



Powers for Progress

**West Virginia Municipal Home Rule Pilot Program Phase II
APPLICATION OF THE CITY OF CHARLES TOWN**



**Made Available to the Public March 26, 2014; Public Hearing April 25, 2014
Submitted to the WV Municipal Home Rule Board May 29, 2014**

Municipal Home Rule Pilot Program Phase II

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Executive Summary

The cities of Charles Town and Ranson are both Class III cities located in Jefferson County in the eastern panhandle. The cities are contiguous and share a common border where major revitalization and high-tech business development are taking place. We share common infrastructure, common economic development opportunities, common utility systems, common goals – and common problems. That is why the two cities are undertaking a set of initiatives to explore coordinated, joint, and potentially consolidated efforts and actions. This includes holding joint City Council sessions, submitting and implementing joint applications for federal funding on important community revitalization and infrastructure upgrade projects, holding joint groundbreaking ceremonies with Governor Tomblin and other state and federal leaders on shared economic development projects, participating jointly in a study with West Virginia University’s College of Business & Economics on potential revenue-sharing opportunities between the two cities, and jointly sponsoring and conducting a project with the International City Management Association’s Center for Performance Management on strategies for shared, joint and/or consolidated municipal services.

With common problems and shared opportunities, the Cities of Charles Town and Ranson are also working in a coordinated way to seek new “home rule” authorities from the State of West Virginia. Both cities are struggling under revenue challenges associated with steady declines in gaming revenues, major infrastructure costs, capital investment needs, and burdens of blight reduction. New home rule powers could help the cities save taxpayer money, create better revenue streams that support business growth, expand public services, improve community quality of life, and promote collaboration between the two cities. If the cities obtain home rule authority through the WV competition underway now, it will empower the cities to develop new ordinances to put these powers into place in the coming months and years, with an expected fiscal benefit of as much as \$570,000 annually in Charles Town alone. The two cities are working in tandem, submitting two independent yet identical home rule applications, which should enable the cities to act as one community on our shared goals. Ranson and Charles Town are confident that, working together under home rule authorities granted by the WV Municipal Home Rule Board to each city, we can create results for our citizens that will exceed what we can accomplish as separate cities or what we could achieve without home rule powers.

This home rule application from the City of Charles Town identifies the following home rule powers to seek:

- 1. Community Enhancement Districts:** Charles Town seeks expanded authority to use “Community Enhancement Districts” (CEDs) under W.V. Code Chapter 16, Article 13E, which already allows a city to use non-tax assessment fees to support public bonds for construction of infrastructure, public parks and recreational facilities, and other amenities at both new developments and areas targeted for revitalization. However, the CED statute has shortcomings that make it impractical for Charles Town to implement. Charles Town seeks new flexibility to establish CEDs through City Council ordinance with property owner opt-out by petition, rather than through cumbersome, super-majority property owner opt-in petitions. Such flexibility for establishment of CEDs is necessary to make this tool feasible for public improvements in already-developed downtown areas. Charles Town also seeks new authority to establish the City Council as the governing board for a CED, rather than being required to establish a separate entity and governing board. Also, Charles Town seeks home rule authority to establish Joint Community Enhancement Districts with the adjacent City of Ranson, in order to conduct coordinated community revitalization along and across the common border of the two cities. This would be a unique request for home rule authority. Again, Charles Town notes that, by the existing statutory authority that allows for the creation of CEDs (see WV Code Section 16-13E-12), this authority is not a taxing or TIF authority, and is therefore an appropriate subject for home rule application.
- 2. Improvements to code citations & public nuisance enforcement:** This power would provide Charles Town with more efficient and workable methods to address public nuisances including rundown properties, as compared to the current system which, by law, requires time-consuming and expensive court orders for code enforcement. The new powers would allow Charles Town code enforcement officers to issue “on the spot” citations for code violations much like the way traffic tickets are issued. Charles Town also seeks authority to empower trained law enforcement officers, who often observe code violations and problem properties in the course of their duties, to write code citations. Also, Charles Town seeks the home rule power to be able to share code enforcement personnel with the City of Ranson, to beef up staff effectiveness while cutting down costs to these local programs and the taxpayer. These approaches have already been granted by the Home Rule Board to some of the initial four home rule cities, but the joint code enforcement approach is unique to Charles Town and Ranson’s applications.
- 3. Improvements to the process for addressing blighted properties:** Under current law, it is difficult, time-consuming and expensive for Charles Town to address blighted and eyesore properties. The process is not efficient, and the inefficiencies built into state code can leave dilapidated, problem properties un-fixed for months or years. The following authorities will allow Charles Town to take faster action at less cost to the taxpayers, while maintaining protections for property owners against any abuse by municipal authorities. Charles Town seeks five (5) specific home rule powers to make these code sections more workable for the

real challenges faced by cities on these blighted properties. First, Charles Town seeks a more reasonable standard for dealing with blighted properties than the current legal standard of “not fit for human habitation” under code Section 8-12-16, a standard which now enables action only at the very worst of properties. Second, Charles Town seeks clarified authority under Section 8-12-16 to take its own action with city resources to clean up blighted properties and broken sidewalks, or to demolish vacant and uninhabitable properties, and to then place liens on these properties to recover taxpayer costs, when the property owner will not address these properties. Third, Charles Town seeks home rule authority under Section 8-12-16a to require lenders that foreclose on houses to register these properties with the local code department at the beginning of the foreclosure process, to maintain these foreclosed homes so that they do not become noncompliant and blighted, and to pay outstanding fees and liens that were placed by the city for corrective maintenance, at the time of sale. Fourth, Charles Town seeks authority under Section 8-12-16c to shorten the lengthy time period that the city must wait to initiate civil action to take a vacant and blighted structure to forfeiture, from the current time under law of 28 months to a more reasonable period of 10 months. And fifth, Charles Town seeks clarified authority under Section 8-12-16a that fees placed on uninhabitable structures for city maintenance or other action can be considered enforceable liens with equal rank, priority and dignity as other liens. Together, these improved authorities can help Charles Town deal with the continuing stigma and problems of blighted properties. Most of these blight-elimination powers have already been granted to the initial pilot cities by the Home Rule Board, but the foreclosure maintenance power has never been requested or granted in the state so far.

- 4. Municipal authority to dispose of property without auction:** Under West Virginia law, cities have no authority to sell property, except by way of public auction, a requirement that hinders economic development and neighborhood revitalization. Charles Town seeks authority to sell property without the requirement for public auction, if the sale is deemed to be for a public purpose by municipal resolution, adequate notice is provided to the public, and the sale is for adequate value. Charles Town also seeks home rule authority to use competitive and public online auctions for disposal of personal property, such as surplus vehicles or equipment. Versions of this home rule authority have already been granted by the Home Rule Board for some of the initial pilot cities.
- 5. Municipal Sales Tax of up to 1% with B&O tax reductions & incentives:** This power would enable Charles Town to place a tax of up to 1% of sales within city boundaries, with groceries and gas exempted. Charles Town would first reduce or eliminate targeted B&O taxes particularly for retailers, along with tax abatement incentives for downtown businesses and high-tech businesses. With gaming revenues declining and municipal revenues at risk, this home rule power will give Charles Town the option of keeping public services and investments moving forward, through improvements to the local tax system. This power has been granted to the first four home rule pilot cities, but Ranson and Charles Town believe that we are taking

a unique approach to B&O tax reform by targeting reductions to provide important incentives for downtown businesses, high-tech businesses, and other desirable enterprises.

Charles Town and Ranson are making great progress toward our common goals, but we continue to struggle with common problems. We have engaged closely with members of the public, local organizations, our business community, and other partners to address these challenges. There has not been a single concern or protest voiced to Charles Town about these requested home rule powers, during this process of developing this application. We are ready to put reasonable home rule powers into action in order to make progress, and we respectfully request that the West Virginia Municipal Home Rule Board provide Charles Town with the powers for progress.

Section I: Applicant Information

A. General Information

Name of Municipality: **City of Charles Town**

Certifying Official: **Peggy Smith**

Title: **Mayor**

Contact Person: **David Mills**

Title: **City Manager**

Address: **101 East Washington Street**

City, State, Zip: **Charles Town, WV 25414**

Telephone Number: **(304) 724-3244**

Fax Number: **(304)728-1014**

E-mail Address: **CityManager@CharlesTownWV.us**

Census Population: **5,258**

B. Municipal Classification

Please identify municipal class/metro government:

Class I Class II Class III Metro-Government

C. Specific Issue(s) to be Addressed

Community Enhancement Districts

1. Allow Charles Town to create Community Enhancement Districts by ordinance, unless 25% of affected property owners petition to invalidate the ordinance, in which case the Charles Town City Council may place the question on the ballot for majority vote
2. Allow the Charles Town City Council and Mayor the option to designate City Council as the Community Enhancement District Board
3. Allow Charles Town to create a Joint Community Enhancement District with the adjacent City of Ranson along the common border of the municipalities

Code Citations & Public Nuisance Enforcement

4. Allow Charles Town code enforcement officials to issue “on-the-spot” citations
5. Allow trained law enforcement officers to serve as code enforcement officials
6. Allow Charles Town to have shared or joint code enforcement officials with the City of Ranson

Addressing Blighted Properties

7. Authority under Section 8-12-16 allowing Charles Town to take action at blighted properties under more flexible standards of “blighted” or “improperly

maintained”, not more stringent standards under current law of “not fit for human habitation” or a threat to public safety and welfare.

8. Authority under Code Section 8-12-16 that clarifies that Charles Town may take action to maintain, demolish or conduct other property improvements at blighted properties or on broken sidewalks, and recover the costs for those municipal actions through lien enforcement, if the property owner fails to respond to City requirements to take action to address blighted conditions
9. Authority under the property registration procedures of Section 8-12-16a to allow Charles Town 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.
10. A shortened time period under Section 8-12-16a for forfeiture of structures when refuse to address code violations at uninhabitable properties, from 28 months to a period of 10 months
11. Authority to clarify Charles Town ability to collect fees with lien authority when an owner of uninhabitable property fails to comply with orders under code Section 8-12-16a
12. Authority under Section 8-12-16c for Charles Town to take vacant and uninhabitable structures in forfeiture after due process to the property owner

Sale of Municipal Property without Auction

13. Authority to sell municipal property without public auction, when deemed for public purpose after public notice, and when sold for adequate value
14. Authority to use competitive, online auction services to dispose of personal property

Municipal Sales Tax with B&O Tax Reductions & Incentives

15. Authority to impose a municipal sales tax of up to 1% within Ranson’s corporate boundaries, except on gasoline, groceries and other exempted items. This will be coupled with reductions in B&O taxes for certain entities including retailers, and incentives for downtown businesses, high-tech businesses, and other desirable enterprises.

D. Issue(s) Category

- 1. Community Enhancement Districts** (Administrative and Organizational)
- 2. Code Citations and Nuisance Enforcement** (Administrative and Organizational)
- 3. Addressing Blighted Properties** (Administrative)
- 4. Sale of Municipal Property without Auction** (Administrative)
- 5. Municipal Sales Tax with B&O Reductions and Incentives** (Taxing)

Section II: Narrative

Introduction

The City of Charles Town is a community of 5,258 people in Jefferson County, in the eastern panhandle of the state. Over the past several years, Charles Town has built significant partnerships for revitalization with the State of West Virginia along with federal agencies, community organizations, and the private sector. One of Charles Town's most important partners on this community revitalization has been its neighboring municipality of Ranson.

The two communities share a common border, are of equal land size and population, have a shared history, and are both poised to experience significant growth over the next several years due to their place in the Washington DC metropolitan area. The two communities also share common challenges. This application, while submitted independently by Charles Town, has been developed in coordination with Ranson, and indeed the two applications share the same approach and request the same authorities. If successful in both obtaining home rule authority, Charles Town and Ranson will be unique in the field of home rule communities in West Virginia, and can be a model for joint municipal partnerships to confront shared challenges, become more efficient, and deliver services to their citizens more effectively. In this application, Charles Town submits a plan that requests 15 specific solutions to the City's most severe challenges. The solutions are focused in five (5) "authority areas": Community Enhancement Districts, Code Citation & Nuisance Enforcement, Addressing Blighted Properties, Sale of Municipally Owned Property without Auction, and Municipal Sales Tax with B&O Tax Reductions & Incentives.

The first of these authority areas, flexibility under the code's existing Community Enhancement District authority, has not been requested by previous Home Rule applicants, and highlights Charles Town and Ranson's desire to partner for economic revitalization along their shared border. Jefferson County is not only one of the fastest growing counties in West Virginia, it is also one of the fastest growing counties in the Washington DC metro area. Much of this growth has been focused in Charles Town and Ranson. As they prepare for this population growth, Charles Town must address the critical need for expanded infrastructure, and for redevelopment of blighted and vacant areas of the cities' shared downtown. The two communities view Community Enhancement Districts as an important tool to meet the challenge. The specific solutions in this area clarify the West Virginia Community Enhancement Act to allow for joint municipal enhancement districts, streamlines the Act's petitioning process, and give the Mayor and City Council more direct control over the creation and/or management of the required Community Enhancement Board.

The next two authority areas, relating to Code Violations & Nuisance Enforcement and to Addressing Blighted Properties, are complimentary, and offer a suite of eight solutions to overcome the challenge of blighted properties. Following the recent economic recession, the City

faces the devastating effects of vacant and blighted properties. The solutions laid out in these two home rule areas will allow Charles Town to more directly and more efficiently address troubled properties by improving the arduous code enforcement process, expanding Charles Town's ability to maintain blighted properties, providing Charles Town with the ability to keep foreclosed properties maintained, and improving Charles Town's ability to place and collect liens.

The fourth area for home rule authority will allow Charles Town to sell municipally owned property without requiring the City to place the property up for public auction, a legal requirement that has served as a barrier to the redevelopment of remediated properties. This power would also allow the city to utilize an online, competitive auction system to dispose of personal property.

Lastly, Charles Town seeks the authority to impose a sales tax of up to 1%, coupled with B&O tax reductions and incentives. Charles Town, like many communities with casinos, has seen drastic declines in revenue due to dwindling gaming revenues – with a 38% drop in these revenues in the past three years alone and more expected declines due to Maryland and Pennsylvania competition. The City seeks to be proactive to maintain municipal revenues as we work to move forward on community revitalization and economic development. Charles Town will use its Business & Occupancy tax reductions to incentivize business expansion in the downtown area, and the expansion of high-tech businesses in the community.

Community Enhancement Districts

Charles Town seeks expanded authority to utilize the existing tool in West Virginia law for “Community Enhancement Districts” (CEDs), which use assessment fees (which are not considered taxes or TIFs under West Virginia law) placed the current or future property owners in the area of the district, to support public bonds for the construction of infrastructure, public parks and recreational facilities, and other amenities at these areas targeted for revitalization. Charles Town seeks new flexibility to establish CEDs through City Council ordinance with property owner opt-out petition power, rather than through cumbersome, super-majority property owner opt-in petitions. Such flexibility for establishment of CEDs is necessary to make this tool feasible for public improvements in already-developed downtown areas. Charles Town also seeks new authority to establish the City Council as the governing board for a CED, rather than being required to establish a separate entity and governing board. Also, Charles Town seeks home rule authority to establish Joint Community Enhancement Districts with the adjacent City of Ranson, in order to conduct coordinated community revitalization along and across the common border of the two cities. This would be a unique, first time request for home rule authority.

1

Authority to allow Charles Town to create a “Joint Community Enhancement District” with the adjacent City of Ranson, in areas along and across the common border of the cities (Organizational)

Specific Legal Barrier

WV Code Section §16-13E-3, Power and authority of counties and municipalities to create and establish community enhancement districts.

(a) Every county and municipality is hereby empowered and authorized, in addition to any other rights, powers and authority conferred upon it elsewhere in this code, to create, modify and expand community enhancement districts in the manner hereinafter set forth in such county or municipality and to assist in the development, construction, acquisition, extension or improvement of a project or projects located in such county or municipality.

(b) Unless agreed to by a municipality, the power and authority hereby conferred on a county shall not extend into territory within the boundaries of any municipality: Provided, That notwithstanding any provision in this code to the contrary, the power and authority hereby conferred on counties may extend within the territory of a public service district created under section two, article thirteen-a of this chapter.

Specific Problem Caused by Barrier

While current West Virginia law gives Charles Town the ability to create and establish Community Enhancement Districts, the law does not allow for the establishment by more than one municipality of a “Joint Community Enhancement District” that crosses the municipal boundary and allows for common improvements in adjacent cities. For Charles Town and Ranson, the ability to jointly establish, govern and maintain a Joint Community Enhancement District is critical, particular in areas along the common border where the cities are seeking to foster major improvements including the build-out of the American Public University System’s high-tech campus, common parks and recreational areas, and additional commercial development.

Proposed Solution

To solve this problem, both Charles Town and Ranson will need to be successful in obtaining home rule authority. This Joint CED authority would allow two municipalities with a common border, if agreed to by both municipalities, to create, modify, expand, and govern Joint Community Enhancement Districts that cross the municipal boundaries and lay in both municipal jurisdictions. Such a Joint CED would be governed by a Joint Community Economic District Board with representatives of both cities together, comprised of either appointed Board members from each city or, pursuant to item #3 below, comprised of the City Councils themselves.

2	Authority allowing Charles Town to create or expand Community Enhancement Districts by ordinance, unless 25% of affected property owners petition to invalidate the ordinance, in which case the governing body may place the question on the ballot for majority vote (Administrative)
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Specific Legal Barrier

WV Code Section 16-13E-4, “Petition for Creation or Expansion of Community Enhancement District; petition requirements”

Although current WV law allows the creation or expansion of Community Enhancement Districts, such CEDs can only be initiated when owners of at least sixty-one percent (61%) of the real property, determined by acreage, located within the boundaries of the proposed CED, petition a City Council for the creation or expansion of the district. See Section 16-13E-4(a), (b), (b)(12) & (c), and Section 16-13E-5(e).

Specific Problem Caused by Barrier

While the “61% opt-in petition” approach to establish or expand a CED may be workable for greenfield developments where there is only one property owner or very few property owners who

all desire to move their property into redevelopment and seek the public improvements that can be funded with the CED tool, this opt-in petition approach is unworkable and infeasible for the redevelopment of blighted and vacant areas that are already established and that have many existing property owners. In Ranson and Charles Town, there is a blighted corridor of closed factories, brownfields and vacant land straddling the common municipal border, which has been dubbed the “Commerce Corridor”, and has been subject to intense redevelopment efforts over the past decade. The cities are pleased that redevelopment progress in this vacant corridor is beginning to build momentum, including with a major groundbreaking in December 2013 that included Governor Earl Ray Tomblin and Home Rule Board Member Senator Herb Snyder, among many others. This Commerce Corridor is slated for development as a high-tech and educational area with \$100+ million in investment by the American Public University System. The cities also seek to move forward on park and recreational improvements along the Evitts Run Creek, straddling the cities’ border and running between the Ranson Civic Center (in an old industrial building) and the Jefferson County Boys & Girls Club (also in an old industrial building), through to the Happy Retreat estate of Charles Town’s founder (and George’s brother) Charles Washington. These municipal redevelopment areas need major public improvements and infrastructure investments that cannot be adequately funded with municipal revenues or existing statutory tools.

Using the Community Enhancement District tool in an already-established area for downtown redevelopment is impractical if not impossible, with the 61% opt-in petition requirement of current law, because there are multiple property owners in this downtown area that will be very difficult to organize for the cumbersome petition process. These barriers will make it impossible for Charles Town to use an established state tool to deploy new public infrastructure that is needed for community revitalization.

Proposed Solution

Instead of the 61% opt-in approach, Charles Town seeks to use a “property owner opt-out” approach, under which the City of Charles Town can establish or expand a CED by municipal ordinance, after full public notice and an opportunity for affected citizens or property owners to comment. If, within 30 days of passage of the ordinance, 25% or more of the affected property owners in the established District (measured by percentage of acreage, as under current law) file a verified petition opposing the District with the City Clerk, such a petition would invalidate the ordinance and prohibit the City from moving forward with the CED or its assessment fee structure. Note that this 25% opt-out threshold is a much lower threshold than the 40% threshold required under current state law for voter invalidation of a school levy, at W.V. Code Section 18-9-1. In the case of a CED opt-out, if the property owner opt-out petition so invalidates a CED, the City would still have the option to place the question of the establishment or expansion of the proposed CED on the ballot for voter consideration, either in a special election or the next scheduled municipal election. If the ballot measure passes by a majority of more than 50% of participating voters, the CED can proceed.

3	Authority allowing the Charles Town City Council and Mayor to have the option to designate themselves as the Community Enhancement District Board (Organizational)
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Specific Legal Barrier

§16-13E-6(c), Creation of community enhancement district; community enhancement district to be a public corporation and political subdivision; powers thereof; community enhancement boards.

(c) The powers of each community enhancement district shall be vested in and exercised by a community enhancement board which shall be composed of five members, four of whom shall be appointed by the governing body of the county or municipality in which the community enhancement district is located and one of whom shall be the sheriff or his or her designee of the county or the treasurer or his or her designee of the municipality (or such other person serving in an equivalent capacity if there is no treasurer), as the case may be, in which the community enhancement district is located. At least three members of the board shall be residents of the assessment district: Provided, That should less than three persons reside within the boundaries of the community enhancement district, then at least three members of the board shall be residents of the county or municipality, as the case may be: Provided, however, That if no persons reside within the boundaries of the community enhancement district then at least three members must be approved by the owner or owners of the land. No more than three initial members of the board may be from the same political party.

Specific Problem Caused by Barrier

Small cities like Charles Town are burdened by state code requirements to establish separate boards for multiple municipal authorities, as competent citizen volunteers who must often meet specialized requirements can be hard to identify and keep involved.

Proposed Solution:

Given that the City Council and Mayor of Charles Town will have responsibility for creation of any Community Enhancement District, and will be closely involved in all aspects of economic development and public infrastructure and improvement projects, Charles Town seeks the home rule authority for the City Council and Mayor to have the option to appoint themselves as the Community Enhancement District Board for any created CED. The Council and Mayor will have the same legal duties, roles and responsibilities required by Section 16-E, but will not have to form, staff, and service a separate, formal board.

Fiscal and Economic Benefit of Proposed Solutions: The City of Charles Town projects that the flexibility and efficiency created by the home rule powers related to Community Enhancement Districts requested above will save significant staff time, consultant and contractor time, and expense, at the level of as much as \$70,000 per CED created. These cost savings will derive from reductions in the staff, consulting, and legal burdens and costs of organizing property owners in redevelopment areas to form petitions for the formation or expansion of a CED (saving up to \$50,000 per CED in redevelopment areas), and from the reductions in cost for forming and staffing a separate legal entity than City Council to govern a CED (\$20,000).

Beyond the fiscal savings, Charles Town is confident that this home rule authority for more flexible use of the Community Enhancement District tool will help create major economic development benefits to the community, by providing a better tool for up-front financing of public infrastructure and improvements in both new greenfield development areas, and downtown redevelopment zones. With the CED tool, new and renewed neighborhoods could obtain infrastructure, services, parks & recreational facilities, and other improvements that could otherwise take years to develop and deploy.

Code Citations & Nuisance Enforcement

These authorities would provide Charles Town with more efficient and workable methods to address public nuisances including rundown properties, as compared to the current system which, by law, requires time-consuming and expensive court orders and other burdens for code enforcement. These requested authorities would allow code enforcement officers to issue “on the spot” citations for code violations much like the way traffic tickets are issued. Charles Town also seeks authority to empower trained law enforcement officers, who often observe code violations and problem properties, to write code citations. Finally, Charles Town, in coordination with Ranson’s application, seeks the home rule power to be able to share code enforcement personnel across municipal borders, to beef up staff while cutting down costs to these local programs.

4	Authority to allow Charles Town enforcement officials to issue “on-the-spot” citations (Administrative)
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Specific Legal Barrier

§8-12-16, Ordinances regulating the repair, closing, demolition, etc., of dwellings or buildings unfit for human habitation; procedures.

(i) All orders issued by the enforcement agency shall be served in accordance with the law of this state concerning the service of process in civil actions, and, be posted in a conspicuous place on the premises affected by the complaint or order: Provided, That no ordinance may be adopted without providing for the right to apply to the circuit court for a temporary injunction restraining the enforcement agency pending final disposition of the cause.

Specific Problem Caused by Barrier

Building and zoning inspectors are enforcement agents, and thus must go through the onerous process under Code Section 8-12-16 of posting public notice 10 days prior (warnings) and then applying for and receiving approval from the municipal courts before a citation is issued. This process is inefficient, costly, and leads to an extended delay between the identification of a public nuisances (sanitation issues, garbage buildup, graffiti, un-maintained lawns, unsafe or broken sidewalks) and compliance from the property owner.

Proposed Solution

Municipal authority to allow code enforcement officers to issue a citation directly to the property owner at the site and time of the violation without having to follow civil service of process requirements.

5	Authority allowing Charles Town to empower law enforcement officers to serve as code enforcement officials (Administrative)
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Specific Legal Barrier

§8-12-16, Ordinances regulating the repair, closing, demolition, etc., of dwellings or buildings unfit for human habitation; procedures.

Specific Problem Caused by Barrier

Under current law, Charles Town does not have clear authority to empower its law enforcement officers to issue citations for code violations and public nuisances (sanitation issues, garbage buildup, graffiti, un-maintained lawns, broken sidewalks, etc.). This lack of authority is inefficient, and wastes the power of officers of the law who are present on many blighted properties in the normal course of duties, and who frequently encounter violations.

Proposed Solution

By granting Charles Town the authority to empower law enforcement officers to issue citations for code violations and public nuisances, the city can more efficiently, timely, and cost effectively enforce code violations without being forced to hire more code department personnel. Any law enforcement officers empowered by Charles Town to conduct these code enforcement duties would be required to have training and skills normally required for code enforcement personnel.

6	Authority allowing Charles Town to have shared or joint code enforcement officials with the City of Ranson (Organizational)
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Specific Legal Barrier

§8-12-16, Ordinances regulating the repair, closing, demolition, etc., of dwellings or buildings unfit for human habitation; procedures.

Specific Problem Caused by Barrier

Under current law, Charles Town does not have clear authority to hire joint or shared code enforcement officials, under agreement with a neighboring municipality.

Proposed Solution

To solve this problem, both Ranson and Charles Town will need to be successful in their bids for this authority. The authority would allow two municipalities within the same county, if agreed to by both municipalities, to jointly use and share code enforcement officials.

Fiscal and Economic Benefit of Proposed Solutions

Charles Town projects that these home rule power dealing with code enforcement described above, to issue on-the-spot code citations without court order, to empower law enforcement officials to share code enforcement, and to work jointly with the City of Ranson on code enforcement and blight elimination, could save Charles Town \$125,000 annually, from reduced hiring and staff costs (\$100,000), reduced supplies and mailing costs (\$5,000), and reduced attorney fees and municipal staff costs (\$20,000) associated with reduced litigation. Beyond these fiscal benefits, Charles Town is confident that this authority will help reduce and eliminate blight, raise neighborhood property values, deter slum landlords, reduce crime and threats to public welfare, and foster enhanced economic development and property investment in the community.

Addressing Blighted Properties

It is currently very difficult, time-consuming and expensive for Charles Town to address blighted and eyesore properties. The process is not efficient, and the inefficiencies built into state code can leave dilapidated, problem properties un-fixed for months or years. The following authorities will allow Charles Town to take faster action at less cost to the taxpayers, while maintaining protections for property owners against abuse by municipal authorities.

By way of introduction, there are three sections of West Virginia code that deal with problem properties, and all of them were recently amended in the 2014 session of the West Virginia Legislature by S.B. 600. Code Section 8-12-16 deals with municipal authority to address properties that are “unfit for human habitation”, and can be considered the source of basic and general code enforcement authority for municipalities. Code Section 8-12-16a gives municipal authority to require owners of “uninhabitable” property to register their properties with the city and, for such property owners who remain unwilling to deal with code violations at problem properties, city authority to require them to pay fees, with eventual city authority to take uninhabitable and un-fixed properties in forfeiture. Code Section 8-12-16c gives municipalities the authority to address “vacant” properties. All three of these code provisions need small changes for Charles Town to be effective in its code enforcement at blighted properties that continue to hinder the community. Charles Town seeks five (5) specific home rule powers to make these code sections more workable for the real challenges faced by cities on these blighted properties.

First, Charles Town seeks a more reasonable standard for dealing with blighted properties than the current legal standard of “not fit for human habitation” under code Section 8-12-16, a standard which now enables action only at the very worst of properties.

Second, Charles Town seeks clarified authority under Section 8-12-16 to take its own action with city resources to clean up blighted properties and broken sidewalks, or to demolish blighted properties, and to then place liens on these properties to recover taxpayer costs, when the property owner will not address these problems.

Third, Charles Town seeks home rule authority under Section 8-12-16a to require lenders that foreclose on houses to register these properties with the local code department at the beginning of the foreclosure process, to maintain these foreclosed homes so that they do not become noncompliant and blighted, and to pay outstanding fees and liens that were placed by the city for corrective maintenance, at the time of sale.

Fourth, Charles Town seeks authority under Section 8-12-16c to shorten the lengthy time period that the city must wait to initiate civil action to take a vacant and blighted structure to forfeiture, from the current time under law of two years after the property owner has refused to address the problems at the property, to a more reasonable period of six months after the property owner has refused to take action.

And fifth and finally, Charles Town seeks authority under Section 8-12-16c that allows the city to take a vacant and uninhabitable structure in forfeiture, when the property owner refuses to address problems at the vacant property, and after the city follows due process procedures provided to property owners under current law.

Together, these clarified and improved authorities can help Charles Town deal with the continuing stigma and problems of blighted properties.

7	Authority under Section 8-12-16 allowing Charles Town to take action at blighted properties under more flexible standards of “blighted” or “improperly maintained”, not more stringent standards under current law of “not fit for human habitation” or a threat to public safety and welfare (Administrative)
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Specific Legal Barriers

§8-12-16(a)

Section 8-12-16(a): Ordinances regulating the repair, closing, demolition, etc., of dwellings or buildings unfit for human habitation; procedures.

(a) Plenary power and authority are hereby conferred upon every municipality to adopt ordinances regulating the repair, alteration or improvement, or the vacating and closing or removal or demolition, or any combination thereof, of any dwellings or other buildings unfit for human habitation due to dilapidation, defects increasing the hazard of fire, accidents or other calamities, lack of ventilation, light or sanitary facilities or any other conditions prevailing in any dwelling or building, whether used for human habitation or not, which would cause such dwellings or other buildings to be unsafe, unsanitary, dangerous or detrimental to the public safety or welfare.

Specific Problem Caused by Barriers

While West Virginia law at Section 8-12-16 currently allows municipalities to repair, alter, or remove/demolish properties that are unfit for human habitation or that are a unsafe, unsanitary, dangerous or detrimental to the public safety or welfare, the law does not allow for municipalities to address problems that do not rise to the level of “unfit for human habitation” or a threat to public

safety levels. Many properties may be blighted, un-maintained, or eyesore properties for years, but still arguably are not completely unfit for human habitation or a threat to public safety. These properties are eye-sores in the community, decrease neighboring property values, can serve as hotspots for criminal activity, and can become dumping areas for trash. But because they fall short of the high standard of unfit for human habitation, the municipalities cannot exercise their basic powers of code enforcement or perform maintenance at these problem properties without significant challenges and cumbersome procedures.

Proposed Solution

This authority would create a more reasonable standard under code section 8-12-16 for dealing with blighted properties, by allowing Charles Town to enact ordinances and policies for property inspections and action at properties that are “blighted” or “improperly maintained” and thus are detrimental to the public welfare.

8	Authority under Code Section 8-12-16 that clarifies that Charles Town may take action to maintain, demolish or conduct other property improvements at blighted properties or on broken sidewalks, and recover the costs for those municipal actions through lien enforcement, if the property owner fails to respond to City requirements to take action to address blighted conditions (Administrative)
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Specific Legal Barrier:

§8-12-16, Ordinances regulating the repair, closing, demolition, etc., of dwellings or buildings unfit for human habitation; procedures.

Specifically:

(d) The governing body of every municipality has plenary power and authority to adopt an ordinance requiring the owner or owners of any dwelling or building . . . under order of the enforcement agency of the municipality, to pay for the costs of repairing, altering or improving, or of vacating and closing, removing or demolishing any dwelling or building.

Specific Problem Caused by Barrier

The current law is unclear about when and how a municipality may take action to improve or demolish blighted properties using city resources, if the owner refuses to comply with municipal orders to conduct these ordered property improvements. Code Section 8-12-16(d) provides municipal authority to require an owner to pay for improvement actions at a blighted property, but does not clearly provide municipal authority to conduct those actions on its own at property where the owner refuses to take action.

Proposed Solution

This clarified authority would allow Charles Town, after a property owner fails to comply with an order to improve a blighted property (include an on-the-spot citation), to take action itself to perform the maintenance, rehabilitation, or demolition, and use existing state code to impose and recover those costs using existing lien authority.

9	Authority under the property registration procedures of Section 8-12-16a to allow Charles Town 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 (Administrative)
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Specific Legal Barrier

§8-12-16a

Registration of uninhabitable property.

(a) The governing body of a municipality may, by ordinance, establish a property registration for any real property improved by a structure that is uninhabitable and violates the applicable building code adopted by the municipality. An owner of real property subject to the registration shall be assessed a fee as provided by the ordinance.

Specific Problem Caused by Barrier

Although new state law (SB 600 as cited above) clarifies that banks/lenders/trustees can be considered “owners” who are required to register vacant properties, and be subject to vacant property enforcement after code violations emerge, there are continuing problems in cities like Charles Town with some irresponsible parties that foreclose on properties but fail to maintain them. Some lenders/trustees fail to enter their ownership on the title of a foreclosed property until just prior to resale, fail to maintain the properties during the period of foreclosure and vacancy, and seek to avoid the payment of fees for action taken by the municipality to correct code violations. In these situations, foreclosed and vacant houses deteriorate and cause damage to the neighborhood, yet code enforcement officials can have a difficult time finding and contacting the mortgage trustee, let alone get them to maintain these foreclosed properties. The impact is that the lender/trustee can ignore property maintenance for long periods of time, and also can extinguish City maintenance fees when they eventually enter ownership on the property title just prior to resale.

Proposed Solution

Used in states with high foreclosure rates and blighted property challenges, this proposed home rule authority would empower Charles Town to pass an ordinance that would work with existing code Section 8-12-16a to require lenders/trustees that are in the process of foreclosing on a residence to register as an owner of the property at the time that the foreclosure is initiated (such as the time that the lender sends a foreclosure letter to the homeowner, or at the time that the lender registers as an alternate trustee on the property), for the purpose of code and property maintenance. At the time that the lender/trustee registers as an owner, it must retain a party to conduct property maintenance, provide the contact information for that maintenance company to the City, and be responsible for ensuring that this property maintenance company keeps the property up to code and maintained. Combined with authority #11 requested below to clarify that maintenance fees under code Section 8-12-16a can be enforced as liens that must be satisfied at the time of sale, this power will help Charles Town avoid the problem of blighted and vacant homes that deteriorate during foreclosure.

10	A shortened time period under Section 8-12-16a for forfeiture of structures when owners refuse to address code violations at uninhabitable properties, to a period of 10 months (Administrative)
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Specific Legal Barrier

§8-12-16a(n), Registration of uninhabitable property (under newly-passed SB600)

(n) If a registration fee remains delinquent for two years from the date it was placed on record in the clerk of the county commission in which the property is located and assessed, the municipality may take action to receive the subject property by means of forfeiture. Should the municipality take the steps necessary to receive the subject property, the municipality then becomes the owner of record and takes the property subject to all liens and real and personal property taxes.

Specific Problem Caused by Barrier

Code Section 8-12-16a provides cities like Charles Town a tool for addressing “uninhabitable” structures that violate building codes and are a serious threat and problem for neighborhoods. This process allows a City to investigate and inspect uninhabitable properties with code violations, notify an owner with detailed information that the property will be registered as noncompliant by both posting on the property and sending certified mail, and provide the owner 45 days to fix the code violations or make a plan for fixing them in a reasonable time. The owner has the right to appeal for 90 days after the receipt of notice about the code violations. Only after this intensive process takes place, may the municipality register the fee for code noncompliance with the county clerk. That fee assessment can be appealed within 30 days by the property owner, before it

becomes finalized as a lien on the property. If that fee for the uninhabitable property violations remains unpaid, the city can take the structure in forfeiture – but only after 2 years of waiting. That is, a city does not have authority under West Virginia law to deal with an uninhabitable property with code violations where the owner completely refuses to fix the violations or work with the city, for a period of at least 28 months. Such a years-long period is simply too long to leave the worst-of-the-worst properties uninhabitable in the midst of neighborhoods.

Proposed Solution

Without changing any of the existing statutory or judicial protections for owners of uninhabitable properties to fix the code problems, work with municipal code officers, appeal the determination of code officials, appeal the placement of fees for un-addressed code violations, or other property owner protections – Charles Town seeks a shortened period between the time that the owner completely refuses to address the problem, and the time that the municipality can take the structure by forfeiture and finally start to remedy the problems with the city’s own resources. Currently, the property owner enjoys a period of 120 days to address code problems at uninhabitable properties (90 days to appeal notice of violations, and 30 days to appeal assessment of fee). After that time has passed with no action by the property owner, the current law starts a slow clock of two years before anything else can be done. This home rule request seeks to shorten that period of waiting after noncompliance from two years to six (6) months. Together with the initial 120 days of property owner protections, this home rule change will allow Charles Town to address the worst-of-the-worst properties in a total of 10 months (120 days plus the six month waiting period), rather than the current span of 28 months (120 days plus two years waiting).

11	Authority to clarify Charles Town ability to collect fees with lien authority when an owner of uninhabitable property fails to comply with orders under code Section 8-12-16a (Administrative)
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§8-12-16a and §8-13-13

§8-12-16a. Registration of uninhabitable property.

(a) The governing body of a municipality may, by ordinance, establish a property registration for any real property improved by a structure that is uninhabitable and violates the applicable building code adopted by the municipality. An owner of real property subject to the registration shall be assessed a fee as provided by the ordinance.

And:

SB600, Section 8-12-16a(k)

(k) A fee assessed under this section shall be recorded in the same manner as a lien is recorded in the office of the clerk of the county commission of the county.

And

§8-13-13. Special charges for municipal services.

(a) Notwithstanding any charter provisions to the contrary, a municipality which furnishes any essential or special municipal service, including, but not limited to, police and fire protection, parking facilities on the streets or otherwise, parks and recreational facilities, street cleaning, street lighting, street maintenance and improvement, sewerage and sewage disposal, and the collection and disposal of garbage, refuse, waste, ashes, trash and any other similar matter, has plenary power and authority to provide by ordinance for the installation, continuance, maintenance or improvement of the service, to make reasonable regulations of the service, and to impose by ordinance upon the users of the service reasonable rates, fees and charges to be collected in the manner specified in the ordinance.

(b) Any sewerage and sewage disposal service and any service incident to the collection and disposal of garbage, refuse, waste, ashes, trash and any other similar matter is subject to the provisions of chapter twenty-four of this code.

(c) A municipality shall not have a lien on any property as security for payments due under subsection (a) of this section except as provided in subsection (d) of this section.

(d) A municipality has authority to enact an ordinance, pursuant to this section, permitting it to file a lien on real property located within the municipal corporate limits for unpaid and delinquent fire, police or street fees. The ordinance must provide an administrative procedure for the municipality's assessment and collection of the fees. The administrative procedure must require that, before any lien is filed, the municipality will give notice to the property owner, by certified mail, return receipt requested, that the municipality will file the lien unless the delinquency is paid by a date stated in the notice, which must be no less than ninety days from the date the notice is mailed. The administrative procedure must include the right to appeal to the circuit court of the county in which the real property is located. The circuit court shall consider the appeal under its general authority, including but not limited to subsection (f), section two, article two of chapter fifty-one of this code.

Specific Problem Caused by Barrier

There is a conflict under WV Code Section 8-12-16a and Section 8-13-13(c), about whether fees assessed by Charles Town on the owners of uninhabitable properties with code violations can be considered liens of equal rank, priority and dignity as other liens.

Proposed Solution

This authority would clarify Charles Town’s ability to impose and enforce fees for code noncompliance at uninhabitable properties, as liens of equal rank, priority and dignity as other liens, under code Section 8-12-16a.

12	Authority under Section 8-12-16c to initiate forfeiture at vacant and uninhabitable structures (Administrative)
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Specific Legal Barrier

§8-12-16c, Registration of vacant buildings . . . procedures for administration and enforcement

The code for vacant structures is silent on whether a municipality has authority to take the property by forfeiture in cases where the owner is nonresponsive or refuses to comply with the requirements and process established under code Section 8-12-16c.

Specific Problem Caused by Barrier

Under current law, cities may have the authority to take uninhabitable structures by forfeiture under Section 8-12-16a when a property owner refuses to correct code violations, but the Section 8-12-16c under West Virginia law that gives municipalities authority to deal with vacant properties is silent on the ability to take structures in forfeiture when all other approaches fail. This has left many vacant buildings sitting abandoned and blighting in Charles Town.

Proposed Solution

Provide Charles Town home rule authority under Section 8-12-16c to take a vacant property in forfeiture, if the property owner refuses to comply with municipal orders under the law’s authority and local ordinance, after the city has properly undertaken required notice, the city has placed a lien under the code’s process, the city has provided the owner with the ability to challenge the municipality’s action, and the owner has exhausted his rights of appeal to circuit court as provided in the code. This forfeiture power will be limited to extraordinary circumstances where vacant structures meet the definition of “uninhabitable” under code Section 8-12-16a.

Fiscal and Economic Benefit of Proposed Solutions: Charles Town projects that the streamlined authorities to address blighted properties requested above could save up to \$52,000 annually in litigation costs and other inefficiencies. Beyond these fiscal benefits, Charles Town is confident that this authority will help reduce and eliminate blight, raise neighborhood property values, deter slum landlords, reduce crime and threats to public welfare, and foster enhanced economic development and property investment in the community.

Sale of Municipal Property without Auction

Under West Virginia law, Charles Town has no authority to sell real property except by way of public auction, a requirement that hinders economic development and neighborhood revitalization. Charles Town seeks the authority to sell property without the requirement for public auction, if the sale is deemed to be for a public purpose by municipal resolution, adequate notice is provided to the public, and the sale is for adequate value. Charles Town will also seek home rule authority to use competitive and public online auctions for disposal of personal property, such as surplus vehicles or equipment.

13	Authority to allow Charles Town to sell municipal property without public auction, when deemed for public purpose after public notice, and sold for adequate value (Administrative)
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Specific Legal Barrier

§8-12-18, Sale, lease or disposition of other municipal property.

(b) In all other cases involving a sale, any municipality is hereby empowered and authorized to sell any of its real or personal property or any interest therein or any part thereof for a fair and adequate consideration, the property to be sold at public auction at a place designated by the governing body, but before making any sale, notice of the time, terms and place of sale, together with a brief description of the property to be sold, shall be published as a Class II legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code and the publication area for the publication shall be the municipality. 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.

Specific Problem Caused by Barrier

Under current law, Charles Town is not able to sell city-owned real properties that are intended for public purposes including the provision of affordable housing, support of non-profit organizations, or redevelopment by private sector developers, without either selling at public auction which is highly impractical and risky, or by transferring the property from the city to a building commission or city development authority, which is also impractical and onerous.

Proposed Solution

This authority would empower Charles Town to sell personal or real property of any value by negotiation and transfer without the requirement for public auction, if the sale is deemed to be for a public purpose by municipal resolution, adequate notice is provided to the public, and the sale is for adequate consideration, which may take into account fair market value but not be determined solely by fair market value.

14	Authority to use competitive, online auction services to dispose of personal property (Administrative)
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Specific Legal Barrier

§8-12-18

Sale, lease or disposition of other municipal property.

(b) In all other cases involving a sale, any municipality is hereby empowered and authorized to sell any of its real or personal property or any interest therein or any part thereof for a fair and adequate consideration, the property to be sold at public auction at a place designated by the governing body, but before making any sale, notice of the time, terms and place of sale, together with a brief description of the property to be sold, shall be published as a Class II legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code and the publication area for the publication shall be the municipality. 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.

Specific Problem Caused by Barrier

Current law is silent regarding the use of competitive and public online auctions, which are now commonplace in many municipalities and at the federal level. This limits the overall resale market for municipal property to a very localized area and inhibits Charles Town from receiving the best price for its property.

Proposed Solution

This authority will empower Charles Town to use competitive and public online auctions for disposal of person property such as surplus or outdated vehicles and equipment, as fulfilling statutory auction requirements when the city chooses to use auction.

Fiscal and Economic Benefit of Proposed Solutions: Charles Town estimates that the home rule authority providing flexibility on real and personal property transfer could save \$50,000 in staff time and consultant and legal costs associated with the onerous process of disposing of property slated for economic development or community improvement purposes.

Municipal Sales Tax with B&O Reductions and Incentives

This power would enable Charles Town to place a sales tax of up to 1% of sales within city boundaries, except for sales taxes on groceries, gas, and other exempted items. The cities would first reduce or eliminate targeted B&O taxes, and provide B&O incentives for downtown businesses, high-tech businesses, and other desired enterprises.

15	Authority to impose a sales tax of up to 1%, when coupled with reductions in B&O sales taxes for retailers, and B&O incentives for downtown businesses and high-tech businesses (Taxation)
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Specific Legal Barrier

§8-13C-4, Municipal sales and service taxes.

(b) Alternative municipal sales tax. -- On and after the first day of July, two thousand five, notwithstanding subsection (a) of this section, and in addition thereto in the case of a qualifying municipality, any municipality that does not impose, or ceases to impose, the business and occupation or privilege tax authorized by section five, article thirteen of this chapter has the plenary power and authority to impose, by ordinance, an alternative municipal sales and service tax at a rate not to exceed one percent, subject to the provisions of this article: Provided, That:

(1) The tax does not apply to any purchase of tangible personal property, custom software or the results of taxable services in a transaction completed within the corporate limits of the municipality before the first day of July, two thousand eight, or before such later date specified in the ordinance of the municipality imposing the tax; and (2) the effective date of the tax, or of a change in the rate of the tax, shall be no earlier than the first day of a calendar quarter that at a minimum begins one hundred eighty days after notice of the tax, or of a change in the rate of tax, is provided to the Tax Commissioner as provided in section six of this article.

Specific Problem Caused by Barrier

Charles Town faces fiscal challenges resulting from the economic recession, capital investment and infrastructure needs, blight conditions, and other challenges that could only become more daunting if gaming revenues decrease further as expected. Charles Town already has one of the lowest B&O tax rates in the entire state. These revenue shortfalls are exacerbated by Charles Town's inability to utilize a sales tax unless the City eliminates its Business and Occupancy taxes. Charles Town cannot eliminate its B&O taxes in order to impose sales taxes, because the city would lose substantial revenue from B&O taxes on certain entities that would not pay a sales tax, including construction, utility operations, professional services, groceries, gas and other items exempt from sale taxes.

Proposed Solution

This authority would allow for Charles Town to generate the needed revenue by utilizing a municipal sales tax of up to 1% while still maintaining some of its irreplaceable B&O tax revenue. Charles Town would couple a 1% municipal sales tax with a 10% reduction of B&O tax rates on all retailers, together with a B&O tax rebate incentive, implemented under separate ordinance using existing authorities, for businesses in the central business district, and for businesses under the NAICS industrial classifications of 813 “Religious, Grantmaking, Civic, Professional and Similar Organizations, and 5417 “Scientific Research and Development Services” – which are highly desirable enterprises that Charles Town seeks to attract.

Fiscal and Economic Benefit of Proposed Solutions: Charles Town expects a net fiscal benefit of up to \$274,000 annually from this important home rule authority. Beyond the fiscal benefit, Charles Town projects that the B&O tax reductions and incentives in our plan will attract and grow small and high-tech businesses, and help make the downtown more vibrant.

Section III: Affidavits

Publication Mandate Verification

NOTICE OF PUBLIC HEARING

Notice is hereby given that a public hearing will be held on Friday, April 25, 2014 at 7:00 p.m. in the Council Room at Charles Town City Hall, 101 E. Washington Street, Charles Town, WV by the City of Charles Town City Council on the following matter:

The state of West Virginia is a Dillon's Rule state, which means the local governments only have the powers specified by the WV State Code. In 2007 the state established the Municipal Home Rule Pilot Program, which gave five municipalities the chance to increase their powers of municipal self-governance, or home rule.

The City of Charles Town City Council is applying for the West Virginia Home Rule Phase 2 project, which was established by Senate Bill 435. The City of Charles Town will hold a public hearing on the City's written application to the program. Written and verbal comments are welcome at the public hearing.

The written plan is available for review at City Hall and on the City website, www.charles-townwv.us. Please contact Tara Hostler if you have questions at 304-724-3256 or tara@charles-townwv.us.
3/26/21

Certificate of Publication
JEFFERSON PUBLISHING COMPANY, INC., Publisher
SPIRIT OF JEFFERSON ADVOCATE

Charles Town, W. Va. March 26 20 14

I hereby certify that the annexed Notice of public hearing

in the case of Dillon's Rule state

has been published once a week for two successive weeks, in the Spirit of Jefferson

Advocate, a newspaper published in Charles Town, Jefferson County, West Virginia, in the issues of

March 26 & April 2, 20 14

as required by law.

Robert Snyder

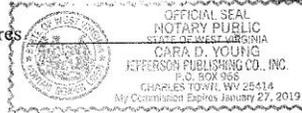
Editor/Manager, Spirit of Jefferson Advocate

State of West Virginia
County of Jefferson

Personally appeared before me, Robert Snyder, Editor/Manager

of the Spirit of Jefferson Advocate, and made oath that the above certificate is true and correct.

Commission expires



Cara D. Young

Notary Public

Hearing Mandate Verification



City of Charles Town

101 East Washington Street, P.O. Box 14, Charles Town, WV 25414
Phone: (304) 725-2311 • Fax: (304) 725-1014 • Web: www.charlestownwv.us

MAYOR

Peggy A. Smith

CITY
COUNCIL

*Rich
Bringsatt*

*Wayne
Clark*

*Chet
Hines*

*Sandra
Shelton
McDonald*

*Ann
Famessia*

*Mark
Reinhart*

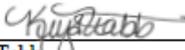
*Michael
Skoser*

*Jonathan
Wertman*

I, the undersigned Clerk of the City of Charles Town, West Virginia, do hereby certify that on April 25, 2014, at 7:00 p.m., a Public Hearing was held during a special meeting of the Charles Town City Council, the subject of said hearing being An Ordinance Authorizing the Mayor of the City of Charles Town to Submit a Home Rule Proposal to the Municipal Home Rule Board in Accordance with West Virginia Code §8-1-5a. A quorum of the Charles Town City Council was present for this hearing and the hearing was in compliance with West Virginia Code §8-1-5a.

The attached are true, correct and complete copies of the Special Session City Council Agenda evidencing the Public Hearing. The hearing was opened for public comments; no citizens appeared to speak either in favor of, or against An Ordinance Authorizing the Mayor of the City of Charles Town to Submit a Home Rule Proposal to the Municipal Home Rule Board in Accordance with West Virginia Code §8-1-5a.

Witness the signature of the undersigned City Clerk of the City of Charles Town, West Virginia, and the seal of this City, this 27th day of May, 2014.



Kiya Tabb
City Clerk

[Seal]

CITY
CLERK

*Kiya
Tabb*

CITY OF CHARLES TOWN
COUNCIL MEETING – Friday, April 25, 2014 - 7:00PM
SPECIAL SESSION
MEETING WILL BE HELD AT CITY HALL
101 East Washington Street
(Posted April 18, 2014)
(Amended April 21, 2014)

1. Public Hearing of Charles Town Homerule Application

- Note: No persons appeared at the hearing, and no persons made any public comments.

Ordinance Authorizing Submission of Plan



City of Charles Town

101 East Washington Street, P.O. Box 14, Charles Town, WV 25414
Phone: (304) 725-2311 ♦ Fax: (304) 725-1014 ♦ Web: www.charlestownwv.us

MAYOR

Peggy A. Smith

I, the undersigned Clerk of the City of Charles Town, West Virginia, do hereby certify that the foregoing is a true, correct, and complete copy of An Ordinance Authorizing the Mayor of the City of Charles Town to Submit a Home Rule Proposal to the Municipal Home Rule Board in Accordance with West Virginia Code §8-1-5a, enacted by the City Council of the City of Charles Town on May 19, 2014.

CITY COUNCIL

Rich Bringewatt

Wayne Clark

Chet Himes

Sandra Slusher McDonald

Ann Paonessa

Mark Reinhart

Michael Slover

Jonathan Wertman

Witness the signature of the undersigned City Clerk of the City of Charles Town, West Virginia, and the seal of the City, this 27th day of May, 2014.



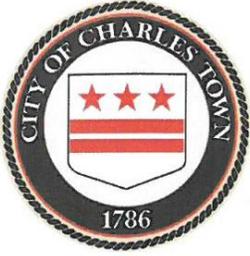
Kiya Tabb
City Clerk

[Seal]

CITY CLERK

Kiya Tabb

- Note: The Charles Town ordinance authorizing the submission of a Home Rule Plan was adopted via two proper and compliance readings by Council, on the dates of May 14, 2014 and May 19, 2014.



City of Charles Town

101 East Washington Street, P.O. Box 14, Charles Town, WV 25414
Phone: (304) 725-2311 ♦ Fax: (304) 725-1014 ♦ Web: www.charlestownwv.us

An Ordinance to Authorizing the Mayor of the City of Charles Town to Submit a Home Rule Proposal to the Municipal Home Rule Board in Accordance with West Virginia Code §8-1-5a

MAYOR

Peggy A. Smith

WHEREAS, the West Virginia legislature adopted West Virginia Code Section 8-1-5a to allow up to 20 municipalities to seek “home rule” authority to allow cities to have additional powers for effective and cost-efficient government; and

CITY COUNCIL

Rich Bringewatt

Wayne Clark

Chet Hines

Sandra Slusher McDonald

Ann Paonessa

Mark Reinhart

Michael Sloner

Jonathan Wertman

WHEREAS, obtaining Home Rule authorities requires the submission of an application to the WV Municipal Home Rule Board by the deadline of June 1, 2014; and

WHEREAS, the cities of Charles Town and Ranson are working together on a number of coordinated activities that are of mutual benefit to the two cities and their citizens, and are exploring even greater opportunities for coordinated action; and

WHEREAS, both Charles Town and Ranson would find it advantageous to have coordinated and parallel home rule authorities, and would also find it disadvantageous if only one of the two cities had such authorities; and

WHEREAS, the Charles Town City Council has passed Resolution 2014-01: A RESOLUTION LAUNCHING A COORDINATED CHARLES TOWN-RANSON PROCESS TO SEEK HOME RULE AUTHORITIES, resolving to coordinate on the home rule process by agreeing on the home rule powers to be sought, drafting coordinated home rule plans, holding a coordinated public hearing on the home rule plans, pass coordinated ordinances authorizing the submission of home rule plans, submit coordinated and simultaneous applications for home rule, coordinate on consultants, public engagement and advocacy for home rule, and seek to implement aligned ordinances, regulations, rules, policies and programs to put home rule into effect;

CITY CLERK

Kiya Tabb

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CHARLES TOWN, WEST VIRGINIA, that the Mayor is hereby authorized and directed to submit a home rule proposal to the Municipal Home Rule Board in accordance with W. Va. Code §8-1-5a in order for the City of Charles Town to be included in this pilot program. A copy of said proposal and application is attached hereto.

Peggy Smith
Mayor, City of Charles Town

ATTEST:

Kiya Tabb
City Clerk

Fiscal Impact Worksheets

WEST VIRGINIA HOME RULE APPLICATION
City of Charles Town Home Rule Proposals
Community Enhancement Districts (CED)

Fiscal and Economic Benefits of Proposed Solutions 1 through 3

Potential Cost Savings of \$70,000 per CED

Legal costs to set up the CED	\$ 20,000
Staffing time: organize meetings of involved parties, ordinances, review of financials, review of economic development benefit	\$ 30,000
Consultants reports	\$ 10,000
Mailings & Sundry Items	\$ 10,000
Totals per CED	\$ 70,000

WEST VIRGINIA HOME RULE APPLICATION
Charles Town Home Rule Proposals
Code Violation Citations (CVC)

Fiscal and Economic Benefits of Proposed Solutions 4 through 6

Potential cost savings of Code Violation Citation proposal

Savings due to not hiring one additional code enforcement officer, savings in administrative staff time and using Police for "on-the spot" citations	\$ 100,000
Attorney fees: legal fees (20 prosecutable violations @ \$1,000 each)	\$ 20,000
Mailings and sundry items	\$ 5,000
Total Saving linked to CVC - annual basis	\$ 125,000

WEST VIRGINIA HOME RULE APPLICATION
Charles Town Home Rule Proposals
Blighted Properties (BP)

Fiscal and Economic Benefits of Proposed & Disposal of Unwanted Properties Solutions 7 through 12

Potential cost savings of Blighted Properties & Disposal of Unwanted Properties

Attorney fees: 3 blighted property violations @ \$9,000 each	\$ 27,000
Staff time: streamlined administrative functions in code enforcement, police (50 blighted properties per year @ \$400 each)	\$ 20,000
Mailings and sundry items linked to BP	\$ 5,000
Total Savings linked to BP - annual basis	\$ 52,000

WEST VIRGINIA HOME RULE APPLICATION
Charles Town Home Rule Proposals
Disposal of Public Properties

Fiscal Benefits of Proposed & Disposal of Unwanted Properties Solutions 13 and 14

Potential cost savings of Blighted Properties & Disposal of Unwanted Properties

Consultant/broker fees	\$ 35,000
Staff time: streamlined administrative functions in property disposal	\$ 10,000
Legal fees	\$ 5,000
Total Savings linked to Property Disposal - annual basis	\$ 50,000

Municipal Sales Tax / B&O Feasibility Study

WV HOME RULE APPLICATION- SALES TAX FEASIBILITY STUDY - CHARLES TOWN, WV

<u>B&O TAX CATEGORY</u>	<u>TAX RATE PER \$100</u>	<u>B&O TAXES COLLECTED FISCAL YEAR 2011</u>	<u>B&O TAXES COLLECTED FISCAL YEAR 2012</u>	<u>B&O TAXES COLLECTED FISCAL YEAR 2013</u>	<u>B&O TAX AVERAGE</u>	<u>10% DISCOUNT FOR RETAIL</u>	<u>PROJECTED B&O AFTER 10% REDUCTION</u>	<u>ADDITIONAL REVENUE WITH 1% SALES TAX</u>	<u>TOTAL REVENUE WITH RETAIL DISCOUNT & SALES TAX</u>	<u>NET NEW REVENUE</u>
Manufacturing	0.18	0.00	612.16	8.59	206.92		206.92		206.92	
Retailers	0.11	68,667.76	69,259.44	72,566.49	70,164.56	(7,016.46)	63,148.11	275,135.44	338,283.55	268,118.98
Wholesalers	0.05	5,909.67	3,655.48	6,798.68	5,454.61		5,454.61		5,454.61	
Electric	2:00 - 4:00	321,613.21	200,265.56	218,735.16	246,871.31		246,871.31		246,871.31	
Contracting	0.75	218,387.29	160,423.22	217,595.89	198,802.13		198,802.13		198,802.13	
Amusement	0.14	70.25	36.33	18.68	41.75		41.75		41.75	
Services	0.23	81,788.92	38,806.04	52,418.83	57,671.26		57,671.26	5,767.13	63,438.39	5,767.13
Rents	0.30	17,219.75	9,754.51	52,399.43	26,457.90		26,457.90		26,457.90	
Banking	0.23	57,285.29	38,383.56	40,660.33	45,443.06		45,443.06		45,443.06	
TOTAL		770,942.14	521,196.30	661,202.08	651,113.50	-7,016.46	644,097.04	280,902.57	924,999.62	273,886.11

EXPLANATION OF CHARLES TOWN SALES TAX/B&O REFORM PROPOSAL

As part of the feasibility study for the proposed home rule authorities of the City of Charles Town, WV with respect to the establishment of a 1% sales tax and reduction of certain B%O taxes, Charles Town provides the following background and information:

- 1.) **Already Very Low B&O Tax Rates:** The City of Charles Town already has some of the lowest municipal B&O tax rates in the state and, thus, any further reduction in B&O rates as part of home rule implementation will provide very strong incentives and favorable tax rates for businesses.
- 2.) **Reduction of Retailers B&O Rates:** As part of this home rule proposal, Charles Town intends to further reduce the B&O rates for Retailers by 10% of the current rate of 0.11, to a new rate of \$0.099 per \$100.
- 3.) **B&O Incentives:** As explained in Charles Town’s Home Rule application narrative, if the City gains home rule authority, it intends to adopt separate ordinances, under existing state authorities that do not require any new home rule powers, to provide further B&O tax incentives for businesses that locate in the downtown, central business district of Charles Town, as well as to certain high-tech sectors that are desirable to the community.
- 4.) **Net Result:** Under the tax structure proposed here, Charles Town stands to gain approximately \$274,000 in annual additional net tax revenues, taking into account increased revenues from sales tax, and decreased Retailer B&O taxes. This amount will help address the significant shortfall in gaming revenues that is impacting the city’s fiscal health.



City of Charles Town

101 East Washington Street, P.O. Box 14, Charles Town, WV 25414
Phone: (304) 725-2311 • Fax: (304) 725-1014 • Web: www.charlestownwv.us

MAYOR

Peggy A. Smith

Date: May 27, 2014

Applicant: City of Charles Town, WV

CITY
COUNCIL

*Rick
Bringhurst*

*Wayne
Clark*

*Chet
Hines*

*Mark
Rimbart*

*Sandra
Shuster
McDonald*

*Ann
Powers*

*Michael
Slater*

*Jonathan
Wentson*

Re: Legal Opinion on City of Charles Town Municipal Home Rule Proposal

Ladies & Gentlemen of the WV Municipal Home Rule Board:

As an attorney licensed in the State of West Virginia, I have reviewed West Virginia Code Section 8-1-5a, the Municipal Home Rule Pilot Program Application Guidelines, the proposed City of Charles Town Municipal Home Rule Plan ("Plan"), and other documents related thereto, as I deem 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 written plan does not violate, but is in compliance with, the provisions of WV Code Section 8-1-5a, including those requirements contained within Section 8-15a(j) regarding Powers and Duties of Municipalities, Section 8-1-5a(k) regarding Prohibited Acts, and all other such provisions.

The Municipal Home Rule Board may rely upon this opinion.

Respectfully,

Braun A. Hamstead, Esquire
WV Bar # 1568

State of West Virginia Fees Statement



City of Charles Town

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MAYOR

Peggy A. Smith

May 27, 2014

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*Wayne
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Reinhart*

*Sandra
Slusber
McDonald*

*Ann
Paonessa*

*Michael
Slover*

*Jonathan
Wertman*

Municipal Home Rule Board
Building 1, Room W-314
State Capitol Complex
Charleston, West Virginia 25305

To Whom It May Concern:

Please let it be known that the City of Charles Town has no outstanding fees due to the State of West Virginia.

Sincerely,

A handwritten signature in black ink, appearing to read "Tara Hostler".

Tara Hostler
Interim City Administrator

Statement Regarding WV Code 8-11-4



City of Charles Town

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MAYOR

Peggy A. Smith

May 27, 2014

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Municipal Home Rule Board
Building 1, Room W-314
State Capitol Complex
Charleston, West Virginia 25305

To Whom It May Concern:

Note that the requirements of West Virginia Code Section §8-11-4(2) concerning ordinances that pertain to the raising of revenue for the municipality are not applicable to the Home Rule process at this point.

If the City of Charles Town is accepted into the Home Rule Program, we fully intend to follow all rules and regulations including Code §8-11-4(2).

Sincerely,

A handwritten signature in black ink, appearing to read "Tara Hostler".

Tara Hostler
Interim City Administrator