

MUNICIPAL HOME  
RULE PILOT PROGRAM  
PHASE III

Senate Bill 323 / June 2015

*APPLICATION*

# Municipal Home Rule Pilot Program Phase III

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# Municipal Home Rule Pilot Program Phase III APPLICATION

<b>SECTION I: APPLICANT INFORMATION</b>	
<b>A. General Information</b>	
Name of Municipality: <u>City of Oak Hill</u>	
Certifying Official: <u>William C. Hannabass</u>	Title: <u>City Manager</u>
Contact Person: <u>William C. Hannabass</u>	Title: <u>City Manager</u>
Address: <u>PO Box 1245</u>	
City, State, Zip: <u>Oak Hill, WV 25901</u>	
Telephone Number: <u>304 469 9541</u>	Fax Number: <u>304 469 2801</u>
E-Mail Address: <u>w.hannabass@suddenlinkmail.com</u>	
2010 Census Population: <u>7,500</u>	
<b>B. Municipal Classification</b>	
<input type="checkbox"/> Class 1 <input type="checkbox"/> Class II <input checked="" type="checkbox"/> Class III <input type="checkbox"/> Class IV	
<b>C. Category of Issues to be Addressed (please attach descriptions for applicable categories)</b>	
<input type="checkbox"/> Tax <input type="checkbox"/> Organization <input checked="" type="checkbox"/> Administration <input type="checkbox"/> Personnel <input type="checkbox"/> Other	

<b>SECTION II: NARRATIVE (written plan, including the following)</b>
<p>Specific state laws, policies, acts, resolutions, rules or regulations that are preventing the municipality to carry out duties in the most cost effective, efficient, and timely manner.</p> <p>Specific problem(s) created by the laws, policies, acts, resolutions, rules or regulations.</p> <p>Proposed solution(s) to the perceived problem(s), including all proposed changes to law, policies, acts, resolutions, rules or regulations. Categorize and include:</p> <ol style="list-style-type: none"> <li>1) Proposed solution(s) in one of the five areas (tax/administrative/organization/personnel/other)</li> <li>2) If revenue related, estimate(s) for proposed solution(s) and how the fiscal impact was determined. Example: Estimated reduction of administrative time and costs = X. Please attach the worksheet or formula used to determine "X" amount.</li> </ol>

<b>SECTION III: AFFIDAVITS</b>
Hearing Mandate Verification Publication Mandate Verification Ordinance Authorizing Submission of Plan Fiscal Impact Worksheets/Formulas (if revenue related) Feasibility Study (if taxes are proposed) Attorney Opinion (application complies with statutory requirements) State of West Virginia Fees Statement (none outstanding)



# *CITY OF OAK HILL*

INCORPORATED 1925

*"Pride of the Plateau"*

September 9, 2015

West Virginia Home Rule Pilot Program  
West Virginia Department of Commerce  
State Capitol Complex  
Building 6, Room 525  
Charleston, West Virginia 25303

Dear Home Rule Pilot Program Committee:

Thank you for considering the City of Oak Hill as one of the Home Rule Municipalities. This local government strives for community participation and I believe we are prepared to be a leader within the Home Rule program. This city government has observed the initial Home Rule cities with interest and has adopted the vacant structure registration program modeled after Wheeling, WV.

The City of Oak Hill is prepared to be even more responsive to the needs of our residents through participation in the Home Rule program. Through an open government and clear communication we hope to make positive changes in ways small and large.

We look forward to working with the committee to make our government more efficient and to better serve the public. We will endeavor to identify and remedy situations that will improve the quality of life, cut expenses or simplify administration.

Thank you again for your consideration. You may contact me or the City Manager if we may supply any additional information.

Sincerely,

Fred Dickinson  
Mayor



# *CITY OF OAK HILL*

INCORPORATED 1925

*"Pride of the Plateau"*

September 9, 2015

West Virginia Home Rule Pilot Program  
West Virginia Department of Commerce  
State Capitol Complex  
Building 6, Room 525  
Charleston, West Virginia 25303

Re: Home Rule Application

Dear Members of the Home Rule Pilot Program Committee:

Thank you for consideration of this application submitted by the City of Oak Hill. This application was generated by a group of individuals within the City of Oak Hill including residents with a sincere desire to improve the process of our local governments in West Virginia.

Having observed the Pilot Home Rule Program and utilizing the resulting State legislation, I feel this is a program that will serve the residents of Oak Hill well. The residents have had the opportunity to review the proposals established by the City Council and to provide input both formally and informally. The process has been legally advertised and publicized through informative articles.

The governing body and administration of the City of Oak Hill promotes an open government that will benefit the public if the City of Oak Hill becomes a Home Rule City.

If I may be of further assistance please contact my office at 304-469-9541 or by email at:  
[W.Hannabass@suddenlinkmail.com](mailto:W.Hannabass@suddenlinkmail.com).

Sincerely,

William C. Hannabass  
City Manager

## Issues to be Addressed

1. Municipal liens at County Tax sale
2. Immediate issue of Citations
3. Liens for costs incurred in abating nuisance violations
4. Exempt Civil Service Commission from party affiliation requirement
5. Alcohol sales on premises
6. Comprehensive Plans
7. Cost of an Audit
8. Registration of vacant structures

Collection of Municipal Liens at County Tax Sale.

Proposed Solution Area(s): Administrative

Specific state laws, policy rule or regulation in question: West Virginia Code § 11A-3-14, and § 11A-3-52

Current state laws for sale of property with delinquent taxes restrict the City from collection of liens. The following Municipal codes of the City of Oak Hill may result in the placement of liens:

**ARTICLE 1718 Vacant Structure Code**

**ARTICLE 1711 Unsafe Structures**

**ARTICLE 1117 Weeds**

**ARTICLE 917 Sewer Rates**

**ARTICLE 751 License Tax Administration**

a. Payment of Liens Before Securing a Certificate of Sale  
*Specific Problem*

Presently, the City is limited by W. Va. Code § 11A-3-14 and other laws related to the purchase of property by tax sale. W. Va. Code § 11A-3-14 (a) provides that if the highest bidder present at the sale provided in section five of this article, bids and pays at least the amount of taxes, interest and charges for which the tax lien on any real estate is offered for sale, the sheriff shall issue to him or her a certificate of sale for the purchase money.... except the sheriff shall require payment of any subsequent taxes due at the time of the sale before a Certificate of Sale is issued. The Sheriff is required to issue a Certificate of Sale to the highest bidder who pays at least the amount of taxes, interest and charges for which the tax lien on the real estate is offered for sale. This washes away Municipal liens on the property because the purchaser is not required to satisfy those. Currently the purchaser wrongfully benefits from services rendered without having to pay the liens thus shifting the burden to others.

*Proposed Solution*

The statute provides that the sheriff can refuse to issue a Certificate of Sale if there are subsequent taxes due at the time of the sale. In accordance with W. Va. Code § 11A-3-14, the City proposes that its' liens be collected at the tax sale auction in addition to the delinquent property taxes. The sheriff shall require payment of any municipal liens due at the time of the sale before the Certificate of Sale is issued. At such, the highest bidder

present at the sale must bid and pay the amount of taxes, interest and charges for which the tax lien on any real estate is offered for sale, in addition to paying the City's lien(s) before the sheriff can issue a Certificate of Sale for the purchase money.

b. Payment of Municipal Liens before Securing a Deed.

*Specific Problem*

Current state law requires that a purchaser of real property at the tax sale auction must meet certain criteria after a specified time period before the purchaser can secure the deed to the property. The time period is specified in W. Va. Code § 11A-3-5 and § 11A-3-19. W. Va. Code § 11A-3-5 states that the tax lien on each unredeemed tract or lot, or each unredeemed part thereof or undivided interest therein shall be sold by the sheriff..... on any working day after the fourteenth day of October and before the twenty-third day of November. W. Va. Code § 11A-3-19 states that at any time after October 31 of the year following the sheriff's sale, and on or before December 31 of the same year, the purchaser can apply for the deed to the purchased real estate after meeting certain criteria. The purchaser can secure a deed after the 1<sup>st</sup> of March of the following year. Put together, the waiting period for the purchaser to secure a deed is about 18 months. During this 18 month period, the owner also has a right to redeem the property.

*Proposed Solution*

W. Va. Code § 11A-3-52 states the requirements for what purchasers must do before securing a deed after the 18 month redemption period. According to W. Va. Code § 11A-3-52 (a), Within forty-five days following the approval of the sale by the auditor pursuant to section fifty-one of this article, the purchaser, his heirs or assigns, in order to secure a deed for the real estate purchased, shall meet certain requirements including the deposit, or offer to deposit, with the deputy commissioner a sum sufficient to cover the costs of preparing and serving notices. The City proposes that it be permitted to include a provision that requires the satisfaction of City liens before the purchaser can secure a deed. In the event that the purchaser(s) is unwilling to satisfy the lien, the purchaser shall lose all of the benefits of the purchase. W. Va. Code § 11A-3-52 (b) provides that if the purchaser fails to fulfill the requirements set forth in paragraph (a) of this section, the purchaser shall lose all the benefits of his or her purchase.



The proposal will ensure that the City can recover tax payers' monies and public funds within the City.

**AN ORDINANCE TO AMEND THE CODIFIED ORDINANCES OF THE CITY OF OAK HILL AND ENACT PART SEVENTEEN-BUILDING AND HOUSING CODE, ARTICLE 1717, SECTION 1717.01 THROUGH 1717.08, RELATING TO THE GRANT OF AUTHORITY TO CITY CODE ENFORCEMENT OFFICIALS TO IMMEDIATELY ISSUE CITATIONS FOR EXTERNAL SANITATION VIOLATIONS AND COMMON NUISANCES**

**BE IT ORDAINED BY THE COUNCIL OF THE CITY OF OAK HILL, WEST VIRGINIA:**

**1717.01 Purpose and applicability.**

- (a) The purpose of this section is to provide additional and alternative methods and processes to enforce the municipal code provisions regarding exterior sanitation and common nuisances related to property located within the city in a fair, speedy and inexpensive manner, and to improve compliance with such provisions.
- (b) This section shall be in addition to those methods and processes otherwise contained in the Municipal Code of the City of Oak Hill and shall be applied at the discretion of the enforcement official enforcing the provisions of this section.
- (c) This section shall apply to exterior sanitation and common nuisance violations contained in the Health and Sanitation Code codified into Part 11, the Zoning Ordinance codified into Part 13, and the Building and Housing Code, incorporated by reference into Part 17, of the Municipal Code of the City of Oak Hill, including, but not limited to:
  - 1. Nuisances affecting health or safety;
  - 2. Sanitation;
  - 3. Drainage;
  - 4. Sidewalks in disrepair;
  - 5. High weeds/grass;
  - 6. Graffiti;
  - 7. Exterior garbage accumulation; and
  - 8. Open storage in residential districts;
- (d) All planning, zoning, building, and law enforcement officers shall have authority to enforce the provisions of this section and shall be referred to herein collectively as "enforcement officials."

**1717.02 Investigations.** Upon receipt of information or observation of circumstances indicating the likelihood of a violation of any provision of the Municipal Code of the City of Oak Hill regarding external sanitation or common nuisance, the enforcement official shall investigate the facts and may, to the extent permitted by law, make an inspection of the premises.

**1717.03 Notice of violation.**

- (a) If an enforcement official determines that a code violation exists, the enforcement official may issue such violation to the person having either ownership or control of any land, building, structure, sign, property, licensed or permitted business or operation which is in violation, and shall order that the violation be corrected. Nothing within this section shall prohibit the enforcement officer in his or her discretion from issuing a warning prior to issuing a citation.
- (b) The citation shall be in writing and shall contain the following:
1. The date the citation is issued;
  2. The name and address of the person(s) charged with the violation;
  3. The section of the ordinance that has been violated;
  4. The nature of the violation;
  5. The place and time the violation occurred;
  6. The date the notice of violation was given;
  7. The amount of the fine imposed for the violation;
  8. The name, address, and telephone number of the enforcement
  9. official issuing the citation; and
  10. The name, address, and telephone number of the office of the municipal court clerk, where fines are to be paid, and of the municipal court, where citations may be appealed.
- (c) A citation may be served by personal or substituted service in accordance with the West Virginia Rules of Civil Procedure, by either delivering the citation to the person in violation personally or by delivering the citation to a member of that person's family who is above the age of sixteen years and by advising that person of the purpose of the citation. Proof of personal service shall be made at the time of service by a written declaration executed by the enforcement official effecting service and shall declare the time, date, and manner by which service was made. If personal service cannot be effectuated, the enforcement official may send the citation to the person via certified mail, return receipt requested, delivery restricted to the addressee, to the person's last known address. If delivery of the certified mail is refused by the addressee, a citation shall be conclusively presumed to have been served. If the return receipt is not returned for any reason other than refusal of delivery by the addressee, a citation shall

be presumed to have been served if it is also sent by regular mail, postage prepaid, which is not returned as undeliverable by the postal service.

**1717.04 Penalties.** Any person issued a citation pursuant to subsection 1717.03(a) shall be punished by a fine as follows: within any 12-month period, \$100.00 for the first citation, \$200.00 for the second citation, \$300.00 for the third citation, and \$500.00 for the fourth citation and each citation thereafter.

**1717.05 Nonpayment of fines.** All fines imposed by citations under this section shall be due within ten days of service of the citation except as otherwise set forth herein. The failure to pay when due any fine imposed under this section shall constitute a failure to appear or otherwise respond under W.Va. Code 8-10-2b(c) and shall result in notification to the West Virginia Department of Transportation Division of Motor Vehicles.

**1717.06 Appeal.**

(a) Any person who is issued a citation shall pay the fine indicated for the violation, as set forth in 1717.04, in full to the office of the municipal court clerk within ten days of service of the citation. Any person alleging he or she was improperly issued such citation may, within ten days of service of such citation, file a petition for appeal of the citation, along with the required bond, with the municipal court clerk in accordance with the following:

1. In order to properly and timely appeal his or her citation, within ten days of service of the citation, the recipient of the citation shall pay the required amount of the applicable fine in full to the municipal court clerk, which amount will be held by the municipal court as bond pending hearing and resolution of the case by the municipal court and the municipal court clerk shall issue a receipt to the recipient of the citation showing the amount of the bond paid. In addition to the bond, the recipient of the citation shall file with the municipal court clerk a petition for appeal of the citation. If any petition for appeal filed in accordance with this section is not timely filed or is not accompanied with the required bond, the recipient of the citation shall be deemed to have waived his or her right to appeal the citation, and such petition shall be summarily denied as untimely filed; provided, however, that nothing set forth hereinabove shall prevent the municipal court judge from finding, upon a proper application and showing, that the recipient of the citation suffers from financial hardship, and, as a result, waiving the requirement that the bond be posted.
2. Any petition for appeal filed with the municipal clerk must be in writing, on the form to be provided by the municipal court clerk, and must be signed by the recipient of the citation affirming that the contents of the petition are true and accurate to the best of the recipient of the citation's knowledge at that time. Such petition for appeal shall state the facts and reasons in support of the petition. Upon filing any

such petition for appeal with the municipal court clerk, the recipient of the citation shall serve a copy of the petition and receipt showing proof of bond, or application for waiver thereof, upon the city attorney.

- (b) Upon filing of a petition for appeal with the municipal court clerk, the clerk or his or her designee shall place the case on the municipal court docket, set the case for hearing within 30 days from the date of the filing of the petition for appeal, provide a notice of hearing to the recipient of the citation, and forward a copy of the petition to the enforcement official who issued the citation. Upon receipt of the petition, the enforcement official shall cause a copy of the citation at issue to be forwarded to the municipal court clerk who shall file it as the original complaint alleging the violation indicated therein.
- (c) The municipal court shall treat the citation itself as the original complaint before the court. At the close of all of the evidence presented at the hearing on the petition for appeal, should the municipal judge find against the recipient of the citation, the bond posted by the recipient of the citation shall be applied as payment for the fine imposed for the violation. In the event the municipal court judge finds that the recipient of the citation suffers from financial hardship, the applicable fine from subsection 1717.04 shall be imposed, and the municipal court judge shall have the ability to grant the recipient of the citation a certain amount of time to pay the fine, at the municipal court judge's discretion. Should the court find in favor of the recipient of the citation, the bond, if applicable, shall be refunded to the recipient of the citation by the municipal court clerk, and the citation shall be dismissed.

**1717.07 Severability.** If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable.

This Ordinance shall take effect upon passage.

Introduced: \_\_\_\_\_

Adopted: \_\_\_\_\_

\_\_\_\_\_  
Fred Dickinson, Mayor

Attest:

\_\_\_\_\_  
Damita Johnson, City Clerk

**AN ORDINANCE TO AMEND THE CODIFIED ORDINANCES OF THE CITY OF OAK HILL AND ENACT PART SEVENTEEN-BUILDING AND HOUSING CODE, ARTICLE 1716, SECTION 1716.01, RELATING TO THE AUTHORITY TO FILE LIENS ON REAL PROPERTY FOR COSTS INCURRED IN ABATING EXTERIOR SANITATION AND COMMON NUISANCE VIOLATIONS**

WHEREAS, West Virginia Code §8-12-16 governs the adoption of ordinances regulating the repair, closing, demolition, etc., of dwellings or buildings unfit for human habitation, and allows a municipality to file liens against real property for costs incurred in such repair, closing, or demolition upon the filing of a lawsuit;

WHEREAS, §8-12-5(23) vests municipalities with the authority to provide for the elimination of hazards to public health and safety and abate or cause to be abated anything which a majority of the governing body finds to be a public nuisance, but does not provide any authority for filing liens against property for fees incurred in removing such hazards or nuisances; and

WHEREAS, pursuant to authority granted to the Oak Hill City Council by its admission to Phase II of the West Virginia Municipal Home Rule Pilot Program under West Virginia Code §8-1-5a, the Oak Hill City Council shall provide the ability to file liens against property without court approval for amounts expended by the City in taking actions to repair, alter, or demolish property, mow overgrown grass, or collect unlawful accumulations of garbage and rubbish.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF OAK HILL, WEST VIRGINIA:

1716.01 Authority of city to file a lien on real property for costs incurred in abating exterior sanitation and common nuisance violations and for costs incurred in repairing, relaying, or constructing sidewalks.

- (a) The city may file a lien on real property for costs incurred in abating exterior sanitation and common nuisance violations, which include, but are not limited to, those violations set forth in section 1717 when the following occurs:
- (1) A property owner, after receiving lawful notice pursuant to section 1717 or pursuant to any other applicable provision of the Municipal Code, fails to abate the violation; and
  - (2) The enforcement official lawfully enters said property and performs the work necessary to abate the violation; and
  - (3) A notice of the costs of the abatement is sent to the property owner and those costs are not remitted within a time satisfactory to the city.

(b) The city may file a lien on real property for costs incurred in repairing, relaying, or constructing sidewalks in accordance with Articles 11 and 17 of the Municipal Code of the City of Oak Hill.

This Ordinance shall take effect upon passage.

Introduced: \_\_\_\_\_

Adopted \_\_\_\_\_

\_\_\_\_\_  
Fred Dickinson, Mayor

Attest:

\_\_\_\_\_  
Damita Johnson, City Clerk

**AN ORDINANCE OF THE CITY OF OAK HILL ENACTING ARTICLE 175.02 PART ONE OF THE CODIFIED ORDINANCES OF THE CITY OF OAK HILL TO EXEMPT THE CITY'S POLICE CIVIL SERVICE COMMISSION FROM THE PARTY AFFILIATION REQUIREMENT OF WEST VIRGINIA CODE §8-14-7**

WHEREAS, by the authority granted to the City of Oak Hill by its participation in the West Virginia Home Rule Pilot Program, Phase II, under *W.Va. Code §8-1-5a*, the City of Oak Hill has the authority to relive itself from the party affiliation requirement for its Police Civil Service Commission; and,

WHEREAS, pursuant to *West Virginia Code §8-14-7*, not more than two (2) of the (3) three Municipal Police Civil Service Commissioners may be from the same political party; and,

WHEREAS, the City of Oak Hill has experienced difficulty in meeting this requirement because the Democratic Party is the predominate political party in the City and in Fayette County.

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF OAK HILL WEST VIRGINIA:**

**SECTION 1. ENACTMENT OF ARTICLE 175.02**

**THERE IS HEREBY AMENDED ARTICLE 175.02 WHICH SHALL BE AS FOLLOWS:**

**175.02:** Pursuant to the authority granted to the City of Oak Hill under the West Virginia Municipal Home Rule Pilot Program, under *W.Va. §8-1-5a*, the City hereby declares itself to be exempt from the requirement that no more than two (2) of the members of its Police Civil Service Commission be members of the same political party as required by *W.Va Code §8-14-7*.



**SECTION 2. EFFECTIVE DATE**

This Ordinance shall be effective upon passage.

Passed by Council of the City of Oak Hill on FIRST READING on this  
\_\_\_\_\_ day of \_\_\_\_\_, 2015.

Passed by Council of the City of Oak Hill on SECOND AND FINAL READING  
on this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

\_\_\_\_\_  
Fred Dickinson, Mayor

**ATTEST:**

\_\_\_\_\_  
Damita Johnson, City Clerk

## ALCOHOL SALES ON PREMISES

*WV Code 11 §16.8.5 & Title 176 CSR1 §3.6.e.3 ~ Distance From a Church*

### SPECIFIC PROBLEM:

These sections specify a distance of 300 feet from front door to front door along the street or streets. In municipalities with older, compact business areas and/or a significant number of churches located within, or in close proximity to, the business area, this requirement becomes a prohibition rather than a regulation. This prohibition is a detriment to restaurants wishing to expand their clientele by offering alcohol as part of the dining experience, and has the potential to stall development in under-utilized downtown areas. It can further restrict investment in under-utilized downtown areas if there are limited properties available that would be suitable for establishing a restaurant.

### PROPOSED SOLUTION:

If the City of Oak Hill was permitted to establish its own distance requirement without violating the guiding criteria set forth in WV Title 175 CSR2 §3.2.4b, §3.2.4c, and §3.2.4d, our downtown area might be re-vitalized by the additional foot-traffic resulting from a restaurant which has been issued a Class A license by the Commissioner.

## COMPHEHENSIVE PLANS

*WV Code §8A-3-4 ~ Mandatory Components for a Comprehensive Plan*

### SPECIFIC PROBLEM:

This section delineates seven objectives, twenty-six required components, and six optional components that an approved plan must have. Collection and collation of the majority of the required data into an useable format is beyond the capabilities of many small municipalities and requires the hiring of outside consultants at a significant expense to perform these tasks. In small municipalities with limited financial resources, this becomes a strain on the budget and diverts funds needed in more critical areas. This also leads to plans becoming outdated over time due to the expense of keeping the plan current, and the potential for civil litigation if the plans are not renewed as required.

### PROPOSED SOLUTION:

If the City of Oak Hill was permitted to establish its own comprehensive plan component criteria based on the goals stated in §8A-3-1, rather than the specific requirements stated in §8A-3-4, it would be better enabled to adopt a comprehensive plan written within the constraints of its budget, and also be in a better position to keep the plan current thru regularly scheduled reviews and adjustments. This allows for a more efficient use of public funds without sacrificing the original intent of the establishing legislation.

## COST OF AN AUDIT

*WV Code §6-9-8 ~ Payment of Cost of Services of Chief Inspector*

### SPECIFIC PROBLEM:

This section states that "... the costs shall not exceed the sum of two thousand dollars for services rendered to a Class III or a Class IV municipality; *Provided, however,* That the chief inspector may charge up to an additional two thousand dollars for costs incurred for each service or act performed for a utility or park system owned by a Class III or Class IV municipality." and hinders us from obtaining a complete and thorough audit of the City and its associated utility. Historically we have received only one or two bids from authorized CPA firms for a one-day (or less) cursory review of our finances due to the inability of the firm to recover the costs associated with the time required to perform a thorough audit.

### PROPOSED SOLUTION:

If the City of Oak Hill was permitted to establish its own payment limit for a audit of the City and the Oak Hill Sanitary Board, we would be able to attract more qualified CPA firms to submit bids for a detailed audit, or to make adequate restitution to the Chief Inspector's Division if we choose to use that office.

WV Code 8-12-16c: Registration of vacant buildings; registration fees; procedures for administration and enforcement.

Specific Problem:

This section does not address the problem of vacant structures not being registered by the owner. Several circumstances may allow the owner to avoid a penalty for not registering a vacant building; the owner resides outside of the state and refuses to complete a registration form. The property owner may be deceased without the estate being in probate. The location of the owner may not be able to be obtained.

Proposed Solution

Notice by Class II legal advertisement that the vacant building will be registered by the City with information available to the City. Vacant Structure Registration Protocol (proposed)

This document proposes a protocol to the registration and deregistration of vacant structures under the City of Oak Hill Vacant Structure Registration Program. If approved, it establishes time guidelines and the order of action for the registration process under this program, namely addressing existing issues with properties of absentee ownership and/or ownership inaction with the vacant structure.

- A. Timeframes: A set amount of time between each notification to the property owner that must pass before the next step of the registration can proceed.
  - a. Preferred timeframe: 2 weeks
- B. Course of Action: The decided process to ensure proper registration of vacant structures in the city with and without ownership cooperation.
  - a. Property is identified as vacant. The address is collected and forwarded to the city's Vacant Structure Registration Program.
  - b. First Attempt at Contact: Registration documents are mailed to the owner at the address listed on the property through the Fayette County Assessor's GIS Website. The attempt and date is kept on file for records.
  - c. Receipt of Response: The owner receives the documentation and responds either by mailing in the completed registration form, or notifying the City that the home is not vacant or is being used in a way which results in the structure not being occupied.
  - d. Final (Second) Attempt at Contact: If timeframe has lapsed the second time, documentation is sent again, along with a "Final Notice" attachment illustrating failure to respond in the requested timeframe will result in the owner being deemed "absentee" by the city and steps will be taken by the city to register the vacant structure with an "absentee ownership."
  - e. Class II Legal Advertisement and Physical Notice on Property: A Class II legal advertisement will be placed after the final notice timeframe lapses. A physical notice will also be posted on the property.
  - f. Absentee Ownership: If no response is received from the property owner after the final attempt at contact and legal advertisement, the property is classified as "vacant with absentee ownership." At this point, the property begins the Automatic Vacant Structure registration process, the date of registration being no sooner than one week beyond the expiration of the Class II legal advertisement.

- g. The property owner is not exonerated from possible penalties when the property is classified as vacant with absentee ownership.
- C. Automatic Vacant Structure Registration: Once a property is classified as “vacant with absentee ownership,” it is registered as a vacant structure and its status reviewed when a) the structure is no longer vacant or b) a year passes from the date of registration, whichever comes first.
  - a. Structure no longer vacant: If there are no fees assessed to property, structure is deregistered. If fees have been assessed to the property, they must be paid in full prior to deregistration.
  - b. One year from date of registration: After the first year, fees are assessed against the property based on the standard renewal fee schedule.



# *CITY OF OAK HILL*

INCORPORATED 1925

*"Pride of the Plateau"*

## HEARING MANDATE VERIFICATION

I, the undersigned City Clerk of Oak Hill, do hereby certify that on the second of September, 2015 at 6:30 p.m., a public hearing was held during a meeting of the City Council of the City of Oak Hill. The subject of the hearing was the submission of an application for the City of Oak Hill to become a Home Rule City. The plan was available to the public for review for 30 days prior to the hearing and was advertised as being available 30 days prior to the hearing.

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Damita Johnson  
City Clerk  
City of Oak Hill

Seal

**AFFIDAVIT OF PUBLICATION**  
**BECKLEY NEWSPAPERS**  
**BECKLEY, WEST VIRGINIA 25801**

08/10/2015

STATE OF WEST VIRGINIA  
COUNTY OF FAYETTE, to wit:

I, Cody Lewis, being duly sworn upon my oath, do depose and say that I am Legal Advertising Clerk for Beckley Newspapers, a corporation, publisher of the newspaper entitled The Fayette-Tribune, a Republican newspaper; that I have been duly authorized by the board of directors of such corporation to execute this affidavit of publication; that such newspaper has been published for more than one year prior to publication of the annexed notice described below; that such newspaper is regularly published twice-weekly for at least fifty weeks during the calendar year in the municipality of Oak Hill, Fayette County, West Virginia; that such newspaper is a newspaper of "general circulation" as that term is defined in article three, chapter fifty-nine of the Code of West Virginia, 1931, as amended, within the publication area of areas of the aforesaid municipality and county; that such newspaper averages in length four or more pages, exclusive of any cover, per issue; that such newspaper is circulated to the general public at a definite price of consideration; that such newspaper is a newspaper to which the general public resorts for passing events of a political, religious, commercial and social nature, and for current happenings, announcements, miscellaneous reading matter, advertisements and other notices; that the annexed notice

of NOTICE OF HEARING

(Description of notice)

was duly published in said newspaper once a week for 2 successive

weeks (Class 2), commencing with the issue of 08/03/2015

and ending with the issue of 08/10/2015, that said annexed notice was

published on the following dates: 08/03/2015, 08/10/2015,

and that the cost of publishing said annexed notice as aforesaid was \$ 30.76

Signed \_\_\_\_\_

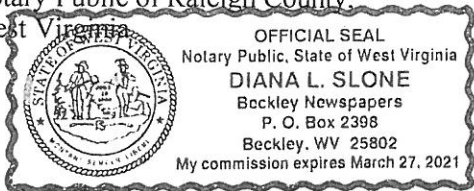
*Cody Lewis*  
Cody Lewis  
Legal Advertising Clerk  
Beckley Newspapers

Taken, subscribed and sworn to before me in my said county this day:

08/10/2015

My commission expires March 27, 2021

*Diana L. Slone*  
Notary Public of Raleigh County,  
West Virginia



**COPY OF PUBLICATION**

**Notice of Hearing  
City of Oak Hill**

There will be a public hearing at 6:30 p.m. on September 2, 2015, at City Hall, Council Chambers, 100 Kelly Av., Oak Hill WV, for public comment on a written plan to be submitted as application to the Home Rule Board for the City of Oak Hill to become a Home Rule Pilot City. The Plan is available for public inspection and may be obtained at the Oak Hill City Hall. The plan is available Monday through Friday, 8 a.m. to noon and 1 p.m. to 4 p.m. The plan may also be viewed on line at:  
[WWW.cityofoakhill.homestead.com](http://WWW.cityofoakhill.homestead.com)

William C. Hannabass  
City Manager  
8-10-MON-2-FT; L 348



**AN ORDINANCE OF THE CITY OF OAK HILL ENACTING AN ORDINANCE  
ADOPTING THE MUNICIPAL HOME RULE PILOT PROGRAM**

**WHEREAS**, the City Council of the City of Oak Hill, West Virginia, authorizes the City of Oak Hill to submit to the Municipal Home Rule Board and application to the Municipal Home Rule Pilot Program consistent with the W. Va. Code § 8-1-5a, requesting approval of the City of Oak Hill Municipal Home Rule Plan;


**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF OAK HILL, WEST VIRGINIA:**

That on behalf of the City of Oak Hill, 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 Municipal Home Rule Board, an application to the Municipal Rule Pilot Program, and to request approval by the Board of the City of Oak Hill Home Rule Plan; thereby allowing the City of Oak Hill to be considered for participation in the West Virginia Home Rule Pilot Program. The Mayor and the Administration are further authorized to do all things reasonably necessary to obtain approval by the Board of this application.

This Ordinance shall be effective upon passage.

Passed by Council of the City of Oak Hill on **FIRST READING** on this 2<sup>nd</sup> day of September, 2015.

Passed by Council of the City of Oak Hill on **SECOND AND FINAL READING** on this 9<sup>th</sup> day of September, 2015.

  
\_\_\_\_\_  
Fred W. Dickinson, Mayor

  
\_\_\_\_\_  
Damita Johnson, City Clerk

FILE PAYNE SCHERER & FILE PLLC  
ATTORNEYS AT LAW  
SINCE 1901

ROBERT N. FILE  
WILLIAM H. FILE, III

LAW BUILDING  
130 MAIN STREET  
BECKLEY, WEST VIRGINIA 25801

W. H. FILE, JR.  
(P/03-2009)

E-mail: [fpsf@suddenlinkmail.com](mailto:fpsf@suddenlinkmail.com)  
TELEPHONE (304) 253-3358  
FAX (304) 255-5136

Sender's direct email  
[bfileiii@suddenlinkmail.com](mailto:bfileiii@suddenlinkmail.com)

September 9, 2015

Applicant: City of Oak Hill, West Virginia  
Re: City of Oak Hill Municipal Home Rule Proposal

Dear Members of Municipal Home Rule:

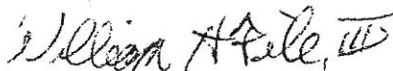
As City Attorney for the City of Oak Hill, I have reviewed West Virginia Code § 8-1-5a, Municipal Home Rule Pilot Program Application Guidelines (rev. November 2, 2007), the proposed City of Oak Hill Municipal Home Rule Plan, and other documents related thereto (collectively, the "Plan") as I have deemed necessary for the purposes of this opinion.

Based upon the examination of such documents and my understanding of the intent of the proposed provisions contained in the Plan, it is my opinion that the Plan complies with the required statutory requirements in that:

1. The Plan does not contain any proposed changes to ordinances, acts, resolutions, rules or regulations that are contrary to the:
  - i. US or WV Constitutions,
  - ii. Chapter 60 – A uniform Controlled Substances Act,
  - iii. Chapter 61 – Crimes and Their Punishment,
  - iv. Chapter 62 – Criminal Procedure – of this code,
2. The Plan does not contain any proposed changes to ordinances, acts, resolutions, rules or regulations that would create a defined contribution employee pension or retirement plan for its employees currently covered by a defined benefit pensions plan.

The Municipal Home Rule Board may rely upon this opinion.

Very truly yours,



William H. File, III  
Oak Hill City Attorney

WHFIII:kaa



# *CITY OF OAK HILL*

INCORPORATED 1925

*"Pride of the Plateau"*

September 9, 2015

West Virginia Home Rule Pilot Program  
West Virginia Department of Commerce  
State Capitol Complex  
Building 6, Room 525  
Charleston, West Virginia 25303

Re: West Virginia Fees Statement

Dear Members of the Home Rule Board:

This letter serves as a statement that the City of Oak Hill is current on all fees due to the State of West Virginia at the time of application to the Home Rule Pilot Program.

Sincerely,

William C. Hannabass  
City Manager