



City of South Charleston

P.O. Box 8597
South Charleston, WV 25303
Telephone: 304-744-5301
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www.cityofsouthcharleston.com

Frank A. Mullens Jr.
Mayor

May 22, 2014

Debbie Browning
West Virginia Development Office
West Virginia Municipal Home Rule Pilot Program
State Capitol Complex, Building 6, Room 553
Charleston, West Virginia 25305-0311

Re: South Charleston Municipal Home Rule Pilot Program Application

Dear Ms. Browning and Members of the Municipal Home Rule Board,

The following pages contain the City of South Charleston's Written Plan and Application to participate in the Municipal Home Rule Pilot Program as authorized in 2013 by Senate Bill No. 435. The legislation recognized that municipalities face challenges and are restrained in their ability to carry out their duties and responsibilities in a cost-effective, efficient, and timely manner. The pilot program seeks to alleviate the problems faced by municipalities such as the City of South Charleston, and we are excited by this opportunity to participate in the program. Before you review our written plan and application for the program, which details why our city needs to be included in the program, let me take a minute to introduce you to South Charleston.

The City of South Charleston is located in Kanawha County, West Virginia, and is serviced by Interstate 64 and bisected by the Kanawha River. According to the 2010 census, the population of our city is 13,450. South Charleston is well known for its quality of service offered in all areas. Our residents enjoy excellent police, fire, and sanitary services. We are also proud of the many recreation facilities, including the South Charleston Community Center, South Charleston Memorial Ice Arena, Little Creek Golf Course, and Little Creek Park, as well as our downtown South Charleston Public Library and the various annual festivals and events taking place here.

Our city is home to a variety of exceptional companies including Thomas Memorial Hospital, Union Carbide Corporation, Gestamp, and Bayer Material Science, as well as excellent schools, including campuses of Bridgemont and Kanawha Valley Community and Technical Colleges and Marshall University. South Charleston offers numerous restaurants, hotels, and shopping opportunities, including the Wal-Mart Shopping Center and the Shops of Trace Fork on Corridor G, the downtown and Spring Hill business district areas, and Riverwalk Plaza. South Charleston truly is "Someplace Special" and home to many wonderful residents and businesses.

On behalf of the City of South Charleston, I thank you for your service and your consideration of South Charleston's written plan and application to participate in the Municipal Home Rule Pilot Program. If you would like any further information about South Charleston or this plan, please do not hesitate to contact me.

Sincerely,

Frank A. Mullens, Jr.
Mayor of the City of South Charleston



Frank A. Mullens Jr.
Mayor

City of South Charleston

P. O. Box 8597
South Charleston, WV 25303
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www.cityofsouthcharleston.com

May 22, 2014

Municipal Home Rule Written Plan and Application 2014



Frank A. Mullens Jr.
Mayor of the City of South Charleston

Municipal Home Rule Pilot Program Phase II

APPLICATION CHECKLIST

SECTION I: APPLICANT INFORMATION	
Page 3	General Information
Page 3	Municipal Classification
Pages 6-10	Specific Issues to be Addressed
Page 3	Issue Categories

SECTION II: NARRATIVE	
6-10	Specific state laws, policies, acts, resolutions, rules or regulations that are preventing the municipality from carrying out duties in the most cost-effective, efficient, and timely manner.
6-10	Specific problems created by the laws, policies, acts, resolutions, rules or regulations.
6-10	Proposed solutions to the perceived problems, including all proposed changes to law, policies, acts, resolutions, rules or regulations. Categorize and include: <ol style="list-style-type: none"> 1) Proposed solutions in one of the four areas (tax/administrative/organization/personnel) 2) Estimates for proposed solutions 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.

SECTION III: AFFIDAVITS	
Page 5 and Exhibit A	Hearing Mandate Verification
Page 5 and Exhibit B	Publication Mandate Verification
Page 5 and Exhibit C	Ordinance Authorizing Submission of Plan
Page 5 and Exhibit D	Fiscal Impact Worksheets/Formulas
Page 5 and Exhibit E	Attorney Opinion
Page 5 and Exhibit F	State of West Virginia Fees Statement
Pages 4 and 5	Agreement to Requirements Statement

Municipal Home Rule Pilot Program Phase II

APPLICATION

SECTION I: APPLICANT INFORMATION	
A. General Information	
Name of Municipality: City of South Charleston	
Certifying Official: Frank A. Mullens, Jr.	Title: Mayor
Contact Person: W. Michael Moore	Title: City Attorney
Address: City Hall; 401-D Street; P.O. Box 8597	
City, State, Zip: South Charleston, WV 25303	
Telephone Number: (304) 744-5300	Fax Number: (304) 744-6587
E-Mail Address: scmayor@cityofsouthcharleston.com	
2010 Census Population: 13,450	
B. Municipal Classification	
<input type="checkbox"/> Class I <input checked="" type="checkbox"/> Class II <input type="checkbox"/> Class III <input type="checkbox"/> Class IV	
C. Category of Issues to be Addressed (please attach descriptions for applicable categories)	
<input checked="" type="checkbox"/> Tax <input type="checkbox"/> Organization <input checked="" type="checkbox"/> Administration <input type="checkbox"/> Personnel	

SECTION II: NARRATIVE (written plan, including the following)
Specific state laws, policies, acts, resolutions, rules or regulations that are preventing the municipality from carrying out duties in the most cost-effective, efficient, and timely manner. Specific problems created by the laws, policies, acts, resolutions, rules or regulations. Proposed solutions to the perceived problems, including all proposed changes to law, policies, acts, resolutions, rules or regulations. Categorize and include: 1) Proposed solutions in one of the four areas (tax/administrative/organization/personnel) 2) Estimates for proposed solutions 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. See Written Plan and Attachments.

SECTION III: AFFIDAVITS
Public Hearing Mandate Verification [Written Plan, Page 5, and Exhibit A] Publication Mandate Verification [Written Plan, Page 5, and Exhibit B] Ordinance Authorizing Submission of Plan [Written Plan, Page 5, and Exhibit C] Fiscal Impact Worksheets/Formulas and Feasibility Study [Written Plan and Exhibit D] Attorney Opinion [Exhibit E] State of West Virginia Fees Statement [Exhibit F] Agreement to Requirements Statement [Written Plan, Page 4] See Written Plan and Attachments.

Requirements Concerning Firearms, Ammunition and Firearm Accessories

Definitions: As used in this subsection:

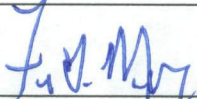
- (A) "Ammunition" means fixed cartridge ammunition, shotgun shells, the individual components of fixed cartridge ammunition and shotgun shells, projectiles for muzzle-loading firearms and any propellant used in firearms or ammunition.
- (B) "Firearm accessory" means a device specifically designed or adapted to enable the wearing or carrying about one's person, or the storage or mounting in or on a conveyance, of a firearm, or an attachment or device specifically designed or adapted to be inserted into or affixed onto a firearm to enable, alter or improve the functioning or capabilities of the firearm.
- (C) Firearm has the same meaning as in W. Va. Code § 61-7-2.

General Rule:

- (A) Municipalities participating in the Municipal Home Rule Pilot Program may not restrict in any manner the right of any person to purchase, possess, transfer, own, carry, transport, sell or store any revolver, pistol, rifle, or shotgun, or indirectly prohibit the ownership of the ammunition or to restrict in any manner the right of any person to purchase, possess, transfer, own, carry, transport, sell or store any other firearm accessory or accoutrement, under any order, ordinance or rule promulgated or enforced by the municipality. This rule may not be construed to prevent any law enforcement official with appropriate authority from enforcing any statute enacted by the state.
- (B) The authority of a municipality to regulate firearms, ammunition, or firearm accessories may not be inferred from its proprietary authority, home rule status or any other inherent or general power.
- (C) Any existing or future orders, ordinances, or rules promulgated or enforced in violation of this subsection are null and void.
- (D) A municipality may regulate the carrying of a firearm in municipal buildings dedicated to government operations, other than parking buildings or garages.

Applicability and Effective Dates:

Ninety days after a new municipality has been selected by the Board to participate in the pilot program, or a previously participating municipality has chosen to continue to participate in the pilot program, any municipal gun ordinances previously authorized by the provisions of section five-a, article twelve, chapter eight of the West Virginia Code shall no longer be of any force or effect for any municipality participating in this program, to the extent they are in conflict with the provisions of this subsection: Provided, that no provision in this subsection may be construed to limit the authority of a municipality to restrict the commercial use of real estate in designated areas through planning or zoning ordinances.

Certifying Official Signature of the Mayor*: 

* The restrictions as to a municipality's regulation of firearms, ammunition, and firearm accessories contained in W. Va. Code § 8-1-5a(p) may be repealed due to the West Virginia Legislature's passage of Senate Bill 317 [2014]. In that case, the City of South Charleston will abide by the new limitations put in place in W. Va. Code §§ 8-12-5(a)(16) and 8-12-5a.

Fulfillment of Prerequisite Requirements

Prior to submitting this written plan and application to the Municipal Home Rule Board, the City of South Charleston:

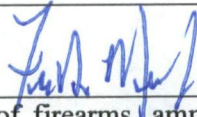
- (1) Held a public hearing on the written plan on May 1, 2014, beginning at 7:30 p.m. at the South Charleston City Hall, Chamber of the City Council;
- (2) Provided notice at least thirty days prior to the public hearing by a Class II legal advertisement by publishing a notice in a qualified newspaper once a week for two successive weeks that advised of the date, time, and location of the public hearing;
- (3) Made a copy of the written plan available for public inspection at the Mayor's Office at City Hall at 401 D Street, South Charleston, at least thirty days prior to the public hearing and informed of this inspection opportunity in the published notices; and
- (4) After the public hearing, adopted an ordinance, Ordinance Number 2203, authorizing the municipality to submit this written plan to the Municipal Home Rule Board after the proposed ordinance had been read two times on May 1, 2014 and May 15, 2014.

Furthermore, the limitations set forth in W. Va. Code § 8-1-5a(p) [2013] concerning the regulation of firearms, ammunition, and firearm accessories were discussed in connection with the adoption of the written plan. The City Attorney identified several sections of the South Charleston City Code that may be contrary to such limitations, and it is understood that all existing or future orders, ordinances, or rules promulgated or enforced by South Charleston in violation of W. Va. Code § 8-1-5a [2013] become null and void when the City participates in the Municipal Home Rule Pilot Program. The same applies as to any limitations imposed after the effective date of Senate Bill 317 [2014], relating to municipal firearm laws.

The City of South Charleston understands that participation in the Municipal Home Rule Pilot Program requires public hearing, public notice, and approval by the Municipal Home Rule Board prior to the passage of an ordinance based on this written plan.

Furthermore, the City understands its obligation to give a progress report to the Municipal Home Rule Board commencing on December 1, 2015, and each year thereafter while it is a participating municipality.

Certifying Official Signature of the Mayor*:



* The restrictions as to a municipality's regulation of firearms, ammunition, and firearm accessories contained in W. Va. Code § 8-1-5a(p) may be repealed due to the West Virginia Legislature's passage of Senate Bill 317 [2014]. In that case, the City of South Charleston will abide by the new limitations put in place in W. Va. Code §§ 8-12-5(a)(16) and 8-12-5a.

Index of Issues to be Addressed through Home Rule

1. Create a one-half percent sales tax and reduce B&O and utility taxes.
2. Expand the ability to issue immediate citations.
3. Authorize the City to transfer property without public auction.
4. Expand the City's administrative authority concerning variances and special permits.

1. Create a one-half percent sales tax and reduce B&O and utility taxes.

Municipalities in West Virginia have limited means to obtain revenue to provide necessary services to their residents. The Municipal Home Rule Pilot Program gives participating municipalities the authority to enact a municipal sales tax of up to one percent if it reduces or eliminates its municipal business and occupation tax.

Absent statutory authority, a municipality does not have the authority to levy a consumer sales tax except in limited circumstances. West Virginia Code § 8-13C-4(a) provides qualifying municipalities with the authority to impose a pension relief municipal sales and service tax at a rate not to exceed one percent. Any proceeds from a pension relief municipal sales and service tax must be used to reduce the unfunded actuarial accrued liability of policemen's and firemen's pension and relief funds. W. Va. Code § 8-13C-9. Furthermore, W. Va. Code § 8-13C-4(b) gives municipalities that do not impose, or cease to impose, the business and occupation or privilege tax authority to impose an alternative municipal sales and service tax at a rate not to exceed one percent.

The current lack of authority to impose a sales tax is problematic. It prevents South Charleston from utilizing a method to obtain revenue from visitors who benefit from South Charleston's services. The City's residents are paying for all services, such as police and garbage collection, which also benefit visitors who shop in South Charleston. Without a sales tax, there is no efficient method for the City to obtain reimbursement from visitors.

South Charleston currently imposes business and occupation (B&O) taxes on various industries. *See* Article 737 of the Code of the City of South Charleston (hereafter "City Code"). Sellers or retailers of tangible property generally pay a half percent tax on income. City Code § 737.11. Service businesses not otherwise taxed pay a tax equal to one percent of their gross income. City Code § 737.16. South Charleston also imposes utility taxes for the privilege of purchasing, using, or consuming public utility service within the corporate limits of the City. *See* Article 743 of the City Code. Purchasers pay a two percent tax on the gross amount of telephone, electric, gas, and water services. South Charleston would like to reduce both B&O and utility taxes to benefit South Charleston's residents and advance economic development.

In order to allocate taxes more broadly and reduce the tax burden on South Charleston's residents and businesses, the City seeks to impose a one-half percent sales tax to increase general revenues while reducing existing business and occupation and utility taxes. The sales tax rate would be equal to that of one of the neighboring cities, Charleston. Charleston recently has been able to benefit from the imposition of a sales tax.

More specifically, South Charleston proposes the following tax modifications, with accompanying revenue estimates:

- Reducing the 0.50% B&O tax rate on retailers to 0.45% (\$295,327)
- Reducing the 1% B&O tax rate on services to 0.95% (\$133,055)
- Reducing the 2% utility tax to 1% (\$344,453)
- Establishing a 0.50% sales tax (retail and services) \$2,141,908

The estimated losses in revenue are calculated by using the gross earnings from 2012. The estimated gains are likewise based on a conservative (50%) estimate of 2012 gross earnings figures of retailers and service businesses that paid B&O taxes in South Charleston. The estimated net gain of \$1.369 million indicated above does not reflect the cost recovery fee retained by the West Virginia Tax Department.

The proposed restructuring of taxes would assist in resolving existing inequities. It would reduce the tax burden on retailers, service providers, and utility users. Moreover, it should result in additional income to the City that is needed to remedy South Charleston's underfunded pensions, reduce bond debt, and improve the City's infrastructure to further economic development.

2. Expand the ability to issue immediate citations.

South Charleston has a Property Board, also referred to as the Board of Health, which declares, directs abatement, and abates nuisances. Nuisances include buildings unfit for human habitation due to dilapidation or defects. City Code § 153.01. Grass and weeds that have grown to a height in excess of ten inches constitute a nuisance handled by the Property Board. City Code § 951.01. In addition, a violation of any provision of the Sewers and Sewage Disposal Article of the City Code may be declared a public nuisance by the Property Board, to be corrected or abated as directed by the Property Board. City Code § 931.17. According to the City Code, conditions officially declared to be unsanitary, hazardous, or detrimental to life, health, safety, or the welfare of the public constitute a nuisance. City Code § 1119.01. Such conditions include trash accumulation on private property. High vegetation and debris attract and facilitate the increase of the number of raccoons, rodents, and other disease-carrying animals. Every year, South Charleston expends resources to address nuisances.

South Charleston has general authority to regulate the safety and health of persons or property in its municipality. W. Va. Code § 8-12-2(a)(9). Likewise, the City has general authority to protect and promote the public morals, safety, health, welfare, and good order. W. Va. Code § 8-12-2(a)(44). Per W. Va. Code § 8-11-1(a)(2), municipalities may prescribe reasonable penalties for violations of its ordinances, orders, bylaws, acts, resolutions, rules and regulations, in the form of fines, forfeitures and confinement in the county or regional jail or the place of confinement in the municipality, if there is one, for a term not exceeding thirty days. The City has all powers granted to municipal corporations and to cities of its class by the Constitution and laws of the State of West Virginia, together with all the implied powers necessary to carry into execution all the powers granted, according to the South Charleston's Charter, Article II, Section 2.1.

While it may be implied as part of its general powers, there is no clear authority in the West Virginia Code for the issuance of on-the-spot citations by City officials that may be necessary in the course of protecting the safety and health of persons or property. The lack of immediate action and delay in remedying dangerous conditions, such as the nuisances noted above, are problems that the City seeks to address. As to sanitary violations, this involves privately owned sewage systems that are leaking, which are a public safety issue.

South Charleston would like to improve the speed and reduce the drain on resources needed to remedy nuisances. The current process to address nuisances is rather cumbersome. For instance, pursuant to City Code § 951.02(a), it is unlawful for any person who owns, leases, or otherwise occupies and controls real property in the City to fail to keep and maintain the external areas of real property free and clear of all health and safety hazards. If this section is violated, the owner of the real property and the occupant thereof, if not the same person, are entitled to be served written notice of a violation of City Code § 951.02(a). Such notice must describe the violations that require correction. Violators are given the opportunity to comply with within five (5) calendar days of the delivery of such written notice.

If the violators do not remedy the problem, then the City is empowered and authorized to enter upon such real property by and through its authorized officers, employees, and agents for the purpose of performing such work or activity as may be necessary to bring the real property into compliance. City Code § 951.03. Actual expenses would be charged to the violators. This procedure requires much time and effort by the City, starting with the written notice and service thereof, follow-up inspections for compliance, remedying non-compliance, billing for expenses, and pursuit of payment. Sometimes judicial involvement becomes necessary.

Instead of the delay and expenditure of city resources, the City would like to implement a citation system similar to the system commonly used for parking violations. Certain employees of the City would be empowered to issue citations that carry a fine, which would increase if not paid in a timely manner. Increasing consequences should assist to encourage compliance without having to resort to the current lengthy abatement process. By issuing immediate citations, the City hopes to encourage its residents to remedy public health and safety problems before they escalate and prior to the expenditure of limited City resources.

3. Authorize the City to transfer property without public auction.

West Virginia Code § 8-11-3(6) provides that the purchase of private property by a municipality or for the sale of property belonging to the municipality shall, except where otherwise provided in the West Virginia Code, be by ordinance. In addition, W. Va. Code § 8-12-18 provides for the sale or lease of real or personal property at public auction after notice, but it makes certain exceptions for transfers for a public purpose. Exceptions include parcels with a market value of less than \$1,000 and for trade-in transactions. Specifically, W. Va. Code § 8-12-18(b) provides in relevant part:

The requirements of notice and public auction shall not apply to the sale of any one item or piece of property of less value than one thousand dollars and under no circumstances shall the provisions of this section be construed as being applicable to any transaction involving the trading in of municipally owned property on the purchase of new or other property for the municipality and every municipality

shall have plenary power and authority to enter into and consummate any trade-in transaction.

Id. In the absence of express statutory authorization regarding the manner of sale, any sale or conveyance of property by a city to a private or special interest must be accomplished by means of a public auction held upon proper notice.

The obligation to conduct public auctions severely hampers the ability of the City to exercise control over its layout and economy. The expansion of existing businesses through the purchase of adjacent City property is threatened by competing bids for such property for the sole purpose of preventing the expansion of such businesses. In addition to risking the transfer of City property to a purchaser who would not put the property to the most beneficial use, a transfer through public auction causes delay and can jeopardize the entire expansion. Exceptions to the public auction requirement, such as through trade-in transactions or transfers of parcels with a market value of less than \$1,000, are not frequently applicable. Likewise, transfer through other methods, such as economic opportunity development district projects, impose additional procedural requirements that impede timely transfers.

Permitting the City to transfer public property directly, without the requirement for public auction, would enable the City to exercise necessary control over its property to maximize the benefits to the citizens of South Charleston. The City is very cognizant of its fiduciary responsibilities and willing to consider any necessary limitations to such authority. However, only through the ability to transfer property directly can South Charleston exercise the necessary control over the development and expansion of its businesses and industries.

4. Expand the City's administrative authority concerning variances and special permits.

West Virginia law specifies that the actions of a municipality related to planning and zoning must be by ordinance except where otherwise provided in the West Virginia Code. W. Va. Code § 8-11-3(8). West Virginia's land planning and zoning laws are codified in Chapter 8A of the West Virginia Code. Zoning ordinances must adopt procedures and requirements for variances. W. Va. Code § 8A-7-2(c)(4).

West Virginia Code also sets forth the circumstances under which variances should be granted by a board of zoning appeals. W. Va. Code § 8A-7-11(b). The powers and duties of boards of zoning appeals are set forth in W. Va. Code § 8A-8-9. A board of zoning appeals is required to authorize, upon appeal in specific cases, variances to the zoning ordinance, and to adopt rules and regulations concerning the applications for variances and conditional uses and other matters.

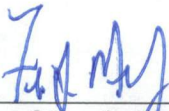
In South Charleston, the planning and zoning code is set forth in the City Code in Part Thirteen. City Code § 1315.03(c) directs the Board of Zoning Appeals to adopt rules concerning the filing of appeals, applications for variances, and exceptions, as well as the giving of notice and conducting of hearings.

The South Charleston Board of Zoning Appeals meets once each month on the first Monday of the month. The board handles a variety of issues. Appeals are frequently heard regarding parking restrictions and use restrictions. The vast majority of appeals handled by the Board of Zoning Appeals include requirements as to set-back and lot use.

The current procedures utilized by South Charleston and specified in the West Virginia Code do not include any procedure for the issuance of a temporary permit. Such temporary permits are needed in South Charleston in circumstances in which time is of the essence. Depending on when an application for an appeal is filed with the Board of Zoning Appeals, taking into consideration notice requirements (pursuant to City Code § 1315.07), the fact that the board meets only once each month, and the necessity on occasion for additional information to be submitted after a hearing to enable the board to make a fully informed decision, 50 or more days may pass before a permanent ruling is made.

This delay in the permit process has caused delays in business expansions and openings in South Charleston, which has cost the City and its businesses lost revenue. It also has delayed services to the City's residents. South Charleston seeks more flexibility to address this delay issue by establishing procedures for a temporary permit process, which would take the approval or disapproval of neighboring property owners into consideration. A temporary permit would provide approval under limited and specific circumstances for an application to proceed with a project, subject to final approval by the Board of Zoning Appeals.

Respectfully Submitted,



City of South Charleston, by and through
its Mayor, Frank A. Mullens, Jr.

Date: 5/22/14

**JOURNAL OF THE COUNCIL
CITY OF SOUTH CHARLESTON**

The council met in its chambers in City Hall on May 1, 2014 at 7:30 p.m., DST for the first meeting and was called to order by Mayor Mullens.

Margie Spence, City Clerk, called the roll and the following members were present:

Linda Anderson
Jeff Means
Jamie Sibold

Kent Rymer
Kathleen Walker
Meg Britt
Mayor Mullens

Absent was: Dayton Griffith, and Jef Stevens.

PRAYER

Given by Kent Rymer

PLEDGE OF ALLEGIANCE

Led by Margie Spence.

ALSO IN ATTENDANCE

Arnet Hoston, Director, South Charleston Community Center
John Taylor, Chief, South Charleston Fire Department
Brad Rinehart, Chief, South Charleston Police Department
Steve DeBarr, Manager, South Charleston Sanitary Board/Engineer
Carlton Lee, City Manager
Gerald Burgy, Director of Public Works
Michael Moore, City Attorney
Hannah Pettitt, City Treasurer

MINUTES OF PREVIOUS MEETING

Mr. Means moved to approve the minutes of the Regular Council meeting of April 17, 2014; seconded by Mrs. Walker and passed by a unanimous voice vote.

Mr. Means moved to approve the minutes of the Special meeting; seconded by Mrs. Anderson and passed by a unanimous voice vote.

EXHIBIT A

FINANCIAL REPORT

None.

PETITIONS, COMMUNICATIONS AND PUBLIC HEARINGS**AN ORDINANCE TO AMEND AND READOPT SECTION 167.40 ARTICLE 167 OF CITY CODE REGARDING SALARY SHCEDULES FOR FIRE FIGHTERS, POLICE OFFICERS AND EMPLOYESS (SECOND READING) (MAYOR)**

It was moved by Mr. Means; seconded by Mr. Sibold to adopt the ordinance. This passed by a unanimous voice vote.

AN ORDINANCE TO AMEND THE PERSONNEL POLICY WITH REGARD TO SALARIES FOR ELECTED OFFICIALS (SECOND READING) (MAYOR)

It was moved by Mr. Sibold; seconded by Mr. Means to adopt the ordinance. This passed by a unanimous roll call vote.

AN ORDINANCE TO REZONE PROPERTY LOCATED AT THE CORNER OF 2ND AVENUE AND D STREET FROM A C-6 (COMMUNITY COMMERCIAL) TO A C-10 (GENERAL COMMERCIAL) (SECOND READING) (MAYOR)

It was moved by Mr. Means; seconded by Mr. Rymer to adopt the ordinance. This passed by a unanimous voice vote.

RECOGNIZE ANDREW BYRD, CANDIDATE FOR WEST VIRGINIA HOUSE OF DELEGATES (MAYOR)

Mayor Mullens recognized Mr. Byrd who spoke to council stating he was a candidate for the House of Delegates. He asked for support and thanked council members and Mayor Mullens for allowing him to speak.

APPROVAL OF DAVE POTTER TO MUNICIPAL PLANNING COMMISSION (MAYOR)

It was moved by Mrs. Walker; seconded by Mrs. Anderson to approve the appointment. This passed by a unanimous voice vote.

APPROVE PROCLAMATION FOR ARMED FORCES DAY AND MEMBERS OF THE UNITED STATES MILITARY (MAYOR)

It was moved by Mr. Sibold; seconded by Mr. Means to approve the proclamation. This passed by a unanimous voice vote.

AN ORDINANCE AUTHORIZING THE SUBMISSION OF MUNICIPAL HOME RULE PLAN APPLICATION (PUBLIC HEARING) (FIRST READING) (MAYOR)

Mayor Mullens opened the floor to a public hearing. There being no one to speak for or against the application, Mayor Mullens closed the public hearing.

Therefore, it was moved by Mr. Means; seconded by Mrs. Britt to move the ordinance to a second reading. This passed by a unanimous voice vote.

RECOGNIZE KEN SAMPLES (MAYOR)

Mayor Mullens recognized Ken Samples. Mayor Mullens and Bob Anderson presented Mr. Samples with a plaque thanking him for his city support as a business owner for the past 46 years and also his years in military service. Mayor Mullens also thanked Mr. Samples for honoring the city as being the Parade Marshall in the Armed Forces Day Parade on May 17.

RECOGNIZE SHIRLEY WHITE WITH GOLD STAR MOTHERS (MAYOR)

Mayor Mullens recognized Shirley White with Gold Star Mothers and thanked her for her service.

BIDS

LITTLE CREEK GOLF COURSE OFFICE FURNITURE

It was moved by Mr. Means; seconded by Mrs. Anderson to award the bid to Custom Office Furniture in the amount of \$168,000.00. This passed by a unanimous roll call vote.

REPORT OF RECREATION COMMITTEE – No written report but Mr. Hoston reported that Thomas Memorial Hospital will be holding a Kids Fair at the community center Saturday, May 3 from 9-12.

REPORT OF FIRE CHIEF – No a written report. Mayor Mullens stated the new Weberwood Fire Station will have an open house on Saturday, May 24 from noon to 5 pm and invited everyone to attend.

REPORT OF POLICE CHIEF – No written report.

REPORT OF SANITARY BOARD MANAGER/ENGINEER – No written report.

REPORT OF CITY MANAGER – No written report.

REPORT OF PUBLIC WORKS DIRECTOR – No written report.

REPORT OF CITY ATTORNEY – No written report. Mr. Moore thanked Ms. Casey for her help in preparing the home rule ordinance.

REPORT OF CITY TREASURER – Submitted a written report.

COMMITTEE REPORTS

None.

CONSIDERATION OF NEW BUSINESS

None.

MISCELLANEOUS BUSINESS

Mayor Mullens announced that city residents will soon receive a survey letter from the United States Postal Service regarding the identification of their city address. Surveys must be returned to the post office by May 30 to be counted.

Also Mayor Mullens recognized Chris Stansbury, candidate for the House of Delegates. Mr. Stansbury asked for their support and thanked them for letting him speak.

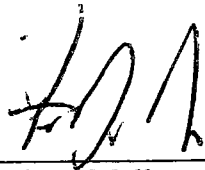
ADJOURNMENT

Mr. Means moved to adopt the meeting; seconded by Mr. Sibold and passed by a unanimous voice vote.

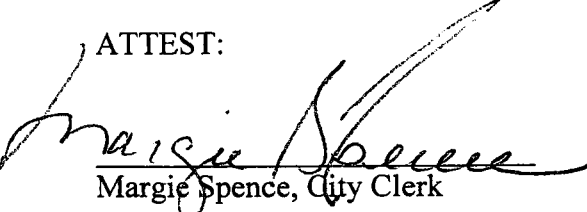
Mayor Mullens adjourned the meeting at 8:05 p.m.

APPROVAL

Approved this 15th day of May, 2014.



Frank A. Mullens, Jr. Mayor

ATTEST:


Margie Spence, City Clerk

Speaker Sign-In Sheet

Municipal Home Rule Pilot Program – Public Hearing

Thursday, May 1, 2014, 7:30 p.m.

South Charleston City Council Chamber, City Hall, 401 D Street, South Charleston

In favor of Home Rule:

1. _____

2. _____

3. _____

4. _____

5. _____

Opposed to Home Rule:

1. _____

2. _____

3. _____

4. _____

5. _____

NOTICE IS HEREBY GIVEN that a public hearing on the City of South Charleston's written plan and application for participation in the Municipal Home Rule Pilot Program will take place during the regularly scheduled meeting of the South Charleston City Council on Thursday, May 1, 2014, beginning at 7:30 p.m. at the City Council Chamber located at City Hall, 401 D Street, South Charleston. A copy of the written plan is available for public inspection at the South Charleston Mayor's Office at City Hall during regular business hours.

EXHIBIT B



CHARLESTON NEWSPAPERS

P.O. Box 2993
Charleston, West Virginia 25330
Billing 348-4898
Classified 348-4848
1-800-WVA-NEWS

LEGAL ADVERTISING INVOICE

INVOICE DATE	04/09/14
ACCOUNT NBR	026856104
SALES REP ID	0063
INVOICE NBR	897369001

M

CITY OF SOUTH CHARLESTON
~~JOYCE DABIRI/ARM FORCES DAY~~
PO BOX 8597
SOUTH CHARLESTON WV 25303 USA

BILLED TO

Please return this portion with your payment.
Make checks payable to: Charleston Newspapers

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P.O. Box 2993
Charleston, West Virginia 25330
Billing 348-4898
Classified 348-4848
1-800-WVA-NEWS
FEIN 55-0676079

INVOICE DATE	04/09/14
ACCOUNT NBR	026856104
SALES REP ID	0063
INVOICE NBR	897369001

Legal pricing is based upon 63 words per column inch.
Each successive insertion is discounted by 25% of the first insertion rate.

The Daily Mail rate is \$.13 per word, the Charleston Gazette rate is \$.14 per word, and the Metro Putnam rate is \$.13 per word.

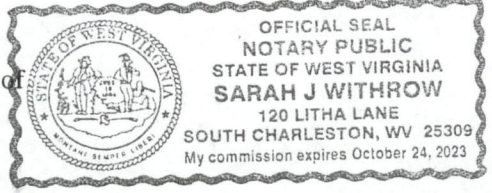
ISSUE DATE	AD TYPE	PUB	DESCRIPTION		AD NUMBER	AD SIZE	RATE	GROSS AMOUNT	NET AMOUNT
			REFERENCE NBR	PURCHASE ORDER #		TOTAL RUN			
04/01	LEGF	GZ	4/1, 4/8	HOME RULE	0558484	1X0225	8.82	19.85	19.85
						2.25			
04/01	LEGF	DM	4/1, 4/8	HOME RULE		1X0225	8.19	18.43	18.43
						2.25			
04/08	LEGR	GZ	4/1, 4/8	HOME RULE		1X0225	8.82	19.85	14.89
						2.25			
						1X0225		4.96-	

LEGAL ADVERTISEMENT
NOTICE OF PUBLIC HEARING
NOTICE IS HEREBY GIVEN that a public hearing on the City of South Charleston's written plan and application for participation in the Municipal Home Rule Pilot Program will take place during the regularly scheduled meeting of the South Charleston City Council on Thursday, May 1, 2014, beginning at 7:30 p.m. at the City Council Chamber located at City Hall, 401 D Street, South Charleston. A copy of the written plan is available for public inspection at the South Charleston's Mayor's Office at City Hall during regular business hours. (558484)

DISCOUNT 25%
HOME RULE

NOTICE OF PUBLICATION

Water



do solemnly swear that the legal notice of:

was duly published in said newspaper(s) at the stated price for the respective newspaper(s) and during the dates listed below:

Subscribed and sworn to before me this 10th day of April, 2014

Sarah J Withrow
Notary Public of Kanawha County, West Virginia

LESTON NEWSPAPERS

P.O. Box 2993
 Charleston, West Virginia 25330
 Billing 348-4898
 Classified 348-4848
 1-800-WVA-NEWS

LEGAL ADVERTISING INVOICE

INVOICE DATE	04/09/14
ACCOUNT NBR	026856104
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INVOICE NBR	897369001

M

CITY OF SOUTH CHARLESTON
~~JOYCE DABIRI/ARM FORCES DAY~~
 PO BOX 8597
 SOUTH CHARLESTON WV 25303 USA

BILLED TO

Please return this portion with your payment.
 Make checks payable to: Charleston Newspapers

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CHARLESTON NEWSPAPERS

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INVOICE DATE	04/09/14
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ISSUE DATE	AD TYPE	PUB	DESCRIPTION		AD NUMBER	AD SIZE	RATE	GROSS AMOUNT	NET AMOUNT
			REFERENCE NBR	PURCHASE ORDER #		TOTAL RUN			
			897369004			2.25	8.19	18.43	
			LEGAL DISCOUNT 25%					4.61-	13.82
			TOTAL INVOICE AMOUNT						66.99

State of West Virginia, **AFFIDAVIT OF PUBLICATION**

I, _____ of
 THE CHARLESTON GAZETTE,
 THE DAILY MAIL,

do solemnly swear that the legal notice of:
 4/1, 4/8 HOME RULE

was duly published in said newspaper(s) at the stated price for the respective newspaper(s) and during the dates listed below:

04/01/14-04/08/14

Subscribed and sworn to before me this _____ day of _____.

Notary Public of Kanawha County, West Virginia

INTRODUCED BY:
Frank A. Mullens, Jr., Mayor

ORDINANCE NO:
2203

REFERRED TO:

APPROVED ON:
5/15/14

AN ORDINANCE AUTHORIZING THE SUBMISSION OF A MUNICIPAL HOME RULE PLAN AND APPLICATION TO THE MUNICIPAL HOME RULE BOARD

WHEREAS, the West Virginia Legislature has recently continued the Municipal Home Rule Pilot Program and permitted additional municipalities to apply for participation in the program by July 1, 2014;

WHEREAS, participation in the Municipal Home Rule Pilot Program lifts some restraints that challenge a municipality's ability to carry out its duties and responsibilities in a cost-effective, efficient, and timely manner;

WHEREAS, South Charleston could benefit from participating in the Municipal Home Rule Pilot Program by being permitted to create a one-half percent sales tax and reduce B&O and utility taxes, issue immediate nuisance and public health citations, transfer property without public auction, and expand the City's administrative authority concerning variances and special permits; and

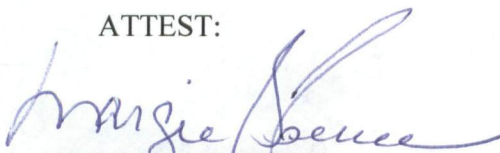
WHEREAS, in order to submit the written plan and application for participation in the Municipal Home Rule Pilot Program, an ordinance authorizing South Charleston to submit its written plan must be adopted after having been read two times;


NOW, THEREFORE, BE IT ENACTED AND BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SOUTH CHARLESTON, WEST VIRGINIA, THAT:

The City of South Charleston does hereby authorize the Mayor of the City of South Charleston to submit South Charleston's Municipal Home Rule Written Plan and Application, which was subject to a public hearing on May 1, 2014, and available for public inspection for at least thirty days prior to such hearing, to the Municipal Home Rule Board in order for the City of South Charleston to be considered for participation in the Municipal Home Rule Pilot Program.

This ordinance shall take effect immediately upon passage.

ATTEST:


Margie Spence, City Clerk


Frank A. Mullens, Jr., Mayor

This ordinance was prepared by Moore & Biser PLLC, City Attorney.

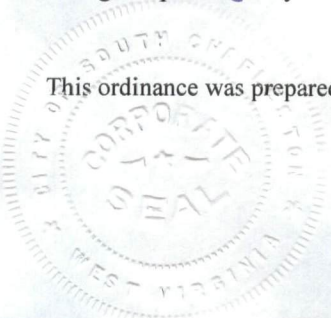


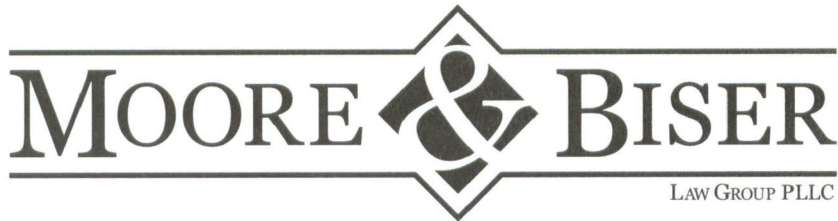
EXHIBIT C

TAX CODE	GROSS EARNINGS 2012	B&O RATE	B&O TAX PAID	New B&O Rate	B&O Tax Est.	Conservative Earnings Est.	Sales Tax .5%
T12 MANUFACTURED	\$ 664,528,319.35	0.30%	\$ 1,993,584.96				
T13 RETAILERS	\$ 590,653,577.41	0.50%	\$ 2,953,267.89	0.45%	\$ 2,657,941.10	\$ 295,326,788.71	\$ 1,476,633.94
T14 WATER COMPANIES	\$ 6,144,779.75	4.00%	\$ 245,791.19				
T15 CONTRACTING	\$ 70,427,156.70	2%	\$ 1,408,543.13				
T16 AMUSEMENT	\$ 640,110.96	0.50%	\$ 3,200.55				
T17 SERVICE	\$ 266,109,633.97	1%	\$ 2,661,096.34	0.95%	\$ 2,528,041.52	\$ 133,054,816.99	\$ 665,274.08
T19 BANKING	\$ 13,382,613.53	1%	\$ 133,826.14				
T23 WHOLESALERS	\$ 135,346,020.45	0.15%	\$ 203,019.03				
T24 NATURAL GAS	\$ 4,070,296.88	3%	\$ 122,108.91				
T44 DOMESTIC LIGHTING	\$ 10,350,974.67	4%	\$ 414,038.99				
T64 ELECTRIC	\$ 15,740,191.57	3%	\$ 472,205.75				
Total:	\$ 1,777,393,675.24		\$ 10,610,682.87		\$ 5,185,982.62		\$ 2,141,908.03
	B&O Less Retail and Service		\$ 4,996,318.64				
	Total W/ Red. Tax & .5% Sales Tax		\$ 12,324,209.29		\$ 64,257.24	\$ 12,259,952.05	\$ 1,649,269.18
					<u>3% Valuation</u>	<u>Total Revenue</u>	<u>Increase in Rev.</u>
T18 RENTAL	\$ 51,702,166.99	1%	\$ 517,021.67				
T12 HOTEL	\$ 7,353,978.23	6%	\$ 441,238.69				
TUT UTILITY TAX	\$ 34,445,250.50	2%	\$ 688,905.01		\$ 10,182,301.26		
	Utility Tax Reduction	1%	\$ 344,452.51				
	B&O Tax Reduction		\$ 5,614,364.23				

Current B&O Revenue	\$10,610,682.87
Reduction In B&O	(\$428,381.61)
Revenue From Sales Tax	\$2,141,908.03
Less 3% Valuation Fund	(\$64,257.24)
Less Utility Tax Reduction	(\$344,452.51)
Total Revenues from Changes	\$11,915,499.54

Current Revenue From B&O	\$10,610,682.87
Estimated with Sales Tax	\$11,915,499.54

EXHIBIT D



317 Fifth Avenue
South Charleston, WV 25303

T 304.414.2300
F 304.414.4506

www.moorebiserlaw.com

After-hours Ext. #101
mmoore@moorebiserlaw.com

May 22, 2014

Frank A. Mullens, Jr., Mayor
City Hall
401-D Street
South Charleston, WV 25303

Re: Legal Opinion
South Charleston Municipal Home Rule Pilot Program Application

Dear Mayor Mullens:

As the City Attorney for the City of South Charleston, I have reviewed the Municipal Home Rule Written Plan and Application that the city plans to submit to the Municipal Home Rule Board in May of 2014 pursuant to W. Va. Code § 8-1-5a [2013]. Upon my review of the proposed written plan and W. Va. Code § 8-1-5a [2013], it is my legal opinion as an attorney licensed to practice in West Virginia that the proposed written plan does not violate the provisions of W. Va. Code § 8-1-5a [2013].

Let me know if I can be of any further assistance in this matter. I am available to discuss the written plan with the Municipal Home Rule Board should the need arise.

Very truly yours,

A handwritten signature in blue ink, appearing to read "W. Michael Moore", is written over the typed name below it.

W. Michael Moore

WMM/MC

cc: Municipal Home Rule Board (as part of the Written Plan)

EXHIBIT E



City of South Charleston

P.O. Box 8597
South Charleston, WV 25303
Telephone: 304-744-5301
Fax: 304-744-6443
www.cityofsouthcharleston.com

Frank A. Mullens Jr.
Mayor

May 22, 2014

Debbie Browning
West Virginia Development Office
West Virginia Municipal Home Rule Pilot Program
State Capitol Complex, Building 6, Room 553
Charleston, West Virginia 25305-0311

Re: South Charleston Municipal Home Rule Pilot Program Application
State of West Virginia Fees Statement

Dear Ms. Browning and Members of the Municipal Home Rule Board,

The West Virginia Code, Section 8-1-5a(c)(1), provides that commencing July 1, 2013, twenty Class I, Class II, Class III and/or Class IV municipalities that are current in payment of all state fees may participate in the Municipal Home Rule Pilot Program. Please allow this letter to serve as my verification that the City of South Charleston does not owe outstanding fees to the State of West Virginia.

Sincerely,

Hannah Pettitt, Treasurer
City of South Charleston

EXHIBIT F