

**Bill No. 8031 Committee Substitute**

**Introduced in Council:**

**April 1, 2024**

**Introduced by:**

**Mary Beth Hoover and  
Chad Robinson**

**Adopted by Council:**

**Referred to:**

**Ordinance & Rules**

1 **Bill No. 8031 Committee Substitute** - A BILL to amend and reenact Sections 6-152, 6-  
2 153, 6-154, 6-155, 6-156, 6-157, and 6-158 of the Municipal Code of the City of  
3 Charleston, as amended, and to amend said code by adding thereto three new  
4 sections, designated Sections 6-186, 6-187, and 6-188, all relating to updating the  
5 regulation of Private Outdoor Designated Areas to be consistent with state code  
6 changes; expanding the types of licenses that can operate within a Private Outdoor  
7 Designated Area to be consistent with state code; clarifying that multiple permit holders  
8 and licensees may operate within a Private Outdoor Designated Area simultaneously;  
9 creating the East End PODA; and setting forth day, time, and personnel needed for the  
10 operation of the East End Private Outdoor Designated Area.

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

13  
14 That Sections 6-152, 6-153, 6-154, 6-155, 6-156, 6-157, and 6-158 of the Municipal  
15 Code of the City of Charleston, as amended, are hereby amended and reenacted; and  
16 that said code is hereby amended by adding thereto a new division, designated  
17 Sections 6-186, 6-187, and 6-188, all to read as follows:

18  
19 **CHAPTER 6. – ALCOHOLIC BEVERAGES.**

20 **ARTICLE IV. – PRIVATE OUTDOOR DESIGNATED AREAS.**

21 **DIVISION 1. – GENERALLY.**

22  
23 **Sec. 6-152. – Private Outdoor Designated Area.**

24  
25 A Private Outdoor Designated Area includes the public property that has become  
26 a legally demarcated area established by a municipal ordinance as set forth in West  
27 Virginia Code §8-12-26 for the consumption of liquor, wine, nonintoxicating beer, and  
28 nonintoxicating craft beer. Notwithstanding the provisions of Section 78-211 of this  
29 Code, a person may possess and consume an approved open container of liquor, wine,  
30 nonintoxicating beer, or nonintoxicating craft beer sold from an approved Class S4  
31 special permit holder, as further detailed in this Article, outdoors within a Private  
32 Outdoor Designated Area. A business operating within a Private Outdoor Designated  
33 Area may choose whether or not to permit people to enter its business with an approved  
34 open container of liquor, wine, nonintoxicating beer, or nonintoxicating craft beer sold  
35 from an approved Class S4 special permit holder. A Private Outdoor Designated Area

36 may be authorized to simultaneously host multiple qualified licenses and permit holders  
37 as defined in West Virginia Code, at the discretion and with the approval of the City  
38 Manager.

39  
40 **Sec. 6-153. – Participation in a Private Outdoor Designated Area.**

41  
42 (a) Any Class A, Class B, or Class S2 license holder under West Virginia Code  
43 ~~§60-7-1 et seq.~~ that operates in a Private Outdoor Designated Area may apply to the  
44 City Manager for the approval to ~~operate in~~ participate in the sale of alcoholic beverages  
45 within a Private Outdoor Designated Area. The City Manager shall review the  
46 application to ensure it is complete and meets the following requirements:

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

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

53 (3) The applicant has a valid Class A, Class B, or Class S2 ~~private club~~  
54 license under West Virginia Code ~~§60-7-1 et seq.~~

55  
56 (b) Once approved by the City Manager, as indicated by a letter of approval to  
57 the applicant, the license holder may apply to the West Virginia Alcohol Beverage  
58 Control Administration (“WVABCA”) for a ~~special~~ Class S4 special permit, as detailed in  
59 West Virginia Code § 60-7-8g, to participate in a Private Outdoor Designated Area, as  
60 further detailed in this Article, in the West Virginia Code, and in any applicable rules of  
61 the WVABCA. Upon approval by the WVABCA, the Class S4 special permit holder shall  
62 notify the City Manager’s office. Any business that receives the approval of the City  
63 Manager and a Class S4 special permit from the WVABCA may participate in a Private  
64 Outdoor Designated Area.

65  
66 (c) Participation in a Private Outdoor Designated Area does not provide a  
67 business with any authority to operate outdoor dining on the public right of way. Any  
68 business interested in participating in outdoor dining shall follow the requirements of  
69 Chapter 102, Article VII of this Code. A business with an approved outdoor dining area  
70 that is within a Private Outdoor Designated Area may operate its outdoor dining area  
71 simultaneously with its participation in a Private Outdoor Designated Area.

72  
73 **Sec. 6-154. – Containers.**

74  
75 All beverages served from valid Class S4 special permit holders for consumption  
76 in a Private Outdoor Designated Area shall be served in a non-glass container not  
77 greater than 16 fluid ounces, which has been approved by the City Manager and the  
78 WVABCA.

79  
80 **Sec. 6-155. – Signage and Prohibitions.**

81

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

88  
89 (b) A person may not leave a Private Outdoor Designated Area while possessing  
90 an open container of liquor, wine, nonintoxicating beer, or nonintoxicating craft beer that  
91 contains liquid.

92  
93 (c) A person may not possess an open container of liquor, wine, nonintoxicating  
94 beer, or nonintoxicating craft beer that contains liquid while being in, on, or operating a  
95 motor vehicle within a Private Outdoor Designated Area.

96  
97 **Sec. 6-156. – Public Health, Safety, and Sanitation.**

98  
99 (a) All Private Outdoor Designated Areas shall be operated in a manner  
100 consistent with all state and municipal laws. The Charleston Police Department shall be  
101 responsible for ensuring compliance and may issue citations within the Private Outdoor  
102 Designated Areas as necessary. The Charleston Police Department shall provide a  
103 copy of any citation issued within a Private Outdoor Designated Area to the WVABCA.

104  
105 (b) In addition to any public restrooms in a Private Outdoor Designated Area,  
106 participating Class S4 special permit holders shall make available adequate restroom  
107 facilities, whether permanent or portable, to serve their members and guests during all  
108 hours of operation of the Private Outdoor Designated Area.

109  
110 (c) All businesses operating within a Private Outdoor Designated Area shall  
111 comply with all requirements of the Kanawha-Charleston Health Department.

112  
113 (d) All participating businesses within a Private Outdoor Designated Area shall  
114 make waste receptacles available during the operating hours of the Private Outdoor  
115 Designated Area in a number sufficient to contain the waste generated within the area  
116 and which are emptied regularly by each participating business as needed to ensure  
117 availability. These waste receptacles are in addition to the City of Charleston public  
118 waste receptacles in the area.

119  
120 **Sec. 6-157. – Revocation of City Manager Approval; and General Policy Authority.**

121  
122 (a) The City Manager may revoke the letter of approval of any Class S4 special  
123 permit holder for violation of any law, rule or regulation, or when doing so is in the  
124 interest of public safety, by sending a revocation letter to both the permit holder and the  
125 WVABCA.

126  
127 (b) The City Manager is authorized to create policies and procedures as

128 necessary for the efficient operation of the Private Outdoor Designated Areas, including  
129 but not limited to, signage language approval, container approval, identification of  
130 participating businesses and non-participating businesses, review of security plans  
131 proposed to the WVABCA, the interaction and interplay between a fair or festival and  
132 the Private Outdoor Designated Areas, and the duties and responsibilities of all  
133 participating businesses with respect to clean up and other sanitation matters.

134  
135 **Sec. 6-158. – Suspension of Private Outdoor Designated Area.**

136  
137 The City Manager has the authority to suspend the operation of a Private  
138 Outdoor Designated Area immediately for any reason, including when in the interest of  
139 public safety, by providing notice to all Class S4 special permit holders within the  
140 Private Outdoor Designated Area, City Council, any business association participating  
141 in the marketing or advertising of the Private Outdoor Designated Area, and the  
142 WVABCA.

143  
144 **DIVISION 6. – EAST END PODA**

145  
146 **Sec. 6-186. – Creation and Boundaries.**

147  
148 (a) City Council for the City of Charleston hereby establishes a Private Outdoor  
149 Designated Area known as “East End PODA”, which shall have the boundary as stated  
150 in subsection (b) of this section and which shall meet all of the requirements of this  
151 Article and applicable West Virginia Code.

152 (b) The East End PODA shall begin at a point on Washington Street East that is  
153 90 feet northeast of its intersection with Maxwell Street and continue in a southeasterly  
154 direction along Washington Street East to a point 190 feet southeast of its intersection  
155 with Elizabeth Street; it shall include the first 185 feet of public right-of-way off  
156 Washington Street East on Elizabeth Street in both a northerly and southerly direction  
157 as well as the first 150 feet of public right-of-way off Washington Street East on Maxwell  
158 Street in a northerly direction, along with the buildings and lots adjacent to these public  
159 rights-of-way. The East End PODA shall include the public rights-of-way within the  
160 boundary area and the buildings at or within the following addresses: 1586-1611  
161 Washington Street East and 304-412 Elizabeth Street.

162 (c) The attached map of the East End PODA is incorporated herein and made a  
163 part of this ordinance.

164 (d) The area within the East End PODA is in a CVD Corridor Village District or a  
165 C-8 Village Commercial District, both of which are zoning areas that allow for the sale  
166 and consumption of liquor, wine, nonintoxicating beer and nonintoxicating craft beer,  
167 and are in compliance with the zoning ordinance.

168  
169 **Sec. 6-187. – Days and Hours of Operation**

170  
171 The East End PODA may operate daily year round on any Monday through  
172 Friday from 4:00 p.m. until 10:00 p.m., Saturday from 10:00 a.m. until 10:00 p.m., and  
173 Sunday from 10:00 a.m. until 10:00 p.m. Drinks may not be sold in PODA cups or

174 consumed within the ~~Elk City~~East End PODA outside of the hours of operation.

175

176 **Sec. 6-188. – Personnel Needed**

177

178 The estimated number of City personnel needed to ensure public safety and  
179 efficient operations in the ~~Elk City~~East End PODA is two police officers and one public  
180 works employee. The City Council anticipates that these City employees will be working  
181 their regular shifts and generally assigned in this area of the City.

182