containers, or other materials brought to the location at the termination of sales each day.
- (4) No vendor's table, cart, container or other appurtenances, paraphernalia, merchandise, supplies or signage shall occupy an area more than three feet in width and eight feet in length.
- (5) Each vendor during the period of selling shall keep the area within ten feet of the

location where the vendor sells or displays merchandise free from all litter and debris arising from the operations, including the litter which arises from action of customers in disposing of wrapping or packaging materials of merchandise sold by the vendor.

(6) Vendors shall at all times exercise reasonable care that their merchandise, packaging material, display equipment and other paraphernalia shall not create a safety or health hazard to customers or other persons using the public streets, sidewalks or public places, or to persons on or in abutting property.

(7) No street sales shall be conducted nor shall any display table, cart, container or other appurtenances be permitted on any public property between the hours of 12:00 midnight and 6:00 a.m. daily. Any other ordinance prescribing more restrictive hours shall prevail.

(8) No items of a pornographic nature shall be sold or displayed by street merchants.

(9) The playing of any radio, phonograph, or any musical instrument or device in such a manner or with such volume as to annoy or disturb the quiet comfort and repose of store owners, employees or patrons in the central vending district is prohibited pursuant to section 78-212

(b) Nothing in this section shall be construed to prohibit the distribution or the sale of newspapers on the sidewalks.

Sec. 18-1036. - Compliance with guidelines.

The city collector's office may conduct site checks to determine if vendors are in compliance with the guidelines. Upon inspection, if a violation is found, vendors are immediately issued site check forms which indicate specific regulation violations. Vendors will be given no more than 24 hours to correct cited violations. Upon the receipt of three cited violations within 90 days, the city collector may issue a notice terminating the license for the remainder of the current licensing period.

Secs. 18-1037—18-1060. - Reserved.

DIVISION 2. - LICENSE

Sec. 18-1061. - Operation without license unlawful; failure to display license unlawful.

No person shall engage in the business or trade of street vendor without first obtaining a license from the city collector. The license shall be displayed conspicuously at all times upon the vendor's table, cart or container. Any and all additional licenses or permits required pursuant to law shall be displayed conspicuously at all times upon the vendor's table, cart or container. Each day's operation of such business without a license shall constitute a separate offense.

Sec. 18-1062. - License fees.

The license fee for engaging in the trade or business of street vendor shall be \$25.00 per fiscal year, or any portion. Dishonored checks shall be subject to a \$15.00 return

check fee in addition to the \$25.00 license fee.

Sec. 18-1063. - Application and issuance of vendor's license; general liability insurance required; procedures.

(a) Each applicant for a vendor's license shall file an application with the city collector in such form as prescribed by the city collector. The applicant may be an individual or a firm or corporation on behalf of an individual. In the case where a person, firm or corporation applied for the license on behalf of an individual, the license shall be issued in the name of the applicant; and the license shall also bear the name of the vendor on whose behalf the license is issued.

(b) All food vendor applicants under classification C of section 18-1034 shall submit with their application evidence of approval from the Kanawha-Charleston Health Department for the type of food to be sold.

(c) No license shall be issued or shall remain in effect unless such vendor can demonstrate to the city collector proof of general public liability insurance in the aggregate sum of \$500,000.00, naming the city as additional insured, with assurance that the city will be advised by the insurance carrier if the insurance is canceled. In addition, such vendor shall enter into a hold-harmless agreement with the city.

(d) All street vendor applicants shall be given a copy of the rules and regulations for street vendors and are charged with knowledge of such rules and regulations.

Sec. 18-1064. - Revocation.

The violation of any requirement of this division, or of any rule or regulation promulgated pursuant to this division, or of any ordinance or law shall be grounds for immediate revocation of the vendor's license by the city collector.

Sec. 18-1065. - Appeal of revocation.

Any vendor who feels aggrieved by the revocation of the vendor's license or other adverse action taken by the city collector may, by filing a written request with the city collector within ten days, obtain reconsideration by the city collector. If requested, the vendor shall be entitled to a formal hearing before the city collector or a hearing examiner designated by the city collector in order to provide the vendor with an opportunity to show that the action taken was incorrect or contrary to law, in whole or in part, after which hearing, the city collector shall, within a reasonable time, give notice in writing of his decision. Such appeal, unless and until the ruling of the city collector is modified or rescinded, shall not effect any stay of the action taken by the collector which is being appealed. Further appeal may be taken by the vendor to the circuit court by certiorari in the manner prescribed by law.

Secs. 18-1066—18-1160. - Reserved.

ARTICLE XXIII. - TREE SERVICES

Sec. 18-1161. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Tree service means cutting, trimming, topping, removal, pruning, land clearing, brush snipping and shrub trimming.

Sec. 18-1162. - Penalties.

Any person convicted of a misdemeanor under this article shall have his permit revoked pursuant to the provisions of section 18-49.

Sec. 18-1163. - Permit required.

No person shall engage in the business of tree service without having first secured an annual permit from the city collector. The fee for such annual permit shall be \$25.00.

Sec. 18-1164. - Identification card.

Upon the payment of the annual permit fee under this article, the applicant shall be issued a permit identification card which must be carried by the person engaging in such tree service within the city and shall be presented to any official upon request.

Sec. 18-1165. - Disposal of material.

It shall be the responsibility of the person engaging in the business of tree service to remove and dispose of any and all material resulting from such tree service within a reasonable time period not exceeding five days.

Secs. 18-1166—18-1169. - Reserved.

ARTICLE XXIV. - RESIDENTIAL RENTAL PROPERTIES

DIVISION 1. - RESIDENTIAL RENTAL LICENSE

Sec. 18-1170. - Purpose and scope.

It is the purpose of the City of Charleston's residential rental properties ordinance to assure that rental housing in the city is maintained in a good, safe, and sanitary condition, to ensure that all rental units meet all applicable building, fire, health, safety and zoning codes, and to provide an efficient system for compelling both absentee and

local landlords to correct violations and maintain, in proper condition, rental property within the city.

This article applies to any rental unit located within the city.

This section shall be construed liberally in order to achieve the purposes and intent enunciated herein.

The provisions of this article shall be in addition to, and not in lieu of, methods or processes otherwise contained in any ordinance or law of the city, county or state. Any and all building commission officials shall have authority to enforce the provisions of this section and shall be referred to herein as code enforcement officers.

Sec. 18-1171. - Exceptions.

This article specifically excludes the following:

- (1) Transient occupancy in a hotel, motel, inn, bed and breakfast, or other similar lodging facility;
- (2) Group homes, community living arrangements, or foster homes;
- (3) Hospitals, nursing homes, congregate care facilities, assisted living facilities, extended medical care facilities, or other similar facilities;
- (4) Homeless shelters;
- (5) Public housing, owned by a governmental agency, and any housing owned or controlled by the Charleston-Kanawha Housing Authority;
- (6) On-campus residential facilities owned, operated or managed by the University of Charleston or other accredited college or university;
- (7) Single-family dwellings that a relative of the owner occupies and no net income is earned by the owner;
- (8) Residential facilities owned, operated or managed by or for the benefit of a hospital, or by or for the benefit of any affiliate or supporting organization of a hospital, providing housing exclusively for students, trainees, interns or residents in medical, nursing, medical technologist or other allied health care fields.

Sec. 18-1172. - Definitions.

As used in this article, the following terms and words shall have the following meanings, unless the context clearly indicates that a different meaning is intended:

City means the City of Charleston.

Hotel means a business establishment under single management which provides sleeping accommodations for transients with or without meals, having an annual turnover of room occupancy exceeding 300 percent in which the rooms are not directly accessible from an outdoor area.

Motel means a business establishment under single management which provides

sleeping accommodations for transients with or without meals, having an annual turnover of room occupancy exceeding 300 percent in which the rooms are directly accessible from an outdoor area.

On-campus residential facility means a building owned or controlled by an educational institution and/or other institution of higher learning, or spaces within buildings owned or controlled by an educational institution and/or other institution of higher learning, where housing is provided exclusively for students.

Owner or landlord means one or more person(s), in whom is vested all or part of the legal title to a rental unit, or all or part of the beneficial ownership and a right to present use and enjoyment of the rental unit, including a mortgagee in possession, who rents or leases such rental unit, either personally or through a designated agent, to any tenant.

Person means any natural individual, firm, partnership, association, joint stock company, joint venture, limited liability company, limited partnership, public or private corporation or receiver, or any other legal entity, executor, personal representative, government, governmental subdivision or agency, estate, trust, trustee, conservator or other representative appointed by order of any court.

Rental unit means a room or group of rooms within any structure, building, house, mobile home, or any portion thereof, arranged or designed to be occupied for residential sleeping, living, cooking, and sanitation purposes by one or more persons, which is leased or rented from the owner of such units, or the owner's designated agent, to any tenant, whether by day, week, month, year, or any other term. The word[s] "rental unit" shall not include any of the exceptions contained in section 18-1171 herein.

Responsible local agent means the owner, or a natural person designated by the owner as the agent responsible for operating a rental unit in compliance with the ordinances adopted by the city. In many instances, the responsible local agent may be the owner if no other responsible party exists.

Tenant means any individual who has, in exchange for monetary or other valuable consideration, the temporary use and occupancy of real property owned by another person in subordination to that other person's title and with that other person's consent; for example, a person who rents or leases a rental unit from an owner.

Sec. 18-1173. - Residential rental license required.

On July 1, 2010 and thereafter, it shall be unlawful for any owner to lease or rent a rental unit located within the city without possession of a valid residential rental license for that rental unit, authorized by the city and complying with all provisions of this article. The residential rental license requirement provided for in this Article shall be in addition to any general business license required in this Article but no fee shall be

charged for a residential rental license.

Sec. 18-1174. - Application requirements for residential rental license.

(a) The residential rental license provided for in this article shall be in the form of a certificate issued by the city collector to any owner making proper application on forms to be prescribed and furnished by the city collector.

(b) An application for a residential rental license may be denied if the owner has:

(1) Delinquent business and occupation taxes related to income derived by owner from rental units located within the city; or

(2) Delinquent fire or refuse fees related to the rental unit for which the owner is applying for a residential rental license; or

(3) Fines due and owing the city arising from building, planning or zoning violations related to the rental unit for which the owner is applying for a license.

(c) An application for a residential rental license shall be denied if the city has reason to believe following a reasonable and appropriate inquiry, that one or more of the rental units is unfit for human occupancy or is located in an unsafe structure.

(d) Applications for a residential rental license shall be filed with the city collector's office, and shall include the following:

(1) The street address of the rental unit(s);

(2) The number and types of rental unit(s);

(3) The square footage of each rental unit;

(4) Name, residence address, telephone number, and e-mail address (if applicable), mobile telephone number, and facsimile number of all owners of the rental unit(s);

(5) Name, residence address, telephone number, and e-mail address (if applicable), mobile telephone number, and facsimile number of the responsible local agent designated by the owner, for each rental unit;

(6) The maximum number of tenants permitted for each rental unit;

(7) The name, address, telephone number, and e-mail address (if applicable), mobile telephone number, and facsimile number of the person(s) authorized to collect rent from the tenants if other than owner or responsible local agent;

(8) The name, address, telephone number, and e-mail address (if applicable), mobile telephone number, and facsimile number of the person authorized to make or order repairs or services for the rental unit, if in violation of city or state codes, if the person is other than the owner or the responsible local agent;

(9) The name, address and telephone number of the bank or other financial institution, if any, who holds a lien on the rental unit(s) or the land on which the rental unit(s) is located;

(10) The name, address and telephone number of the person designated to accept all legal notices or services of process with respect to the rental unit(s).

(e) The issuance of a residential rental license by the city for any rental unit shall not constitute a finding by the city that the rental unit is in compliance with any or all

requirements imposed by city, state, or federal law or regulation.

Sec. 18-1175. - Responsible local agent.

The owner and/or designated responsible local agent shall be responsible for all of the following:

- (1) Operating the licensed rental unit in compliance with all applicable city, county or state laws related to building, fire, health, safety, or zoning; and
- (2) Providing access to the rental unit(s) for the purpose of permitting any and all city inspections necessary to ensure compliance with applicable city ordinances related to building, fire, health, safety or zoning, including using all commercially reasonable efforts to obtain permission from tenants for access; and
- (3) Maintaining a list of the names and number of occupants of each rental unit for which he or she is responsible.

Sec. 18-1176. - Accurate and complete information.

All information provided on the license application form for the residential rental license shall be accurate and complete. No person shall provide inaccurate information for the license of a rental unit, or fail to provide the information required for a residential rental license. The residential rental license application form shall be signed by both the owner(s) and the designated responsible local agent, if applicable. Where the owner is not a natural person, the owner information shall be that of the president, general manager or other chief executive of the organization who is duly authorized to execute the application. Where more than one person has an ownership interest, the required information shall be provided for each such owner.

Sec. 18-1177. - Residential rental license term and renewals.

The effective date for a residential rental license shall be from July 1 through June 30 of each year. The owner shall apply for renewal each year prior to the expiration of the residential rental license by completing a renewal application on forms to be prescribed and furnished by the city collector.

Sec. 18-1178. - Change in registration information or transfer of property.

Owners shall notify the city collector of any change in the designation of the responsible local agent, including a change in name, address, e-mail address, telephone number, mobile telephone number or facsimile number of the designated responsible local agent within five business days of the change. Within 30 days of any change of ownership of a rental unit, the new owner shall apply for a residential rental license for that rental unit.

Sec. 18-1179. - Revocation of residential rental license.

After adequate inquiry and verification of the reasons therefor, the city collector, upon

reasonable written notice to the licensee, may revoke any residential rental license issued by him pursuant to the provisions of this Code for any reason which would have been grounds for denial of such license when first issued, for violation of any term or condition of such license, or for violation of any applicable provision of state law, this Code or other ordinance related to building, fire, health, safety or zoning. Any person having an interest in any residential rental license so revoked and who disputes such revocation may request that the city collector further investigate the grounds for revocation and reconsider his action. If the city collector accedes to such request, he may temporarily suspend or reinstate the residential rental license pending his final decision. If the city collector refuses to accede to such request or if, upon reconsideration, he affirms his revocation of the residential rental license, his decision shall be final, subject to such judicial review as may be provided by law.

DIVISION 2. - INSPECTIONS OF RENTAL PROPERTY

Sec. 18-1180. - Periodic inspections.

In addition to all other inspections permitted herein or otherwise permitted by law, each rental unit shall be subject to periodic inspection to determine compliance with the provisions of this article and all other applicable city, county or state laws related to building, fire, health, safety, or zoning; provided that said periodic inspections shall be conducted no more than once in any 24-month period for each rental unit.

Sec. 18-1181. - Other bases for inspections.

Inspections may also be made by code enforcement officers based upon, but not limited to, one or more of the following:

- (1) A colorable complaint received by the city, or any law enforcement agency, indicating that there is a violation of applicable city, county or state law laws related to building, fire, health, safety, or zoning.
- (2) An observation by any planning or zoning official, fire or law enforcement officer, or any code enforcement officer of a violation of applicable city, county or state laws related to building, fire, health, safety, or zoning.
- (3) A credible report or observation of an unsecured or unoccupied rental unit that is damaged by fire.
- (4) The need to determine compliance with a notice of violation issued by the city related to the rental unit.
- (5) A request for an inspection by the owner or tenant.
- (6) When the building commissioner, fire chief or their respective designee(s) has a reasonable belief that a condition exists related to the rental unit which poses imminent danger to the tenant or the public.

Sec. 18-1182. - Inspection procedures.

Code enforcement officers shall be authorized to enter into a rental unit at reasonable times to inspect the same, provided that permission to enter the rental unit is obtained

from the owner or responsible local agent, and the tenant. If the rental unit is rented during the time of inspection, code enforcement officers shall obtain tenant's consent for the inspection in writing and on a form which clearly informs the tenant of their right to refuse to submit the rental unit for inspection. The owner(s) or their responsible local agent shall make commercially reasonable efforts to notify tenants of planned inspections of their rental units. Owner shall also be solely responsible for complying with state law regarding entrance into leased property. If an owner, tenant, or other person in charge of a rental unit refuses to permit unrestricted access and entry to the rental unit, or any part thereof, for an inspection authorized by this section, a code enforcement officer may, upon a showing that probable cause (as the term is defined in *Camara v. Municipal Court*, 387 U.S. 523 (1967)) exists for the inspection of the rental unit, petition and obtain an order to inspect and/or a search warrant from a court of competent jurisdiction.

Sec. 18-1183. - Notice of violation; corrective action; re-inspection.

(a) Whenever a code enforcement officer determines that any rental unit is in violation of applicable city or state laws related to building, fire, health, safety or zoning, the code enforcement officer shall provide written notice of the violation to the owner or responsible local agent and shall specify a reasonable time period in which the violation must be corrected.

(b) Failure to correct violations within the time period specified by the code enforcement officer may result in an immediate revocation of the residential rental license for that rental unit and may further subject the owner to the penalties set forth in section 18-1186 of this article, and any other penalties permitted under this Code. No residential rental license shall be revoked for failure to remedy a condition so long as the owner or responsible local agent is, in the discretion of the code enforcement officer, acting with due diligence and taking bona fide steps to correct the violation, including, but not limited to, pursuing remedies under a lease agreement with a tenant.

(c) Code enforcement officers may, in their discretion, perform one or more re-inspections of a rental unit in which violations have occurred for the purpose of verifying corrective action. If, in the discretion of the code enforcement officer, required repairs can reasonably be made at the time of inspection, no re-inspection will be required and no re-inspection fee will be charged.

Sec. 18-1184. - Re-inspection fee.

The fee for the first re-inspection shall be \$50.00 per rental unit inspected. The fee for the second and all subsequent re-inspections shall be \$100.00 per rental unit inspected. All fees shall be paid to the city collector's office. If, in the discretion of the code enforcement officer, the need for re-inspection has been a result of intentional damage by the tenant, the code enforcement officer may waive any re-inspection fee.

Sec. 18-1185. - Penalties.

Any owner who leases or rents a rental unit within the city without possession of a valid residential rental license for that rental unit, or who otherwise fails to comply with the requirements of this article shall be subject to a fine of not less than \$500.00 per rental unit. Each month the violation exists shall constitute a separate violation.

The imposition of a penalty does not prevent suspension or revocation of a license, permit or franchise, or other administrative sanctions.

Violations of this article that are continuous with respect to time are a public nuisance and may be abated by injunctive or other equitable relief. The imposition of a penalty does not prevent injunctive relief.

Violations of this article shall be adjudicated through the Municipal Court of Charleston, West Virginia.

Sec. 18-1186. - Severability.

The sections, subsection, paragraphs, sentences, clauses and phrases of this article and all provisions adopted by reference in this article are severable so that if any section, subsection, paragraph, sentence, clause and phrase of this article or any provision adopted by reference in this article is declared unconstitutional or invalid by a valid judgment of a court of competent jurisdiction, such judgment shall not affect the validity of any other section, subsection, paragraph, sentence, clause and phrase of this article or of any provision adopted by reference in this article, it being the intent of council that it would have enacted this article and all provisions adopted by reference in this article without such invalid or unconstitutional provisions.

The question being on the passage of the Bill. A roll call was taken and there were; yeas – 25, absent-3, as follows:

YEAS: Burka, Burton, Deneault, Dodrill, Ealy, Haas, Harrison, Hoover, Kirk, Miller Minardi, Nichols, Persinger, Reishman, Richardson, Russell, Salisbury, Sheets, Smith, Snodgrass, Stajduhar, Talkington, Ware, White, Mayor Jones.

ABSENT: Davis, Clowser, Lane.

With a majority of members elected recorded thereon as voting in the affirmative the Mayor declared Bill No. 7571, as amended, passed.

REPORTS OF OFFICERS

1. Report of the City of Charleston, Municipal Court Financial Statements; March 2013. Received and Filed.

2. City Treasurer's Report to City Council Month Ending March 2013. Received and Filed.

3. Report of the City of Charleston Financial Statements for the Nine-Month period ended March 31, 2013.
Received and Filed.

NEW BILLS

Introduced by Council members Mary Jean Davis, Brent Burton, Marc Weintraub, Chris Dodrill, Bobby Haas, Jack Harrison, Courtney Persinger, Andy Richardson, Mike Stajduhar on April 15, 2013:

Bill No. 7572 - A BILL to amend Article VII of Chapter 102 of the Municipal Code of the City of Charleston entitled "Outdoor Dining," by amending the fencing regulations; prohibiting smoking in outdoor dining areas; and requiring 48 inches of sidewalk clearance.

Refer to Planning Committee and Finance Committee.

Introduced by Council member Jack Harrison on April 15, 2013:

Bill No. 7573 - A BILL to amend Section 2-551 of Article VII of Chapter 2 of the Code of the City of Charleston to create an additional seat on the Civic Center – Auditorium Board of Charleston.

Refer to Ordinance and Rules Committee.

ROLL CALL

The Clerk called the roll:

YEAS: Burka, Burton, Deneault, Dodrill, Ealy, Haas, Harrison, Hoover, Kirk, Miller, Minardi, Nichols, Persinger, Reishman, Richardson, Russell, Salisbury, Sheets, Smith, Snodgrass, Stajduhar, Talkington, Ware, White, Mayor Jones.

ABSENT: Davis, Clowser, Lane.

At 7:45 p.m., by a motion from Councilmember Harrison, Council adjourned until Monday, May 6, 2013, at 7:00 p.m.

Danny Jones, Honorable Mayor

James M. Reishman, City Clerk