

# WEST VIRGINIA CODE: §8-12-26

## **§8-12-26. Authorizing municipalities to create private outdoor designated areas.**

(a) In addition to all other powers and duties conferred by law upon municipalities, municipalities are empowered and authorized to pass an ordinance establishing private outdoor designated areas as described in §60-7-8g of this code.

(b) The municipality shall include in the ordinance, at a minimum, the following:

(1) Requirements for the purpose of ensuring compliance with all state and municipal laws, and public health and safety within a private outdoor designated area;

(2) The proposed outdoor designated area or proposed licensed premises shall be indicated on a submitted map or survey in sufficient detail to identify the boundaries of the area, subject to the limitations in subsection (b) of this section;

(3) A general statement of the nature and types of qualified permit holders that may operate within the proposed outdoor designated area;

(4) That certain public property that is legally demarcated by the ordinance is within the proposed private outdoor designated area and such area complies with the comprehensive plan or zoning ordinances of the municipality, if the municipality has so adopted, for the consumption of liquor, wine, nonintoxicating beer, and nonintoxicating craft beer;

(5) The specific boundaries of the private outdoor designated area, including street addresses;

(6) The number, spacing, and type of signage identifying the private outdoor designated area;

(7) The days and hours of operation for the private outdoor designated area which may not be greater than, but may be less than authorized by §11-16-1 *et seq.* and §60-1-1 *et seq.* of this code, but may be less than;

(8) The estimated number of personnel needed to ensure public safety and efficient operations in the private outdoor designated area;

(9) A sanitation plan that will help maintain the appearance and public health of the private outdoor designated area, including the number of restrooms and trash receptacles;

(10) A requirement that liquor, wine, nonintoxicating beer, and nonintoxicating craft beer be served in non-glass containers, not greater than 18 fluid ounces, approved by the municipality and the commissioner as set forth in §60-7-8g of this code; and

(11) Public health and safety measures, and requirements to meet compliance with current health permitting and zoning requirements.

(c) The municipality shall provide to the commissioner notice of the approval of the private outdoor designated area and identify the qualified permit holders that will be applying for permits set forth in §60-7-8g of this code. As set forth in §60-7-2a of this code, a private outdoor designated area may simultaneously have multiple qualified permit holders as defined in §60-7-1 *et seq.* of the code, and is expressly authorized.

(d) The municipality shall be responsible for ensuring compliance with its ordinances and compliance with all criminal laws associated with the operation of a private outdoor designated area. The municipality shall provide the commissioner copies of all non-compliance and violations. The commissioner shall ensure all qualified permit holders operate in accordance with requirements set forth in §11-16-1 *et seq.* and chapter 60 of this code.

(e) The municipality shall have the authority to dissolve a private outdoor designated area by ordinance and further may suspend a private outdoor designated area immediately when in the interest of public safety.