

Bill No. 8031 Committee Substitute

Introduced in Council:

April 1, 2024

Introduced by:

**Mary Beth Hoover and
Chad Robinson**

Adopted by Council:

April 15, 2024

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 Charleston,
3 as amended, and to amend said code by adding thereto three new sections, designated
4 Sections 6-186, 6-187, and 6-188, all relating to updating the regulation of Private Outdoor
5 Designated Areas to be consistent with state code changes; expanding the types of
6 licenses that can operate within a Private Outdoor Designated Area to be consistent with
7 state code; clarifying that multiple permit holders and licensees may operate within a
8 Private Outdoor Designated Area simultaneously; creating the East End PODA; and setting
9 forth day, time, and personnel needed for the operation of the East End Private Outdoor
10 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 Code
15 of the City of Charleston, as amended, are hereby amended and reenacted; and that said
16 code is hereby amended by adding thereto a new division, designated Sections 6-186, 6-
17 187, 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 a
26 legally demarcated area established by a municipal ordinance as set forth in West Virginia
27 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 Code, a
29 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 special
31 permit holder, as further detailed in this Article, outdoors within a Private Outdoor
32 Designated Area. A business operating within a Private Outdoor Designated Area may
33 choose whether or not to permit people to enter its business with an approved open
34 container of liquor, wine, nonintoxicating beer, or nonintoxicating craft beer sold from an
35 approved Class S4 special permit holder. A Private Outdoor Designated Area may be

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

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

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

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

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

52 (3) The applicant has a valid Class A, Class B, or Class S2 license under
53 West Virginia Code.
54

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

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

71 **Sec. 6-154. – Containers.**
72

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

77 **Sec. 6-155. – Signage and Prohibitions.**
78

79 (a) Prior to the operation of a Private Outdoor Designated Area, the city shall erect
80 conspicuous signage identifying the Private Outdoor Designated Area. The signs shall be
81 located at every reasonable point where a pedestrian may exit the Private Outdoor

82 Designated Area by way of a public sidewalk. The signs shall clearly state “No alcohol
83 beyond this point.” and provide clear notice that a person is leaving the Private Outdoor
84 Designated Area.

85
86 (b) A person may not leave a Private Outdoor Designated Area while possessing an
87 open container of liquor, wine, nonintoxicating beer, or nonintoxicating craft beer that
88 contains liquid.

89
90 (c) A person may not possess an open container of liquor, wine, nonintoxicating
91 beer, or nonintoxicating craft beer that contains liquid while being in, on, or operating a
92 motor vehicle within a Private Outdoor Designated Area.

93
94 **Sec. 6-156. – Public Health, Safety, and Sanitation.**

95
96 (a) All Private Outdoor Designated Areas shall be operated in a manner consistent
97 with all state and municipal laws. The Charleston Police Department shall be responsible
98 for ensuring compliance and may issue citations within the Private Outdoor Designated
99 Areas as necessary. The Charleston Police Department shall provide a copy of any citation
100 issued within a Private Outdoor Designated Area to the WVABCA.

101
102 (b) In addition to any public restrooms in a Private Outdoor Designated Area,
103 participating Class S4 special permit holders shall make available adequate restroom
104 facilities, whether permanent or portable, to serve their members and guests during all
105 hours of operation of the Private Outdoor Designated Area.

106
107 (c) All businesses operating within a Private Outdoor Designated Area shall comply
108 with all requirements of the Kanawha-Charleston Health Department.

109
110 (d) All participating businesses within a Private Outdoor Designated Area shall make
111 waste receptacles available during the operating hours of the Private Outdoor Designated
112 Area in a number sufficient to contain the waste generated within the area and which are
113 emptied regularly by each participating business as needed to ensure availability. These
114 waste receptacles are in addition to the City of Charleston public waste receptacles in the
115 area.

116
117 **Sec. 6-157. – Revocation of City Manager Approval; and General Policy Authority.**

118
119 (a) The City Manager may revoke the letter of approval of any Class S4 special
120 permit holder for violation of any law, rule or regulation, or when doing so is in the interest
121 of public safety, by sending a revocation letter to both the permit holder and the WVABCA.

122
123 (b) The City Manager is authorized to create policies and procedures as necessary
124 for the efficient operation of the Private Outdoor Designated Areas, including but not limited
125 to, signage language approval, container approval, identification of participating businesses
126 and non-participating businesses, review of security plans proposed to the WVABCA, the
127 interaction and interplay between a fair or festival and the Private Outdoor Designated

128 Areas, and the duties and responsibilities of all participating businesses with respect to
129 clean up and other sanitation matters.

130
131 **Sec. 6-158. – Suspension of Private Outdoor Designated Area.**

132
133 The City Manager has the authority to suspend the operation of a Private Outdoor
134 Designated Area immediately for any reason, including when in the interest of public safety,
135 by providing notice to all Class S4 special permit holders within the Private Outdoor
136 Designated Area, City Council, any business association participating in the marketing or
137 advertising of the Private Outdoor Designated Area, and the WVABCA.

138
139 **DIVISION 6. – EAST END PODA**

140
141 **Sec. 6-186. – Creation and Boundaries.**

142
143 (a) City Council for the City of Charleston hereby establishes a Private Outdoor
144 Designated Area known as “East End PODA”, which shall have the boundary as stated in
145 subsection (b) of this section and which shall meet all of the requirements of this Article and
146 applicable West Virginia Code.

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

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

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

163
164 **Sec. 6-187. – Days and Hours of Operation**

165
166 The East End PODA may operate daily year round on any Monday through Friday
167 from 4:00 p.m. until 10:00 p.m., Saturday from 10:00 a.m. until 10:00 p.m., and Sunday
168 from 10:00 a.m. until 10:00 p.m. Drinks may not be sold in PODA cups or consumed within
169 the East End PODA outside of the hours of operation.

170
171 **Sec. 6-188. – Personnel Needed**

172
173 The estimated number of City personnel needed to ensure public safety and efficient

174 operations in the East End PODA is two police officers and one public works employee.
175 The City Council anticipates that these City employees will be working their regular shifts
176 and generally assigned in this area of the City.