

West Virginia Municipal Home Rule Pilot Program



SUMMARY REPORT 2016

WEST VIRGINIA MUNICIPAL HOME RULE BOARD

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<p>The Honorable Craig Blair West Virginia State Senate State Capitol Complex Building 1, Room 217W Charleston, West Virginia 25305-0311</p>	<p>07/01/2019 Chair of the Senate Committee on Government Organization Ex-Officio Non-Voting Member</p>
<p>The Honorable Gary Howell West Virginia House of Delegates State Capitol Complex Building 1, Room 213E Charleston, West Virginia 25305-0311</p>	<p>07/01/2019 Chair of the House of Delegates Committee on Government Organization Ex-Officio Non-Voting Member</p>
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I. Introduction

In accordance with West Virginia State Code 8-1-5a (m), the Municipal Home Rule Board respectfully submits this annual summary report to the West Virginia Legislature's Joint Committee on Government and Finance. This report provides implementation progress reported to the Board by each municipality participating in the Municipal Home Rule Pilot Program.

In 2007, the West Virginia Legislature created the Municipal Home Rule Pilot Program and the Municipal Home Rule Board to oversee the program. The pilot program lasted five years and offered broad-based home rule authority to participating municipalities by allowing them to implement ordinances, acts, resolutions, rules and regulations without regard to state laws, with the exception that proposals had to comply with the U.S. Constitution, the West Virginia Constitution, federal law, chapters sixty-a ("uniform Controlled Substance Act"), sixty-one ("Crimes and Their Punishment"), and sixty two (Criminal Procedure") of the West Virginia Code. The 2007 legislation authorized up to five municipalities to participate in the program and the Home Rule Board approved the cities of Bridgeport, Charleston, Huntington, and Wheeling as participants.

The West Virginia Legislative Auditor published a Special Report in November 2012 evaluating the effectiveness of the Municipal Home Rule Pilot Program and highlighting accomplishments. The report also provided the following three (3) recommendations:

1. The Legislative Auditor recommended that the West Virginia Legislature consider providing broad-based home rule authority to all Class I, Class II, and III municipalities.
2. If home rule is extended to all Class I, II, and III municipalities, the Legislative Auditor recommended that it be provided with the current restrictions as stipulated in the pilot program.
3. The Legislative Auditor recommended that the Home Rule Board be discontinued if broad-based home rule is granted statewide.

In 2013, the West Virginia Legislature extended the Municipal Home Rule Pilot Program and the Municipal Home Rule Board for an additional five years and expanded the number of participating municipalities to 20. The Legislature found that the program brought innovative rules and novel municipal ideas to the local communities that participated in the program,

and that it afforded participating municipalities greater flexibility to operate in a more cost-effective, efficient and timely manner. The Legislature set June 1, 2014, as the deadline for participating

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municipalities to withdraw from the program. Municipalities interested in becoming new home rule participants submitted their applications to the Municipal Home Rule Board by June 1, 2014, in accordance with the requirements set forth in the authorizing legislation.

On October 6, 2014, the Home Rule Board accepted the following cities into the Pilot Program: Bluefield, Buckhannon, Charles Town, Clarksburg, Dunbar, Fairmont, Martinsburg, Milton, Morgantown, Nitro, Parkersburg, Ranson, Shinnston, South Charleston, Vienna, and Weirton.

On March 14, 2015, the West Virginia Legislature passed Senate Bill 323 permitting 14 additional cities in the Home Rule Pilot Program, four of which must be Class IV municipalities.

Six more West Virginia municipalities were granted home rule authority on September 14, 2015. Applications for Beckley, Grafton, Princeton and St. Albans were approved as submitted, while applications from Moundsville and Oak Hill were approved with modifications.

The cities of Elkins and Harpers Ferry were granted home rule status on November 16, 2015.

On April 4, 2016, four more municipalities (Auburn, Lewisburg, New Cumberland, and Shepherdstown) were granted home rule authority. The applications from Follansbee and Weston were approved into the pilot program on July 11, 2016.

The following pages summarize progress made by each participating municipality as reported to the Board including implementation status of locally proposed initiatives, summary charts, and a map illustrating tax initiative by location. The Board would like to take this opportunity to thank the West Virginia Department of Commerce/Development Office for their continued support and assistance to the Board and to the success of the Municipal Home Rule Pilot Program.

II. Proposals by Implementation Status

Proposals by Implementation Status BECKLEY-CLASS II			
	Proposal	Implemented	Not Implemented
1	Impose a municipal sales/use tax of one percent and continue to collect B&O taxes, lowering tax rates for certain classifications		X (possible passage on 12.08.15-effective 07.01.16)
2	Ability to enter into intergovernmental agreements with another jurisdiction by resolution		X (possible passage on 12.08.15)
3	After due notice, repair, alter, or demolish property, mow overgrown grass, etc. and without court approval place a lien on the property for the amount expended		X (possible passage on 12.08.15)
4	Sale real and personal property at fair market value without auction; lease real and personal property to private lessees for less than fair market value; sale and/or lease real and personal property at less than fair market value to promote economic development or provide a service for public good		X (possible passage on 12.08.15)
5	Issue on spot citations for external sanitation code violations and common nuisances		X (possible passage on 12.08.15)
6	Allow the purchase of tax liens for property on which the City has placed liens for municipal services or payment due for corrective actions for code violations		X (possible passage on 12.08.15)

**Proposals by Implementation Status
BLUEFIELD-CLASS II**

	Proposal	Implemented	Not Implemented
1	Convey real and/or personal property with a value more than \$1,000 for fair market value without auction or convey without auction for less than fair market value buildings and land to non-profit organizations	X (05.26.15)	
2	On-spot citations	X (05.26.15)	
3	Contracts with other jurisdictions via resolution	X (05.26.15)	
4	Procurement of architect-engineering services	X 07.14.15)	
5	Impose a municipal sales/use tax/B&O reduction		X

Proposals by Implementation Status
BRIDGEPORT-CLASS III

	Proposal	Implemented	Not Implemented
1	Allow City, under certain circumstances, to annex property that the City is in the best position to provide public services		X
2	Issue Tax Increment Financing (TIF)		X (State amended legislative rules to allow Class III cities to create TIFs)
3	Restriction on municipal participation in public schools - working in partnership with public schools	X (02.23.09)	
4	Provide rates and charges for fire fees for properties located outside of the corporate limits of the city but within the city's first due area	X (07.11.11)	
5	Simplification of business licenses-charge license taxes not to exceed antiquated amounts previously authorized	X (03.09.09)	
6	Adjust the 5-G procurement process for securing professional services	X (04.13.15)	
7	Modify certain civil service requirements for specific positions within the police and fire departments - the process of hiring an assistant fire chief and promoting within the fire and police departments		X

8	Allow intergovernmental agreements by resolution eliminating the requirement for approval by the Attorney General and authorize exercise or engaging in any power or privilege or undertaking which either party may undertake, enjoy, or engage	X (03.23.15)	
9	Impose municipal sales and service tax and municipal use tax in accordance with Code		X (ordinance second reading 12.14.15)

Proposals by Implementation Status
BUCKHANNON-CLASS III

	Proposal	Implemented	Not Implemented
1	Enterprise Zone-municipal real and personal property rebates and B&O tax exemptions	X (08.16.15)	
2	Property nuisance abatement and special property tax lien, and on-site citations	X (07.19.15)	
3	Police civil service employment of part-time officers and expansion of applicant's maximum age		X (drafting ordinance)
4	Online sales or disposition of municipal real and personal property		X (will address in 2016)

Proposals by Implementation Status
CHARLES TOWN-CLASS III

	Proposal	Implemented	Not Implemented
1	Expanding the authority to utilize Community Enhancement Districts	X (11/2014-ordinance)	

2	Improvements to code citations and public nuisance enforcement (international Property Maintenance Code)	X (11/2014-ordinance)	
3	Improvements to the process for addressing blighted properties	X (11/2014-ordinance)	
4	Permitting the conveyance of city property without an auction	X (11/2014-ordinance)	
5	Reducing B&O tax and imposing a one percent municipal consumer sales and service tax and use tax	X (11/2014-effective 07.01.15)	
6	Permitting contracts with other jurisdictions	X (11/2014-ordinance)	

**Proposals by Implementation Status
CHARLESTON-CLASS I**

	Proposal	Implemented	Not Implemented
1	Tools for collection of delinquent fees and taxes	X (08.04.08 and 10.16.08/legislatively adopted statewide)	
2	Correction of eyesores and dilapidated structures	X (04.20.09)	
3	Procurement of architect-engineering services	X (09.15.08)	
4	Expand B&O taxing authority		X (federal regulations/did not progress out of subcommittee)

5	On-the-spot citations - building and zoning administration enforcement provisions – on site citations for exterior sanitation/nuisance violations	X (04.06.09)	
6	Relief from Division of Natural Resources “per project” permitting		X (renewable annual permit issued from DNR)
7	Disposition of city property to non-profits and without auction	X (08.04.08)	
8	Relief from Design-Build Procurement Act requirements	X (03.03.09)	
9	Allow contracts with other jurisdictions via resolution	X (08.04.08)	
10	Municipal healthcare provider tax		X (unable to overcome obstacles)
11	Increase the city’s current sales and use tax to one percent dedicating revenue from the additional one-half percent to assist in funding its underfunded police and fire pension plan liabilities	X (.05%/05.20.13-effective 10.01.13) (1.0%/10.06.14-effective 07.01.15)	
12	Expand the Charleston Urban Renewal Authority (CURA) board from seven to nine members by adding two permanent seats to be filled by Charleston City Council members		X (not necessary to pass an additional ordinance)
13	Urban deer hunt regulations		X (initiative prior to home rule adopted for use by municipalities statewide)
14	Relief from per load Department of Environmental Protection testing costs and permitting		X (DEP indicated by letter on 05.23.08 that City did not have to have material dredged from streams tested on a per load basis unless potential source of contamination adjacent to the stream)
Proposals by Implementation Status CLARKSBURG-CLASS II			
	Proposal	Implemented	Not Implemented

1	Relief from party affiliation for municipal nonpartisan election and board commissioners. The four components were: 1) relief from the mandate of opposite political party affiliation of election officials during city elections; 2) relief from party affiliation requirement for Firemen's Civil Service Commission; 3) relief from party affiliation requirement for Policemen's Civil Service Commission; and, 4) relief from party affiliation requirement for Municipal Building Commission	X (03.26.15)	
2	Collection of clean-up costs from Farmer's Mutual Insurance Company		X (likely 2016)
3	Collection of demolition liens		X (likely 2016)
4	Procurement of architect engineering services	X (11.09.15)	
5	Building and zoning administration/enforcement provisions		X
6	Appropriate/adequate funding for advertising the city	X (11.09.15)	
7	Impose a one percent sales and use tax	X (11.19.15-effective 07.01.16)	

**Proposals by Implementation Status
DUNBAR-CLASS III**

	Proposal	Implemented	Not Implemented
1	Enter a property and make repairs as needed to bring the property into code compliance and the cost of such repairs becoming a lien on the property	X	
2	Issue on spot citations for sanitation and exterior/common nuisance violations at the time and place that the violation is noted	X (04.20.15)	
3	Impose a municipal sales and use tax after making modifications to the B&O tax structure		X (expected action in January 2016)

**Proposals by Implementation Status
ELKINS-CLASS III**

	Proposal	Implemented	Not Implemented
1	On-the-spot citations		X
2	Registration and maintenance of foreclosed properties		X
3	Public nuisance liens		X
4	Satisfaction of demolition liens		X
5	Transfer or lease of city property to private and non-profit entities		X
6	Part-time police officers		X
7	Raising maximum age for joining civil service police departments		X
8	Party membership requirements for election boards and civil service commissions		X
9	Business licensing categories and fees		X
10	Distance between West Virginia Alcohol Beverage Control Administration license holders and churches		X

Proposals by Implementation Status
FAIRMONT-CLASS II

	Proposal	Implemented	Not Implemented
1	Expand B&O tax credits for re-occupancy of vacant or dilapidated structures/longevity of business operations/rehabilitation and preservation of historic structures – 10 year timeline as long as investment exceeds liability	X (09.08.15)	
2	Impose a one percent municipal sales and use tax	X (09.08.15)	
3	Relief from the zoning ordinance regulating the use or acquisition of additional land by a farm, industry, or manufacturer	X (09.08.15)	
4	Relief from the notice and public auction for city owned real property with a value of up to \$15,000 relative to non-confirming and substandard lots, fragments of lots, and parts of lots	X (09.08.15)	

Proposals by Implementation Status
GRAFTON-CLASS III

	Proposal	Implemented	Not Implemented
1	Grant authority to Code Enforcement officials to issue on-the-spot citations for external sanitation violations and common nuisances	X (10.20.15)	
2	Expand police civil service applicant's maximum age and hiring part time police officers	X (10.20.15)	
3	Authority to impose a one percent sales tax with reductions in B&O tax		X (in progress)
4	Allow the city to require lenders/trustees to register foreclosed properties at the beginning of the foreclosure process, to retain a property maintenance company, to maintain the property, and to provide contact information for the maintenance company to the municipality at registration		X
5	Allow a shortened time period under Section 8-1216a for forfeiture of structures when owners refuse to address code violations at uninhabitable properties, to a period of 12 months		X
6	Allow the city to sell or lease municipal owned real and personal property by utilizing an online auction service when deemed for public purpose after public notice, and sold for adequate value		X
7	Appropriate adequate funding for advertising the city not exceeding \$1 per capita per annum		X

Proposals by Implementation Status
HARPERS FERRY-CLASS IV

	Proposal	Implemented	Not Implemented
1	Code citations and public nuisance enforcement		X

2	Addressing blighted properties		X
3	Sale of municipal property without auction		X
4	Municipal sales tax and B&O tax reductions		X (ordinance first reading- 12.05.15 with passage 12.14.15/effective 07.01.16)

**Proposals by Implementation Status
HUNTINGTON-CLASS II**

	Proposal	Implemented	Not Implemented
1	Fire damage insurance proceeds	X (11.2008)	
2	Increased capacity to collect city fees/taxes	X (08.24.09)	
3	Land bank fast track authority	X	
4	Municipal occupation tax/municipal sales use tax	X (04.01.11)	
5	On spot citation	X (05.23.13)	

**Proposals by Implementation Status
MARTINSBURG-CLASS II**

	Proposal	Implemented	Not Implemented
1	Authority to immediately issue citations for external sanitation violations and common nuisances	X (12.18.14)	
2	Authority to file liens on real property for costs incurred in abating exterior sanitation and common nuisance violations	X (12.18.14)	
3	Disposition of city property without auction	X (12.18.14)	
4	Entry into contracts with other jurisdictions by resolution	X (12.18.14)	

5	Issuance of liens for delinquent city fees	X (12.18.14)	
6	Implement a municipal sales tax	X (12.18.14)	
7	Reduce B&O taxes	X (12.18.14)	
8	Inspection and citation powers of municipal deputy fire marshals	X (12.18.14)	
9	Purchase tax liens on properties subject to delinquent property taxes; right of redemption by the city		X
10	Exercise the same authority as the ABCA		X

Proposals by Implementation Status
MILTON-CLASS III

	Proposal	Implemented	Not Implemented
1	Municipal sales, services and use tax	X (10.21.15-effective 12.01.15)	
2	Disposition of municipal real property without auction	X (12.16.14)	

Proposals by Implementation Status
MORGANTOWN-CLASS II

	Proposal	Implemented	Not Implemented
1	Fire marshals arrest authority	X (10.20.15)	
2	Authorizing intergovernmental agreements by resolution	X (05.19.15)	
3	Regulation of upholstered furniture on exterior of premises	X (04.07.15)	
4	Public nuisance removal liens	X (05.19.15)	
5	Court technology and maintenance fee	X (04.07.15)	
6	Impose a municipal sales tax of one percent with B&O reduction		X

**Proposals by Implementation Status
MOUNDSVILLE-CLASS III**

	Proposal	Implemented	Not Implemented
1	Hold hearings at the city level to facilitate collection of delinquent fees owned to the city with a right of appeal to the court system/allow city to lien against property owned by person/entity owing delinquent fees for city services without the necessity of obtaining a court/order/publication of delinquent accounts		X
2	Permit city to impose a retail sales tax concomitant permitting a fair reduction in B&O taxes		X (draft ordinance in progress)
3	Consolidation and reduction of business licenses from 45 categories to only a few		X
4	Permit city after due notice to make repairs to eyesore nuisances such as dilapidated structures, unsafe properties, and deteriorated sidewalks with the cost of repairs becoming a lien on the property without obtaining a court order		X

Proposals by Implementation Status
NITRO-CLASS III

	Proposal	Implemented	Not Implemented
1	Impose a municipal sales tax and service tax of one percent and municipal use tax of one percent for capital improvement projects	X (01.06.15)	

2	Create an automatic lien that attaches to all real property immediately upon the imposition of all Nitro municipal fees respecting such property; authorizes Nitro to foreclose on said property, under applicable West Virginia law respecting foreclosure procedures without the requirement of going to circuit court; requires closing agents, attorneys and others, to contact the City of Nitro prior to closing any real estate transaction involving real property within the City and that all such delinquent fees imposed on said property be paid in full from/at closing; and, requires the transferee of real property located within the City to record the deed to the property with the clerk of the county in which the property is located, and that the deed be recorded within 12 months of the date the transfer occurs	X (06.16.15)	
3	Authority to adopt a city administrative procedures act pursuant to which it would be able to promulgate administrative regulations covering all aspects of the collection of its B & O tax, municipal service fee, business license tax and other taxes, fees and programs administered by the City		X
4	Enact an ordinance providing for municipal government oversight of expenditure of public funds by all public, quasi-public and non-profit organizations affiliated with and located within the City		X
5	Authority to reduce speed limits on state roadways within city boundaries upon the basis of an engineering and traffic investigation, and to have such reductions become effective upon the effective date of an appropriate ordinance	X (06.16.15)	
6	Establish the procedure for selling city owned property (real and personal less than \$10,000) without going through the public auction process	X (06.16.15)	

Proposals by Implementation Status
OAK HILL-CLASS III

	Proposal	Implemented	Not Implemented
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1	Collection of municipal liens at county tax sales - satisfaction of city liens before the purchaser can secure deed. If purchaser not willing to satisfy the lien, they shall lose all of the benefits of the purchase	X (11.09.15)	
2	Immediate issue of citations for external sanitation violations and common nuisances		X
3	File liens on real property for costs incurred in abating exterior sanitation and common nuisance violations		X
4	Exempt the city's police civil service commission from the party affiliation requirement		X
5	Alcohol sales on premises - establish its own distance of 300 feet from front door along the street(s) to expand restaurant clientele by offering alcohol as part of dining experience	X (11.09.15)	
6	Establish own payment limit for an audit of the city and the Oak Hill Sanitary Board to attract a more qualified CPA firm		X
7	Registration of vacant structures - propose a protocol to the registration and deregistration of vacant structures establishing guidelines and the order of action for the registration process addressing issues with properties of absentee ownership and/or ownership inaction with the vacant structure	X (11.09.15)	

**Proposals by Implementation Status
PARKERSBURG-CLASS II**

	Proposal	Implemented	Not Implemented
1	Impose a one percent consumer sales/use tax and reduce B&O taxes	X (07.28.15)	
2	Redemption and/or collection of demolition liens (first right to purchase property/payment of demolition lien before securing a deed)		X
3	Streamline land development review procedures and zoning appeals		X

Proposals by Implementation Status
PRINCETON-CLASS III

	Proposal	Implemented	Not Implemented
1	Conveyance of city real and personal property in excess of \$1000 without public auction for fair market value		X
2	Disposition of municipal property to nonprofit organizations for less than fair market value when providing services that benefit the public		X
3	Procurement of architectural and engineering services where total project costs are estimated to cost \$250,000 or more		X
4	Impose sales and use tax of one percent and reduce the B&O taxation rate		X

Proposals by Implementation Status
RANSON-CLASS III

	Proposal	Implemented	Not Implemented
1	Expansion of authority to use Community Enhancement Districts	X (12.16.14)	
2	Citation authority for property maintenance and nuisance violations	X (12.16.14)	
3	Improvements to the process for addressing blighted properties		X
4	Conveyance of city property without auction	X (12.16.14)	
5	Reducing municipal B&O tax and imposing one percent municipal consumer sales and service tax and use tax	X (01.20.15-effective 07.01.15)	
6	Permitting contracts by resolution with other jurisdictions rather than by ordinance	X (12.16.14)	

**Proposals by Implementation Status
SHINNSTON-CLASS III**

	Proposal	Implemented	Not Implemented
1	Permit the city to remove the party affiliation requirement for Municipal Building Commission		X (ordinance second reading 12.14.15)
2	Permit the city to appropriate adequate funds to advertise the city and promote the city events		X (ordinance second reading 12.14.15)
3	Impose a municipal sales tax of one percent with B&O reductions/elimination for capital improvements		X

**Proposals by Implementation Status
SOUTH CHARLESTON-CLASS II**

	Proposal	Implemented	Not Implemented
1	Expand the ability to issue immediate citations to remedy public health and safety problems	X (03.19.15)	
2	Authorize the city to transfer, without a public auction, any property (real or personal) in excess of \$1,000 for fair market value and any interest in real property consisting of so-called "paper alleys" for fair market value, a nominal fee, or without consideration	X (03.19.15)	
3	Expand the city's authority concerning variances and special temporary permits		X
4	Impose a one percent sales tax and reduce B&O utility taxes		X (ordinance 12.17.15effective 07.01.16)

Proposals by Implementation Status
ST. ALBANS-CLASS II

	Proposal	Implemented	Not Implemented
1	Intergovernmental agreements by resolution rather than ordinance		X
2	Disposition of city property without auction		X
3	Authority for city code officials to immediately issue citations for external sanitation violations and common nuisances		X
4	Purchases through public entity cooperatives		X
5	Placing public nuisance liens without court order		X

Proposals by Implementation Status
VIENNA-CLASS II

	Proposal	Implemented	Not Implemented
1	Eyesores and dilapidated structures - authority to file liens on real property for costs incurred in abating exterior sanitation and common nuisance violations and for costs incurred in repairing, relaying or constructing sidewalks	X (12.18.14)	
2	Building and zoning administration and enforcement of external sanitation and common nuisance violations-citations and enforcement	X (12.18.14)	
3	Conveyance of city property without auction	X (12.18.14)	

4	Allow regulation of vehicle wreckers operating within municipal boundaries to require wreckers containing gasoline or other liquids to prevent discharge into storm drains	X (12.18.14)	
5	Allow for reduction or elimination of certain categories of B&O taxes and imposition of a one percent municipal sales tax	X (12.18.14-effective 07.01.15)	
6	Permit purchases through public entity cooperatives	X (12.18.14)	

Proposals by Implementation Status
WEIRTON-CLASS II

	Proposal	Implemented	Not Implemented
1	Fiscal flexibility to reduce certain B&O tax rates while supplementing the revenue stream with a one percent municipal consumer sales/use tax to facilitate essential economic development and continuation of services		X (ordinance second reading 12.07.15-effective 07.01.16)
2	Probationary employment of uncertified building/zoning code officials via a provisional Certification License for a period not to exceed two years - employee must obtain the necessary qualifications within two years	X (04.13.15)	
3	Police officers enforcement provisions in Alcohol Beverage Control Commission establishments	X (09.08.15)	
4	Building/zoning code officials enforcement provisions	X (04.13.15-effective 05.13.15)	
5	Municipal authority to place restrictions on streets and highways within city limits	X (09.08.15)	

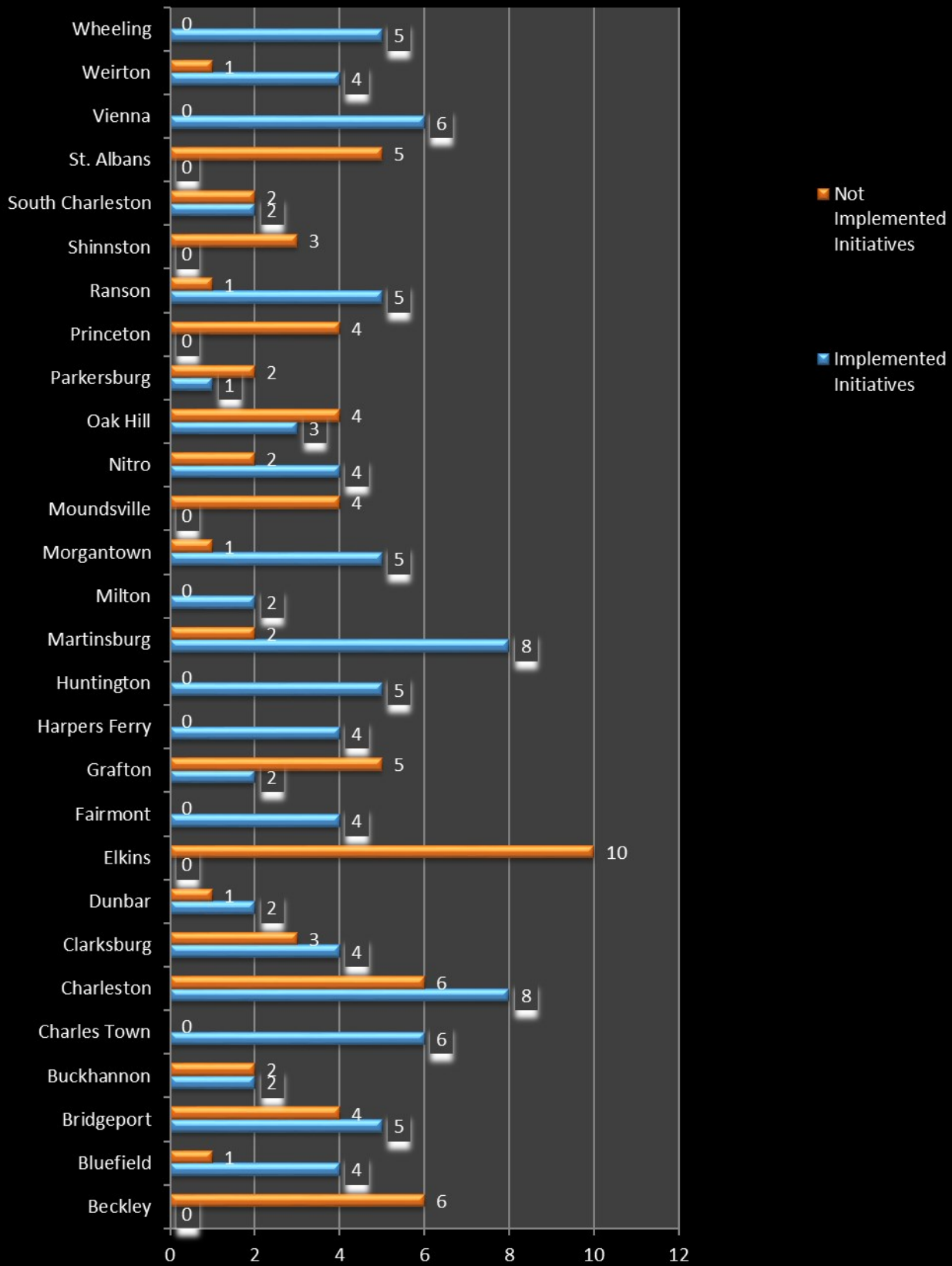
Proposals by Implementation Status
WHEELING-CLASS II

	Proposal	Implemented	Not Implemented
1	Vacant property registration program	X (07/2009)	
2	Modified municipal planning and conditional use zoning regulations	X (11/2008)	
3	Charges for municipal services – liens to collect unpaid fees	X (05/2009)	
4	Simplification of business licenses-category reduction	X (06/2009)	
5	Imposed a consumer sales, service and use tax of one percent, which .50 percent to be dedicated to funding the underfunded police and fire pension plan liabilities	X (2013 & 2014)	

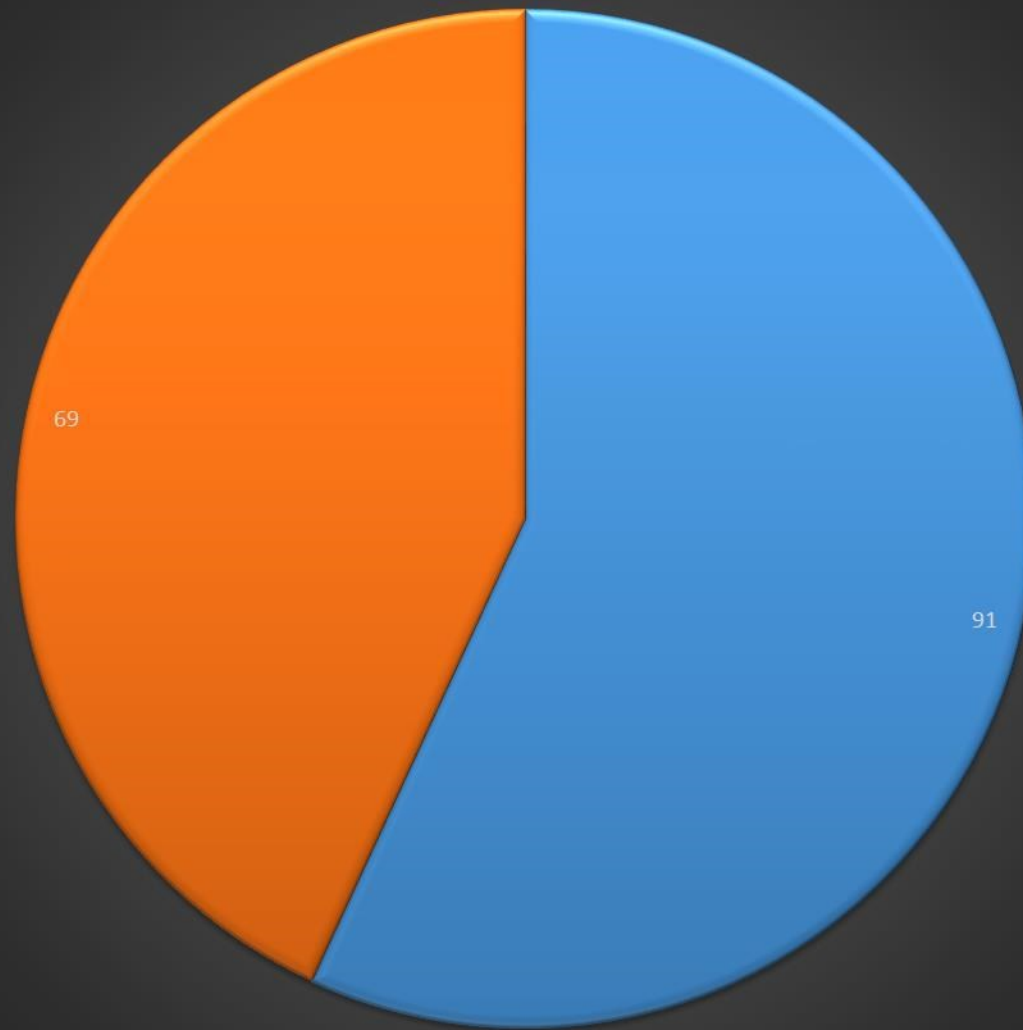
III.

Summary Charts

SUMMARY OF HOME RULE INITIATIVES



Municipal Home Rule Initiatives



■ #Initiatives Implemented ■ #Initiatives Not Implemented

IV. Tax Initiatives by Location

