



# **MUNICIPAL HOME RULE APPLICATION**

**CITY OF WESTOVER  
500 DUPONT ROAD  
WESTOVER, WV 26501**

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# **Section I**

## **Applicant Information**

## MUNICIPAL HOME RULE APPLICATION

### SECTION I: APPLICANT INFORMATION

#### A. GENERAL INFORMATION

Type of Submission: Initial Plan  
Name of Municipality: City of Westover  
Certifying Official: Robert A. Lucci Title: Mayor  
Contact Person: Sandra Weis Title: City Clerk/Treasurer  
Address: 500 Dupont Road  
Westover, WV 26501  
Telephone Number: 304-296-6860 FAX: 304-296-6582  
E-Mail Addresses: [mayorlucci@comcast.net](mailto:mayorlucci@comcast.net)  
[cityofwestover@comcast.net](mailto:cityofwestover@comcast.net)

MUNICIPAL CLASSIFICATION: CLASS III

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### SECTION II: NARRATIVE (PROPOSED PLAN)

1. Identify the specific state laws, policies, acts, resolutions, rules, or regulations that prevent the municipality from carrying out specific duties in the most cost effective, efficient, and timely manner.
  2. Describe the specific problem(s) created by above stated laws, policies, acts, resolutions, rules, or regulations.
  3. Define each proposed solution to the above described problem(s), including all proposed changes to law, policies, acts, resolutions, rules, or regulations.
  4. See State Tax Department website for instructions regarding municipal sales and use tax (Business, Sales and Use Tax):  
<https://taxwv.gov/Business/SalesandUseTax/MunicipalSalesandUseTax/Pages/MunicipalSalesAndUseTax.aspx>
- 

### SECTION III: ATTACHMENTS

1. Completed Plan and Amendment Checklist.
2. Affidavit of legal advertisement providing notice of Public Hearing.
3. Minutes of Public Hearing, including comments (if any).
4. Copy of adopted ordinance authorizing submission of plan or amendment to Municipal Home Rule Board.
5. Fiscal statement demonstrating municipality's ability to manage costs or liabilities associated with proposal (if proposal is revenue related).
6. Affidavit of authorized municipality representative that municipality owes no outstanding State fees.
7. Attorney opinion letter stating that application and plan or amendment complies with applicable State Law.

NOTE: Submit eight originals and one electronic copy of initial plan or amendment to the Municipal Home Rule Board a minimum of 30 days before a Board Meeting.

Please be advised that the extra revenue anticipated from Sale Tax would be used to help fund some major projects that need to be done throughout the city. Holland Avenue Infrastructure Project, which we have committed our COVID ARPF funds to, originally cost \$1,800,000.00, has now turned into a \$3,900,000.00 project and in addition one of our Pump Stations needs to be replaced which is another \$4,350,000.00.

# **EXECUTIVE SUMMARY**

## EXECUTIVE SUMMARY

The City of Westover, commonly referred to as "THE CITY ON THE RISE", is seeking approval of its application and written plan to the Municipal Home Rule Program to enhance development of business and recreation, but more importantly, to assist the City with the major infrastructure and dilapidated housing issues that we face. The City was founded in 1911 and some of the sewer systems and roads have not been updated since then.

Over the course of the last one hundred plus years, the sewer, water and storm systems have had many band aid fixes because the city did not have the funds to replace these very expensive structures. The maintenance of roads, trails, parks, City facilities and City equipment has been delayed or reduced for years and the quality of life in the City has been impacted by these challenges. Additionally, because of these issues, the structure of our roads have failed and paving some of them does not last because of what lies beneath. One of the main thoroughfares through the City, Holland Avenue has been deteriorating for years.

We received a little over 1.8 million dollars from the COVID-19 RELIEF, REBUILDING INFRASTRUCTURE FUND; we are now able to begin the process of fixing the infrastructure of Holland Avenue. Unfortunately, after receiving estimates on the cost (copy attached), the price is now 3.8 million. Additionally, we have a failing pump station that will cost millions to replace. With the assistance of Region VI, we are now in the process of applying for grants and loans to enable us to complete this project.

Unfortunately, many of the homes within the City limits have aged without the proper maintenance throughout the years and are now unsafe structures and should be torn down or face costly repairs. Our housing issues alone keep our Code Enforcement and Building Inspection Departments very busy.

As you are aware, specific laws prevent the municipality from carrying out its duties in the most cost efficient, effective, and timely manner. Being a Home Rule Municipality would enable us to change some of the laws, especially those related to public nuisances, health and safety code violations, dilapidated or uninhabitable structures, and to manage blighted and vacant properties.

Over the last ten years, the City has annexed three major areas which have improved our cash flow tremendously. These extra dollars have enabled us to bring our salary structure in line with other cities of our size to assist us in maintaining and recruiting qualified staff.

However, with the growing demands on municipal services, the B&O tax revenue alone is no longer sufficient to provide the municipal services at a level that the citizens and visitors to Westover have come to expect.

Moreover, with the thousands of daily visitors who do not live or own a business within the Westover City limits, a municipal sales tax would permit all individuals, including transient visitors, to help pay for the daily services provided by the City and to enable us to replace/repair our aging infrastructure.

The consumer sales and use tax imposed at 1% will not generate enough revenue on its own to replace both the lost B&O tax revenue and the increase demand for municipal services. It would simply not be feasible for the City to repeal its B&O tax and replace it with a municipal sales tax without further revenue generation methods. Therefore, we propose to enact, by ordinance, a municipal consumer sales and use tax of one percent (1%) within the City's municipal limits, with a corresponding reduction and elimination of certain categories of B&O tax rates as described in the attached document.

We have engaged our community and asked for their input. The consensus is to see Westover grow and expand and improve our services. To do so, we must attract new business and incentivize business development and we are anxious to do so.

The Municipal Home Rule Program allows that opportunity.

City of Westover

Holland Avenue Storm and Sanitary Sewer Replacement with Retaining Wall Assessment

PRELIMINARY PROJECT COST ESTIMATE

Thrasher Project #T20-l 1011

May 2021

PROJECT COST SUMMARY

Total Estimated Construction Costs		\$2,700,000.00
Study and Report Phase		\$65,000.00
Preliminary Design Phase		\$175,000.00
Final Design Phase		\$75,000.00
<b>Bidding and Negotiation</b>		\$20,000.00
<b>Construction Phase (Engineering During Construction)</b>		\$95,000.00
<b>Post-Construction Phase</b>		\$14,000.00
<b>Resident Project Representative</b>		\$125,000.00
<b>Special Services</b>		\$148,000.00
<i>Subsurface Investigations</i>	\$30,000.00	
<i>Land Surveys and Easement Preparation</i>	\$10,000.00	
<i>Engineering Surveys and Topo</i>	\$15,000.00	
<i>Mapping</i>	\$10,000.00	
<i>Expert Witness Before Agencies</i>	\$0.00	
<i>Preparation of Funding Application</i>	\$15,000.00	
<i>Environmental Assessment &amp; Impact Statement</i>	\$10,000.00	
<i>Asset Management Plan</i>	\$0.00	
<i>Long Term Control Plan</i>	\$48,000.00	
<i>Inflow and Infiltration Study</i>	\$0.00	
<i>GIS System</i>	\$10,000.00	
<b>Legal Fees</b>		\$30,000.00
<i>Local Project Attorney</i>	\$25,000.00	
<i>Land &amp; ROWs Attorney</i>	\$5,000.00	
<b>Administration Fees</b>		\$95,000.00
<i>Project Administrator</i>	\$65,000.00	
<i>Project Accountant</i>	\$30,000.00	
<b>Financing</b>		\$35,000.00
<i>Bond Counsel/Other Closing Costs</i>	\$35,000.00	
<b>Permits</b>		\$15,000.00
<i>NPDES Stormwater Construction Permit</i>	\$5,000.00	
<i>WVDOH</i>	\$10,000.00	
<b>Land Costs</b>		\$0.00
<i>Land Acquisition</i>	\$0.00	
<i>Obtain Right-Of-Way</i>	\$0.00	
<i>Right-Of-Way Coordination Assistance</i>	\$0.00	
<i>Easements</i>	\$0.00	
<i>Fee Takes</i>	\$0.00	
<b>Total Soft Costs</b>		\$892,000.00
<b>Project Contingency</b>		\$179,600.00
<b>TOTAL PROJECT COST</b>		<b>\$3,771,600.00</b>
<b>SAY</b>		<b>\$3,800,000.00</b>

**ISSUES  
TO BE  
ADDRESSED**

CITY OF WESTOVER  
HOME RULE APPLICATION

**ISSUE 1: SALES TAX REVENUE:**

**SPECIFIC BARRIER: ADDED REVENUE NEEDED TO ADDRESS THE GROWING INFRASTRUCTURE AND DILAPIDATED HOUSING NEEDS.**

The primary reason for this application is to attain additional revenue so that the City can address many major Infrastructure and dilapidated housing issues. Additionally, there is a growing demand on municipal services for our aging population. The revenue from sales tax would be used primarily for the aforementioned municipal services because the B&O tax revenue alone is no longer sufficient to cover the growing costs. (Please see the Executive Summary and Revenue Impact Statement for more details).

**PROPOSED RESOLUTION:**

The added 1% sales tax revenue would bring in approximately \$3,369,367 annually which could be used for municipal services and infrastructure Improvements. The City has been able to keep utility rates low to provide our residents with the services that they need at a cost that they can afford, and we would like to continue that trend. However, without additional revenue, that process is becoming more difficult to attain. Additionally, we need to keep our salaries and benefits competitive so that we can attract and retain valuable employees, especially well trained, experienced officers for our resident's protection. Our City was established in 1911 and has always been focused on providing the best service possible to our citizens and we would like to continue that practice.

**ISSUE 2: ON-THE-SPOT CITATIONS FOR PUBLIC NUISANCE, HEALTH, AND SAFETY CODE VIOLATIONS (Category-Code Enforcement)**

**SPECIFIC BARRIER: WV Code 7-1-3(k)(k) and WV Code 8-12-16**

**SPECIFIC PROBLEMS CREATED BY LAW: WV Code 7-1-3(k)(k) states that:**

In addition to all other powers and duties now conferred by law upon county commissions, commissions are hereby authorized to enact ordinances, issue orders and take other appropriate and necessary actions for the elimination of hazards to public health and safety and to abate or cause to be abated anything which the commission determines to be a public nuisance. The ordinance may provide for a misdemeanor penalty for its violation. The ordinances may further be applicable to the county in its entirety or to any portion of the county as considered appropriate by the County Commission.

However, it does not specifically give municipalities the ability to issue on-the-spot citations once an ordinance is passed allowing municipalities to do so. So, as the law stands, municipalities (or their agents, i.e., City Police or Code Enforcement Officials) are unable on-spot citations to offenders.

Further, WV Code 8-12-16 makes a lengthy process for municipalities to address issues related to code enforcement. Currently, Inspectors and compliance employees issue citations after application and approval by the Municipal court in accordance with this code which mandates certain procedural and notice requirements including a requirement that "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 a requirement that such orders "be posted in a conspicuous place on the premises affected by the complaint or order....".

Moreover, WV Code 8-12-16(d) currently mandates that "no ordinance shall be adopted without providing therein for the right to apply to the circuit court for a temporary injunction restraining the enforcement agency pending final disposition of the cause." The current process may take a month or more, fostering recidivism.

### PROPOSED RESOLUTION:

That Building and Zoning Administrators, Code Enforcement Officials, and/or City Law Enforcement Officers be given power to issue citations for reoccurring exterior sanitation/common nuisance violations (including but not limited to, trash/rubbish, overgrown weeds/grass, junked or otherwise unlawfully situated motor vehicles, maintenance of vacant structures, broken windows or glass, failure to maintain sidewalks and driveways) at the site of the violation and at the time the violation is recognized, similar to the manner in which traffic citations are issued,

### ISSUE 3: AMEND THE MUNICIPALITY'S PUBLIC NUISANCE ORDINANCE TO ALLOW THE CITY TO PLACE A LIEN AGAINST THE INVOLVED REALTY WITHOUT FIRST OBTAINING A CIRCUIT COURT ORDER AUTHORIZING IT TO DO SO. (Category-Code Enforcement)

### SPECIFIC BARRIER: WV Code 8-12-5(23) and 8-12-16

### SPECIFIC PROBLEMS CREATED BY LAW:

WV Code 8-12-5(23) authorizes municipalities to provide for the elimination of hazards to public health and safety and to abate or cause to be abated anything which in the opinion of a majority of the governing body is a public nuisance. Based upon that enabling legislation, the City has adopted a Public Nuisance Ordinance; however, the ordinance does not contain provisions authorizing the city to remove the nuisance and thereafter lien the affected realty for its cost incurred, should the owner of the realty ignore City Council's order to eliminate the nuisance. The reason that the ordinance does not contain lien language is that based upon a strict reading of 8-12-5(23), there is a strong argument that the statute does not contain language authorizing the city to place a lien.

WV Code 8-12-16 allows municipalities to adopt ordinances regulating the repair, alteration, or the vacating and closing or removal or demolition of dwellings or 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 in any dwelling or building which would cause it to be unsafe, unsanitary, dangerous or detrimental

**ISSUE 4: SHORTENED PERIOD OF TIME FOR FORFEITURE OR STRUCTURES WHEN OWNERS OF PROPERTIES THAT HAVE BEEN DILAPIDATED OR UNINHABITABLE REFUSE TO ADDRESS CODE VIOLATIONS (Category-Code Enforcement)**

**SPECIFIC BARRIER: WV Code 8-12-16(A)(n), states that:**

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 PROBLEMS CREATED BY LAW:**

WV Code 8-12-16(A)(n), as shown above, provides cities a tool for addressing "uninhabitable" structures that violate building codes and are a serious threat and problem for neighborhoods.

This process allows the 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 with 45 days to fix the code violations or make a plan for fixing them in a reasonable time.

The law as it stands allows the owner 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. Then, that fee assessment can be appealed within 30 days by the property owner, before it becomes finalized as a lien on the property.

If at the time that the fee for the uninhabitable property violations remains unpaid, the city can take the structure in forfeiture-but only after two years of waiting. With this, a city does not have the 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; a period of which hinders the clean-up and repair of City neighborhoods.

**PROPOSED SOLUTION:**

Without altering any of the protections for owners or uninhabitable properties to fix the issues mentioned above, the City seeks a shortened period between the time that the owner of a dilapidated property refused to address the problem, and the time that the City can take the structure by forfeiture and finally start to remedy the problems with the City's own resources.

As mentioned above, the timeframes for initiating this forfeiture hinders the City, and the City seeks to shorten that period of waiting after noncompliance from two years to a period of twelve months.

Together with the initial 120 days of property owner protections, this change will allow the city to address the dilapidated properties in a total of 16 months (120 days plus the twelve month waiting

period), rather than the current span of 28 months (120 days plus two years waiting), and is altogether more reasonable for remediation to occur in a timely fashion.

**ISSUE 5: MANAGE BLIGHTED AND VACANT PROPERTIES, PLACE LIEN ON CITY REMEDIATED PROPERTIES WITHOUT COURT ORDER (Category-Code Enforcement)**

**SPECIFIC BARRIER: WV Code 8-12-16**

**SPECIFIC PROBLEMS CREATED BY LAW:**

**WV Code 8-12-16 only permits municipalities to:**

Adopt ordinances regulating the repair, alterations, or the vacating and closing or removal or demolition...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...which would cause such dwellings or other buildings to be unsafe, unsanitary, dangerous or detrimental to the public safety or welfare.

This does not allow municipalities to address problems with property maintenance that detract from the neighborhood or constitute eyesores but do not yet constitute a threat to public safety. Additionally, WV Code 8-12-16 limits the lien amounts municipalities may assess for repairing or demolishing a structure to the assessed value of the property and requires that the municipality obtain a court judgment for the imposition of the lien.

**PROPOSED SOLUTION:**

The City of Westover desires to be given the power and authority, after due notice to the owner and owners of property which is not being properly maintained, to enter the property and to maintain, repair or demolish the property, and/or to mow or trim unkempt grass, brush or trees to ensure that the property does not detract from the neighborhood or deteriorate further. The cost of that rehabilitation would constitute a lien against the property without the necessity of obtaining a court order or engaging in any further court action. Said lien would then become part of the property tax lien, or have priority with other liens against the property.

**ISSUE 6: COLLECT LIENS FOR DEMOLITION EXPENSES (Category-Code Enforcement)**

**SPECIFIC BARRIER: WV Code 11A-3-52 and WV Code 11A-3-14**

Current state law for sale of property with delinquent taxes restricts the City from collection of demolition liens. The City is experiencing a vast increase of blighted properties within the City limits. Many of these structures are dilapidated and uninhabitable.

**PROPOSED SOLUTION:**

The City of Westover seeks to enact a policy where someone purchasing property at a tax lien auction must satisfy the municipality's demolition lien prior to obtaining title to the property.

Currently, the statute provides that the Sheriff can refuse to issue a Certificate of Sale if there are subsequent years' taxes due at the time of the sale. In accordance with WV Code 11A-3-14, the city proposes that demolition liens be collected at the tax sale auction in addition to the delinquent property taxes. The Sheriff shall require payment of any demolition liens due at the time of the sale before the Certificate of Sale is issued. As such, the highest bidder present at the sale must bid and pay the amount of taxes, interest and charges for which the tax lien on any real estate is offered for sale, in addition to paying the City's demolition lien before the Sheriff can issue a Certificate of Sale for the purchase money.

An amendment was made to this proposal by the City of Westover during the Oct. 11, 2023 meeting of the WV Municipal Home Rule Board. The amendment replaces "WV Code 11A-3-14" with the correct code section, "WV Code 11A-3-52".

**CLASS II LEGAL  
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The Dominion Post  
1251 Earl L Core Rd.  
Morgantown, WV 26505  
My Commission Expires February 18, 2025

253153

JUNE 14, 21

NOTICE OF HEARING

CITY OF WESTOVER  
APPLICATION TO WEST VIRGINIA MUNICIPAL  
HOME RULE PROGRAM

Please take notice that the city of Westover, West Virginia, intends to submit an application to participate in the West Virginia Municipal Home Rule Program pursuant to the provisions of the WV Code. Said application requests permission for the City of Westover to be granted authority to broadly increase its governing powers as set forth in the said WV Code provisions and for the aforesaid areas and items set forth in the City's said application. A copy of the application is available for inspection during open office hours at City Hall, 500 Dupont Road, Westover, WV 26501.

The Home Rule application shall be subject to a public hearing on July 7, 2023 at 5:45 PM in the Chambers, 500 Dupont Road, Westover, WV 26581, and an Ordinance authorizing the said application's submission to the West Virginia Municipal Home Rule Board shall be considered by Westover's Council for adoption immediately following the Public Hearing. The first reading of the Ordinance approving the application will take place at the regularly scheduled Council Meeting at 6:00 PM on July 17, 2023 and the second reading will take place immediately following the Public Hearing on August 7, 2023.

This and all Public Hearings are open to the Public and Press.



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WESTOVER, CITY OF  
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STATE DEPARTMENT**

**NOTICE OF PUBLIC HEARING  
CITY OF WESTOVER APPLICATION TO  
WEST VIRGINIA MUNICIPAL HOME RULE PROGRAM**

Please take notice that the City of Westover, West Virginia, intends to submit an application to participate in the West Virginia Municipal Home Rule Program pursuant to the provisions of the WV Code 8-1-Sa. Said application requests permission for the City of Westover to be granted authority to broadly increase its governing powers as set forth in the said WV Code provisions, and for the particular areas and items set forth in the City's said application. A copy of the application is available for public inspection during open office hours at City Hall, 500 Dupont Road, Westover, wv\_ 26501.

The Home Rule application shall be subject to a public hearing on August 7, 2023 at 5:45 PM in Council Chambers, 500 Dupont Road, Westover, WV 26501, and an Ordinance authorizing the said application's submission to the West Virginia Municipal Home Rule Board shall be considered by Westover's Council for adoption immediately following the Public Hearing. The first reading of the Ordinance approving the application will take place at the regularly scheduled Council Meeting at 6:00 PM on July 17, 2023 and the second reading will take place immediately following the Public Hearing on August 7th.

This and all Public Hearings are open to the Public and Press.

SENDER: COMPLETE THIS SECTION

Complete items 1, 2, and 3, Print your name and address on the reverse so that we can return the card to you.

III Attach this card to the back of the mailpiece,

Department of Revenue (Also the Chair 01)
Dave Hardy, Secretary
Department of Revenue
West Virginia Municipal Home Rule Board
1900 Kanawha Blvd East
Building 1, W-300
Charleston, WV 25305



9590 9402 8050 2349 0124 39

2. Article Number (Transfer from service label)

7021 0350 0000 4103 7199

PS Form 3811, July 2020 PSN 7530-02-000-9053

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A. Signature (Handwritten: Dave Hardy)
B. Received by (Printed Name)
C. Date of Delivery

Is delivery address different from item 1? Yes/No

- Service Type options: Addit Signature, Adult Signature Restricted Delivery, Certified Mail, Certified Mail Restricted Delivery, Collect on Delivery, Collect on Delivery Restricted Delivery, Priority Mail Express, Registered Mail, Registered Mail Restricted Delivery, Signature Confirmation, Signature Confirmation Restricted Delivery

Restricted Delivery

Domestic Return Receipt

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Department of Commerce
James Bailey, Secretary
West Virginia Department of Commerce
1900 Kanawha Blvd East
Building 3, Suite 600
Charleston, WV 25305



9590 9402 8050 2349 0124 22

2. Article Number (Transfer from service label)

7021 0350 ODDO 4103 7205

PS Form 3811, July 2020 PSN 7530-02-000-9053

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B. Received by (Printed Name)
C. Date of Delivery

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- Service Type options: Restricted Delivery, Certified Mail Restricted Delivery, Collect on Delivery, Collect on Delivery Restricted Delivery, Priority Mail Express, Registered Mail, Registered Mail Restricted Delivery, Signature Confirmation, Signature Confirmation Restricted Delivery

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Department of Administration
Mark Scott, Secretary
West Virginia Department of Administration
1900 Kanawha Blvd East
Building 1, E-119
Charleston, WV 25305



9590 9402 8050 2349 0124 15

2. Article Number (Transfer from service label)

7021 0350 0000 4103 7212

PS Form 3811, July 2020 PSN 7530-02-000-9053

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Restricted Delivery

Domestic Return Receipt

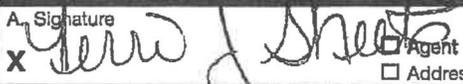
SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
Complete items 1, 2, and 3. Print your name and address on the reverse so that we can return the card to you. <input checked="" type="checkbox"/> Attach this card to the back of the mailpiece, or on the front if space permits.	A. Signature <b>X WV DEP</b> <input type="checkbox"/> Agent <input type="checkbox"/> Addressed B. Received by (Printed Name) <b>MAILROOM</b> C. Date of Delivery D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No
1. Article Addressed to: Department of Environmental Protection Harold Ward, Secretary West Virginia Department of Environmental Protection 601 57th Street SE Charleston, WV 25304	
 9590 9402 8050 2349 0124 08	3. Service Type <input type="checkbox"/> Adult Signature <input type="checkbox"/> Adult Signature Restricted Delivery <input checked="" type="checkbox"/> Certified Mail® <input type="checkbox"/> Certified Mail Restricted Delivery <input type="checkbox"/> Collect on Delivery <input type="checkbox"/> Collect on Delivery Restricted Delivery <input type="checkbox"/> Registered Mail™ <input type="checkbox"/> Registered Mail Restricted Delivery <input checked="" type="checkbox"/> Signature Confirmation® <input type="checkbox"/> Signature Confirmation Restricted Delivery
2. Article Number (Transfer from S11 Nice label) 7021 0350 0000 4103 7229	
PS Form 3811, July 2020 PSN 7530-02-000-9053 Domestic Return Receipt	

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
Complete items 1, 2, and 3. Print your name and address on the reverse so that we can return the card to you. <input type="checkbox"/> Attach this card to the back of the mailpiece, or on the front if space permits.	A. Signature  <input type="checkbox"/> Agent <input type="checkbox"/> Addressed B. Received by (Printed Name) <b>TR. S. ...</b> C. Date of Delivery D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No
1. Article Addressed to: Department of Health and Human Resources Dr. Jeff Gobin, Interim Secretary West Virginia Department of Health and Human Resources One Davis Square, Suite 100 East Charleston, WV 25301	
 9590 9402 8050 2349 0123 92	3. Service Type <input type="checkbox"/> Priority Mail Express® <input type="checkbox"/> Registered Mail™ <input type="checkbox"/> Registered Mail Restricted Delivery <input checked="" type="checkbox"/> Certified Mail Restricted Delivery <input type="checkbox"/> Collect on Delivery <input type="checkbox"/> Collect on Delivery Restricted Delivery <input type="checkbox"/> Signature Confirmation® <input type="checkbox"/> Signature Confirmation Restricted Delivery
2. Article Number (Transfer from S11 Nice label) 7021 0350 0000 4103 7229	
PS Form 3811, July 2020 PSN 7530-02-000-9053 Domestic Return Receipt	

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
Complete items 1, 2, and 3. <input checked="" type="checkbox"/> Print your name and address on the reverse so that we can return the card to you. <input checked="" type="checkbox"/> Attach this card to the back of the mailpiece, or on the front if space permits.	A. Signature <b>X Jeff J. Sheeta</b> <input type="checkbox"/> Agent <input type="checkbox"/> Addressed B. Received by (Printed Name) C. Date of Delivery D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No
1. Article Addressed to: Department of Homeland Security Jeff Sandy, Secretary West Virginia Department of Homeland Security 1900 Kanawha Blvd East Building 1, W-400 Charleston, WV 25305	
 9590 9402 8050 2349 0123 85	3. Service Type <input type="checkbox"/> Priority Mail Express® <input type="checkbox"/> Registered Mail™ <input type="checkbox"/> Registered Mail Restricted Delivery <input checked="" type="checkbox"/> Certified Mail Restricted Delivery <input type="checkbox"/> Collect on Delivery <input type="checkbox"/> Collect on Delivery Restricted Delivery <input type="checkbox"/> Signature Confirmation® <input type="checkbox"/> Signature Confirmation Restricted Delivery
2. Article Number (Transfer from S11 Nice label) 7021 0350 0000 4103 7243	
PS Form 3811, July 2020 PSN 7530-02-000-9053 Domestic Return Receipt	

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
Complete items 1, 2, and 3. Print your name and address on the reverse so that we can return the card to you. Attach this card to the back of the mail piece, or on the front if space permits.	A. Signature  <input checked="" type="checkbox"/> Agent <input type="checkbox"/> Addressee B. Received by (Printed Name) C. Date of Delivery
Department of Transportation Jimmy Wriston, Secretary West Virginia Department of Transportation 100 Kanawha Blvd East Charleston, WV 25305  9590 9402 8050 2349 0122 24 2. Article Number (Transfer from Service Label) 7021 0350 0000 4103 7427	3. Service Type <input type="checkbox"/> Priority Mail Express® <input type="checkbox"/> Registered Mail™ <input type="checkbox"/> Registered Mail Restricted Delivery <input checked="" type="checkbox"/> Signature Confirmation Restricted Delivery <input type="checkbox"/> Signature Confirmation Restricted Delivery <input type="checkbox"/> Collect on Delivery Restricted Delivery <input type="checkbox"/> Collect on Delivery Restricted Delivery (over 10 lbs) 3 different from item 1? <input type="checkbox"/> Yes Delivery address below: <input checked="" type="checkbox"/> No
PS Form 3811, July 2020 PSN 7530-02-000-9053 Domestic Return Receipt	

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
Complete items 1, 2, and 3. Print your name and address on the reverse so that we can return the card to you. Attach this card to the back of the mailpiece, or on the front if space permits.	A. Signature  <input checked="" type="checkbox"/> Agent <input type="checkbox"/> Addressee B. Received by (Printed Name) C. Date of Delivery
Department of Veterans Assistance Edward A. Diaz, Secretary West Virginia Department of Veterans Assistance 1900 Kanawha Blvd East Building 5, Room 205 Charleston, WV 25305  9590 9402 8050 2349 0122 31 2. Article Number (Transfer from Service Label) 7021 0350 0000 4103 7397	3. Service Type <input type="checkbox"/> Priority Mail Express® <input type="checkbox"/> Registered Mail™ <input checked="" type="checkbox"/> Registered Mail Restricted Delivery <input checked="" type="checkbox"/> Signature Confirmation Restricted Delivery <input type="checkbox"/> Signature Confirmation Restricted Delivery <input type="checkbox"/> Collect on Delivery Restricted Delivery <input type="checkbox"/> Collect on Delivery Restricted Delivery (over 10 lbs) 3 different from item 1? <input type="checkbox"/> Yes Delivery address below: <input type="checkbox"/> No
PS Form 3811, July 2020 PSN 7530-02-000-9053 Domestic Return Receipt	

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
Complete items 1, 2, and 3. Print your name and address on the reverse so that we can return the card to you. Attach this card to the back of the mailpiece, or on the front if space permits.	A. Signature  <input checked="" type="checkbox"/> Agent <input type="checkbox"/> Addressee B. Received by (Printed Name) C. Date of Delivery
Department of Economic Development Mitch Carmichael, Secretary West Virginia Department of Economic Development 1900 Kanawha Blvd East Charleston, WV 25305  9590 9402 8050 2349 0122 48 2. Article Number (Transfer from Service Label) 7021 0350 0000 4103 7410	3. Service Type <input type="checkbox"/> Priority Mail Express® <input type="checkbox"/> Registered Mail™ <input checked="" type="checkbox"/> Registered Mail Restricted Delivery <input checked="" type="checkbox"/> Signature Confirmation Restricted Delivery <input type="checkbox"/> Signature Confirmation Restricted Delivery <input type="checkbox"/> Collect on Delivery Restricted Delivery <input type="checkbox"/> Collect on Delivery Restricted Delivery (over 10 lbs) 3 different from item 1? <input type="checkbox"/> Yes Delivery address below: <input checked="" type="checkbox"/> No
PS Form 3811, July 2020 PSN 7530-02-000-9053 Domestic Return Receipt	

SENDER: COMPLETE THIS SECTION

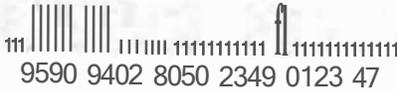
- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

COMPLETE THIS SECTION ON DELIVERY

A. Signature *[Signature]*  Agent  Addressed  
 B. Received by (Printed Name) C. Date of Delivery

Department of Arts, Culture, and History  
 Randall Ried-Smith, Secretary  
 West Virginia Department of Arts, Culture, and History  
 1900 Kanawha Blvd East  
 Charleston, WV 25305

rent from item 17  Yes  
 address below:  No



2. Article Number (Transfer from service label)

L 7  1  5      3 7281

Priority Mail Express®  
 Registered Mail™  
 Registered Mail Restricted  
 Restricted Delivery  
 Signature Confirmation  
 Signature Confirmation Restricted Delivery  
 Collect on Delivery  
 Collect on Delivery Restricted Delivery

PS Form 3811, July 2020 PSN 7530-02-000-9053

Domestic Return Receipt

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

COMPLETE THIS SECTION ON DELIVERY

A. Signature *[Signature]*  Agent  Addressed  
 B. Received by (Printed Name) C. Date of Delivery

Department of Tourism  
 Chelsea Ruby, Secretary  
 West Virginia Department of Tourism  
 Building 3, Suite 100  
 1900 Kanawha Blvd East  
 Charleston WV 25305

D. Is delivery address different from item 1?  Yes  
 If YES, enter delivery address below:  No



2. Article Number (Transfer from service label)

7021- 0350 0000 4103 7298

3. Service Type  
 Adult Signature  
 All Mail Signature Restricted Delivery  
 Certified Mail  
 Certified Mail Restricted Delivery  
 Collect on Delivery  
 Collect on Delivery Restricted Delivery  
 Registered Mail™  
 Registered Mail Restricted Delivery  
 Signature Confirmation  
 Signature Confirmation Restricted Delivery  
 Priority Mail Express®  
 Registered Mail™  
 Registered Mail Restricted Delivery  
 Signature Confirmation  
 Signature Confirmation Restricted Delivery

PS Form 3811, July 2020 PSN 7530-02-000-9053

Domestic Return Receipt

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

COMPLETE THIS SECTION ON DELIVERY

A. Signature *[Signature]*  Agent  Addressed  
 B. Received by (Printed Name) C. Date of Delivery

1. Article Addressed to:

Municipal Home Rule Board  
 P.O. Box 963  
 Charleston, WV 25305

D. Is delivery address different from item 1?  Yes  
 If YES, enter delivery address below:  No



2. Article Number (Transfer from service label)

41 ---7 ? r

Certified Mail®  
 Certified Mail Restricted Delivery  
 Collect on Delivery  
 Collect on Delivery Restricted Delivery  
 Signature Confirmation  
 Signature Confirmation Restricted Delivery  
 Priority Mail Express®  
 Registered Mail™  
 Registered Mail Restricted Delivery  
 Signature Confirmation  
 Signature Confirmation Restricted Delivery

PS Form 3811, July 2020 PSN 7530-02-000-9053

Domestic Return Receipt

**PUBLIC HEARING  
NOTICE  
SIGN-IN SHEET AND  
MINUTES**

# **PUBLIC HEARING**

**AUGUST 7, 2023, 5:45 PM**

**COUNCIL CHAMBERS**

**TO HEAR**

**PROPONENTS/OPPONENTS ON**

**THE CITY'S**

**HOME RULE APPLICATION**

**THIS AND ALL MEETINGS ARE OPEN TO THE PUBLIC AND PRESS**

CITY OF WESTOVER  
500 DUPONT ROAD  
WESTOVER, WV 26501  
PHONE: 304-296-6860 FAX: 304-296-6582  
[cityofwestover@comcast.net](mailto:cityofwestover@comcast.net)

*MAYOR ROBERT A. LUCCI*

CERTIFICATION

I, Sandra Weis, City Clerk/Treasurer of the City of Westover, West Virginia, do hereby certify that on August 7, 2023 at 5:45 p.m., a Public Hearing was held. The subject of said hearing being and said City's Application to participate in Municipal Home Rule and the Ordinance authorizing submission of the same.

The attached are true, correct and complete copies of the pertinent pages of the Westover Council Agendas and the Minutes of the Council Meetings, both evidencing the Public Hearing.

Witness, the signature of the undersigned City Clerk/Treasurer of the City of Westover, West Virginia and seal of the City of Westover, West Virginia, this 8<sup>th</sup> day of August, 2023.

  
\_\_\_\_\_  
Sandra Weis, City Clerk/Treasurer

(SEAL)

**CITY OF WESTOVER  
MINUTES  
PUBLIC HEARING  
HOME RULE APPLICATION**

August 7, 2023

5:45 PM

Mayor Lucci called the Public Hearing to order and announced that it is being held to hear proponents/opponents to the City of Westover making application to the Home Rule Board to become a Home Rule City.

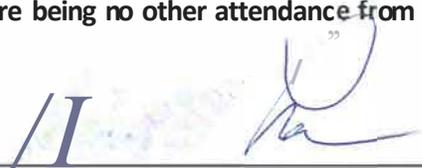
**ROLL CALL:** Steve Andryzcik-present, Duane Tatar-present, Edie Viola-present, Alli Jackson-absent, Jeffrey Friend-present, Shawna Cross-present, and Mayor Lucci-present.

Also in attendance: Tim Stranko, City Attorney, and Sandra Weis, City Clerk.

Nellie and Robert Lakotos were in attendance for the Public Hearing. Mrs. Lakotos had several questions one of which was her concern about a "user fee", which the Mayor assured her was not part of our application. Mrs. Lakatos also wanted to review the code changes that are being requested as part of the application and had no issues with any of them.

**ADJOURNMENT:**

There being no other attendance from the public, Mayor Lucci adjourned the Public Hearing at 6:00 PM.

  
\_\_\_\_\_  
Robert A. Lucci, Mayor

  
\_\_\_\_\_  
City Clerk

(sign-in sheet attached)



**CERTIFIED COPY OF  
ORDINANCE  
AUTHORIZING PLAN  
AGENDAS AND  
MINUTES OF COUNCIL**

AN ORDINANCE OF THE CITY COUNCIL AUTHORIZING THE CITY OF WESTOVER TO SUBMIT TO THE MUNICIPAL HOME RULE BOARD AN APPLICATION AND WRITTEN PLAN TO ALLOW THE CITY TO PARTICIPATE IN THE PERMANENT MUNICIPAL HOME RULE PROGRAM CONSISTENT WITH THE PROVISIONS OF WEST VIRGINIA CODE 8-1-Sa.

WHEREAS, in 2019, the West Virginia Legislature made the Municipal Home Rule Pilot Program a Permanent Program created pursuant to the provisions of the West Virginia Code 8-1-Sa to allow participation by all municipalities; and

WHEREAS, the City of Westover desires to participate in said program and has prepared a written home rule plan which complies with the provisions of the aforementioned code section; and

WHEREAS, a Public Hearing on the said plan is scheduled for August 7, 2023 at 5:45 PM at City Hall, 500 Dupont Road, Westover, WV 26501, and a notice of said Public Hearing published as a Class II legal advertisement in the Dominion Post on June 14, 2023 and June 21, 2023, as required by the aforementioned code section; and

WHEREAS, all other general notice requirements relating to said public hearing are satisfied.

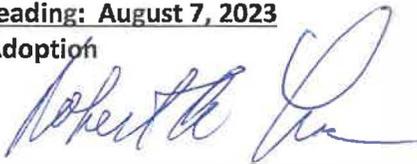
NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF WESTOVER, WEST VIRGINIA, that the Mayor is hereby authorized and directed to submit a Home Rule proposal to the Municipal Home Rule Board in accordance with West Virginia Code 8-1-Sa in order for the City of Westover to be included in this program.

THIS ORDINANCE SHALL BE EFFECTIVE UPON ITS ADOPTION.

First Reading: July 17, 2023

Publications: June 14, 2023  
June 21, 2023

Second Reading: August 7, 2023  
& Adoption



Robert A. Lucchi, Mayor

\_\_\_\_\_  
Andrea Wels, City Clerk

**MENED**  
**AGENDA**  
**CITY OF WESTOVER**  
**COMMON COUNCIL MEETING**

July 17, 2023

6:00PM

MEETING IS TAPE RECORDED:

APPROVAL OF MINUTES:       COMMON COUNCIL-July 3, 2023

TREASURER'S REPORT:

CHIEF OF POLICE REPORT:

DIRECTOR OF PUBLIC WORK'S REPORT:

CLERK'S REPORT:

MAYOR'S REPORT:

ATTORNEY'S REPORT:

COMMITTEE REPORT/COUNCIL INPUT:

CITIZEN'S COMMENTS (AGENDA ITEMS ONLY):

OLD BUSINESS:               NONE

NEW BUSINESS:               HIRE THREE LABORERS (Cunningham, Slater & Sheridan)  
APPOINT DEBRA SCUDIENE AS MUNICIPAL JUDGE  
**ORDINANCE APPROVING HOME RULE APPLICATION-First Reading**  
BUDGET REVISION #1  
BUDGET REVISION #1 (COAL SEVERANCE)

ACCOUNTS PAYABLE:

CITIZEN'S COMMENTS:

COUNCIL FINAL COMMENTS:

NEXT MEETING-August 7, 2023

ADJOURNMENT:

**MINUTES  
CITY OF WESTOVER  
COMMON COUNCIL MEETING**

July 17, 2023

6:00PM

Mayor Lucci called the meeting to order and announced that it would be tape recorded.

**ROLL CALL:** Steve Andryczik-present, Duane Tatar-present, Edie Viola-present, Alli Jackson-present, Jeffrey Friend-present, Shawna Cross-present, and Mayor Lucci-present.

Also in attendance: Tim Stranko, City Attorney

**MINUTES:**

Edie Viola made a motion to approve the Minutes of the Common Council-July 3, 2023, second by Shawna Cross.

**ROLL CALL VOTE:** Steve Andryczik-abstain, Duane Tatar-yes, Edie Viola-yes, Alli Jackson-yes, Jeffrey Friend-abstain, Shawna Cross-yes, and Mayor Lucci-yes. Motion carried.

**TREASURER'S REPORT:**

Steve Andryczik made a motion to accept the Treasurer's Report, second by Jeffrey Friend.

**ROLL CALL VOTE:** Steve Andryczik-yes, Duane Tatar-yes, Edie Viola-yes, Alli Jackson-yes, Jeffrey Friend-yes, Shawna Cross-yes, and Mayor Lucci-yes. Motion carried.

**CHIEF OF POLICE REPORT:**

Chief Adams shared the statistics with Council and made reference to the two overdose cases on July 14<sup>th</sup>, one of which was a fatality. Chief stated that there was a drug bust on June 21<sup>th</sup>, when a man called 911 to report an overdose of a 21 year old female inside an apartment at 175 Holland Avenue, and after receiving a search warrant, officers found 64 oxycodone, 10 grams of marijuana, 12 grams of crack, 60 grams of powder cocaine and a Taurus semi-automatic 9 mm pistol which was loaded. Chief added that all of the new officers are doing well with training.

**DIRECTOR OF PUBLIC WORK'S REPORT:**

Jason Stinespring reviewed the building maintenance violations and rental inspection updates with Council and shared the report of building permits that have been issued from June 1<sup>st</sup> through July 11<sup>th</sup>, and distributed pictures of the properties at 15 Dunkard Avenue and 85 Monongahela Avenue where the buildings were torn down by Reclaim. Jason stated that he distributed copies of an ordinance updating the building permit process and asked that Council take the time to read over the ordinance and explained that it will be on a future agenda for their vote. Mr. Stinespring advised that as of August 1<sup>st</sup>, we will be clear to demo seven trailers in the Riverview/Adams Street area and 32 Wilson, and we are moving on the old school on Morrison as well as several others. Jason stated that he has included a paving list and potential cost associated and asked that it be put on the next agenda for their vote and encouraged them to provide input before that time. Mr. Stinespring advised that he has been working with Thrasher to get bid documents together for the repair of the roof at City Hall, which includes two options; to remove and replace the rubber roof or to install a metal roof over the current rubber roof, sealed bids will be requested and presented to you for approval.

Common Council

7/17/23, pg. 2

**CLERK'S REPORT:**

NONE

**MAYOR'S REPORT:**

NONE

**ATTORNEY'S REPORT:**

Mr. Stranko made reference to the Motion Hearing notice received from the United States Magistrate Judge, Michael John Aloj, concerning the Mullins case, which is scheduled for Tuesday, August 8, 2023 at 3:00 PM via the Court's Zoom videoconferencing/teleconferencing system. Mr. Stranko encouraged Council Members to call in if they are interested in participating. Tim shared that he and Jason are working on the Walden "trailer" case and that Mr. Smith from Thrasher is working on the Pump Station replacement and should have an update for the next meeting.

**COMMITTEE REPORT/COUNCIL INPUT:**

NONE

**CITIZEN'S COMMENTS (AGENDA ITEMS ONLY):**

NONE

**OLD BUSINESS:**

NONE

**NEW BUSINESS:**

**HIRE THREE LABORERS (Cunningham, Slater & Sheridan):**

Alli Jackson made a motion to approve the hiring of three laborers, second by Edie Viola.

**ROLL CALL VOTE:** Steve Andryczik-yes, Duane Tatar-yes, Edie Viola-yes, Alli Jackson-yes, Jeffrey Friend-yes, Shawna Cross-yes, and Mayor Lucci-yes. Motion carried.

**APPOINT DEBRA SCUDIERS AS MUNICIPAL JUDGE:**

Edie Viola made a motion to appoint Debra Scudiere as the Municipal Judge, second by Steve Andryczik.

**ROLL CALL VOTE:** Steve Andryczik-yes, Duane Tatar-yes, Edie Viola-yes, Alli Jackson-yes, Jeffrey Friend-yes, Shawna Cross-yes, and Mayor Lucci-yes. Motion carried.

**ORDINANCE APPROVING HOME RULE APPLICATION-First Reading:**

Edie Viola made a motion to approve the First Reading of the Ordinance Approving the Home Rule Application, second by Alli Jackson.

**ROLL CALL VOTE:** Steve Andryczik-yes, Duane Tatar-yes, Edie Viola-yes, Alli Jackson-yes, Jeffrey Friend-yes, Shawna Cross-yes, and Mayor Lucci-yes. Motion carried.

**BUDGET REVISION #1 (GENERAL FUND):**

Steve Andryczik made a motion to accept the Budget Revision #1, second by Jeffrey Friend.

**ROLL CALL VOTE:** Steve Andryczik-yes, Duane Tatar-yes, Edie Viola-yes, Alli Jackson-yes, Jeffrey Friend-yes, Shawna Cross-yes, and Mayor Lucci-yes. Motion carried.

Common Council  
7/17/23,pg.3

**BUDGET REVISION #1 {COAL SEVERANCE}:**

Shawna Cross made a motion to approve Budget Revision #1 (Coal Severance), second by Steve Andryczik.

ROLL CALL VOTE: Steve Andryczik-yes, Duane Tatar-yes, Edie Viola-yes, Alli Jackson-yes, Jeffrey Friend-yes, Shawna Cross-yes, and Mayor Lucci-yes. Motion carried.

*DISCUSSION: Karen Mason explained that the first Budget Revisions of the new Fiscal Year must be done to change the carry over numbers from last year's numbers to the current balances of the accounts both for our General Fund and the Coal Severance Account.*

**ACCOUNTS PAYABLE:**

Edie Viola made a motion to accept Accounts Payable, second by Shawna Cross.

ROLL CALL VOTE: Steve Andryczik-yes, Duane Tatar-yes, Edie Viola-yes, Alli Jackson-yes, Jeffrey Friend-yes, Shawna Cross-yes, and Mayor Lucci-yes. Motion carried.

**CITIZEN'S COMMENTS:**

Mike Orosz, 12 Langford Avenue-complaints concerning property maintenance at 35 Second Street, 22 Harvey and the Marhefka lot. Mr. Orosz stated that all of these properties need the grass cut and bushes trimmed because they look terrible. Mr. Orosz asked if there is an ordinance concerning grass clippings in the streets and was informed that there is in fact an ordinance. Mayor Lucci asked that Jason have all of the properties checked and cleaned up.

Councilman Tatar thanked Mr. Orosz for bringing these properties to our attention.

**COUNCIL FINAL COMMENTS:**

NONE

**NEXT MEETING-August 7, 2023**

**ADJOURNMENT:**

Jeffrey Friend made a motion to adjourn, second by Edie Viola. All in favor, motion carried.

Meetingz;t

~~Robert A~~ Lucci, Mayor \_\_\_\_\_

**AGENDA  
CITY OF WESTOVER  
COMMON COUNCIL MEETING**

August 7, 2023

6:00PM

MEETING IS TAPE RECORDED:

APPROVAL OF MINUTES:       COMMON COUNCIL-July 17, 2023

TREASURER'S REPORT:

CHIEF OF POLICE REPORT:

DIRECTOR OF PUBLIC WORK'S REPORT:

CLERK'S REPORT:

MAYOR'S REPORT:

ATTORNEY'S REPORT:

COMMITTEE REPORT/COUNCIL INPUT:

CITIZEN'S COMMENTS (AGENDA ITEMS ONLY):

OLD BUSINESS:               **ORDINANCE APPROVING HOME RULE APPLICATION-Second Reading  
&Adoption**

NEW BUSINESS:              STREET PAVING LIST APPROVAL-FY 2023-2024

ACCOUNTS PAYABLE:

CITIZEN'S COMMENTS:

COUNCIL FINAL COMMENTS:

NEXT MEETING-August 21, 2023

ADJOURNMENT:

**MINUTES  
CITY OF WESTOVER  
COMMON COUNCIL MEETING**

August 7, 2023

6:00PM

Mayor Lucci called the meeting to order and announced that it would be tape recorded.

ROLL CALL: Steve Andryczik-present, Duane Tatar-present, Edie Viola-present, Alli Jackson-absent, Jeffrey Friend-present, Shawna Cross-present, and Mayor Lucci-present.

Also in attendance: Tim Stranko, City Attorney

**MINUTES:**

Edie Viola made a motion to approve the Minutes of the Common Council-July 17, 2023, second by Jeffrey Friend.

ROLL CALL VOTE: Steve Andryczik-yes, Duane Tatar-yes, Edie Viola-yes, Alli Jackson-absent, Jeffrey Friend-yes, Shawna Cross-yes, and Mayor Lucci-yes. Motion carried.

**TREASURER'S REPORT:**

Jeffrey Friend made a motion to accept the Treasurer's Report, second by Duane Tatar.

ROLL CALL VOTE: Steve Andryczik-yes, Duane Tatar-yes, Edie Viola-yes, Alli Jackson-absent, Jeffrey Friend-yes, Shawna Cross-yes, and Mayor Lucci-yes. Motion carried.

*DISCUSSION: Karen Mason advised that she did some research per Council's request and looked into an interest bearing checking account and found that United Bank does not offer one, the current rate for a seven month CD is 4.26% and she is recommending that we move \$500,000 from our money market to two \$250,000 CDs to get a better interest rate. Ms. Mason stated that the State Police Pension Board has made it mandatory to have a separate checking account that is used solely for pension activity and therefore, the Finance Committee has signed the paperwork tonight to open one.*

**CHIEF OF POLICE REPORT:**

Chief Adams shared the statistics with Council and stated that there are presently two candidates for officer positions that are undergoing background checks. Chief advised that the new officers are doing very well and that Ben Scott is still at the Academy and is also doing well. Councilman Andryczik asked that Chief how many unmarked vehicles are in the department and Chief stated that there are currently four but that he is looking to have them all marked soon.

**DIRECTOR OF PUBLIC WORK'S REPORT:**

NONE

**CLERK'S REPORT:**

NONE

**MAYOR'S REPORT:**

NONE

Common Council  
8/7/23, pg. 2

**ATTORNEY'S REPORT:**

Mr. Stranko updated Council on outstanding issues concerning the Mullin's litigation, which will hold a motion to compel hearing tomorrow via zoom and Tim encouraged Council to call in if they wish to participate, the Dalton case for which we are awaiting proposed finding and conclusions from the Civil Service Board. Attorney Stranko advised that we have been served on the Dalton Civil Suit and that there is a status conference on August 10<sup>th</sup> and this case has been forwarded to our insurance carrier so that they can assign legal counsel. Tim shared that he and Mayor Lucci have a meeting at MUB on Friday to review the issue of them taking over our Sewer system.

**COMMITTEE REPORTS/COUNCIL INPUT:**

Steve Andryczik and Duane Tatar asked that we look into moving our current \$1,871,434.45 in ARPF money from the current money market which is paying 1.75% interest to a seven month CD which is paying 4.26% interest. Sandie advised that she will check with the State Auditor's Office to make sure that we can invest this money and will let them know.

**CITIZEN'S COMMENTS (AGENDA ITEMS ONLY):**

NONE

**OLD BUSINESS:**

**ORDINANCE APPROVING HOME RULE APPLICATION-Second Reading & Adoption:**

Duane Tatar made a motion to accept the Second Reading & Adoption of the Home Rule Application, second by Steve Andryczik.

**ROLL CALL VOTE:** Steve Andryczik-yes, Duane Tatar-yes, Edie Viola-yes, Alli Jackson-absent, Jeffrey Friend-yes, Shawna Cross-yes, and Mayor Lucci-yes. Motion carried.

**NEW BUSINESS:**

**STREET PAVING LIST APPROVAL-FY 2023-2024:**

Steve Andryczik made a motion to approve the 2023-2024 Street Paving List, second by Jeffrey Friend.

**ROLL CALL VOTE:** Steve Andryczik-yes, Duane Tatar-yes, Edie Viola-yes, Alli Jackson-absent, Jeffrey Friend-yes, Shawna Cross-yes, and Mayor Lucci-yes. Motion carried.

**MOVE FUNDS TO CD:**

Steve Andryczik made a motion to move \$500,000 from the current money market account to two \$250,000 CDs to receive a better interest rate (4.26%), second by Jeffrey Friend.

**ROLL CALL VOTE:** Steve Andryczik-yes, Duane Tatar-yes, Edie Viola-yes, Alli Jackson-absent, Jeffrey Friend-yes, Shawna Cross-yes, and Mayor Lucci-yes. Motion carried.

**ACCOUNTS PAYABLE:**

Edie Viola made a motion to accept Accounts Payable, second by Duane Tatar.

**ROLL CALL VOTE:** Steve Andryczik-yes, Duane Tatar-yes, Edie Viola-yes, Alli Jackson-absent, Jeffrey Friend-yes, Shawna Cross-yes, and Mayor Lucci-yes. Motion carried.

**CITIZEN'S COMMENTS:**

John Lichter, 305 Rhode Island Avenue-Rotary Pristine River Initiative gave an update on the river table and how they are encouraging children to not litter by involving them in the clean-up.

Common Council  
8/7/23, pg. 3

**COUNCIL FINAL COMMENTS:**  
NONE

**EXECUTIVE SESSION To Consider WV Code 6-9A-4 (8)(6):**

Duane Tatar made a motion to go into Executive Session second by Shawna Cross.

**ROLL CALL VOTE:** Steve Andryzcik-yes, Duane Tatar-yes, Edie Viola-yes, Alli Jackson-absent, Jeffrey Friend-yes, Shawna Cross-yes, and Mayor Lucci-yes. Motion carried.

**RECONVENE:**

Duane Tatar made a motion to Reconvene, second by Shawna Cross.  
No decisions were made in Executive Session.

**ADJOURNMENT:**

Duane Tatar made a motion to adjourn, second by Jeffrey Friend. All in favor, motion carried.

M t i n g ;

\_\_\_\_\_' # 11) u ; : : :  
Robert A. Lucci, Mayor

, 4 A J / L  
\_\_\_\_\_  
Sandra Weis, City Clerk

# **FISCAL STATEMENT**

## REVENUE IMPACT:

The City of Westover proposes to eliminate our Amusement, Manufacturing, and Wholesale Business and Occupational taxes completely and reduce our Banking from 1% to .50% and Service from 1% to .75%. As you can see from the following statistics our highest revenue from Business and Occupational taxes is from Retail/Restaurants which is currently .50%. However, 80% of that revenue is received from the West Ridge and Gateway retailers and 50% is remitted back to the Developers of the West Ridge and the Gateway because of our Annexation Agreements (see summaries of both attached).

BUSINESS CLASSIFICATIONS	RATE	B&O TAX REVENUE	
		2022	2021
Gas	3%	\$66,884	\$40,823
Manufactured Products	.30%	\$31,400	\$22,495
Retail/Restaurants	.50%	\$1,515,238	\$1,038,953
Wholesalers	.15%	\$2,874	\$2,637
Electric, Power Companies	4%	\$191,407	\$192,853
Contracting	2%	\$185,227	\$182,104
Amusement	.50%	\$760	\$1,201
Service/Other	1%	\$328,371	\$381,882
Rents	1%	\$221,078	\$210,063
Banking/Financial	1%	\$17,361	\$18,632
<b>TOTAL</b>		<b>\$2,550,600</b>	<b>\$2,091,643</b>

The reduction for the two years addressed above would be approximately \$81,140

Projected revenue from 1% Sales and Use Tax would be approximately \$3,369,367 annually.

**ELIMINATED**

**REDUCED**

## **GATEWAY ANNEXATION: MARCH 19, 2013**

**HOTEL OCCUPANCY TAX:** The City shall have the right to levy and collect hotel occupancy taxes within the Project Property pursuant to W. Va. Code 8-13-3 as of the occurrence of the annexation of the Project Property into the corporate limits of the City. (50% of Hotel Occupancy Taxes collected are sent to the CVB).

**MODIFICATION AND ENACTMENT OF SIGN, ZONING, AND PLANNING ORDINANCES:** Codes 1303.01, 1303.05, 1303.06, 1308.05, 1308.06, 1741.02, 1741.04, 1741.14, 1741.15, 1741.17, 1741.19, and 1741.20 of the ordinances of the City in form, substance, and content acceptable to MAGCS as a pre-condition to the consent of the Project Property into the corporate limits of the City. Prior to December 31, 2028, none of the foregoing ordinances of the City shall be amended, modified, supplemented, and/or restated in any way, nature, manner, or character that would be adverse to, prejudicial to, and/or impose any additional limitations or restrictions on the zoning district known as Commercial District Two (C-2), without the written consent and agreement of MAGCS.

**B&O TAX MORATORIUM:** For the period commencing as of the Effective Date and continuing through and until December 31, 2023 ("Tax Moratorium Period"), the City waives and shall continue to waive and shall not levy, assess, impose, or collect B&O taxes, other taxes, or application, permit, or other fees payable by parties engaged in and/or performing site development, site preparation, infrastructure development, improvement construction, renovation, or remodeling, and/or any and all other construction activities upon or within the Project Property. In the event that any of the adjacent properties shall be subsequently annexed into the corporate limits of the City during the Tax Moratorium Period, the foregoing tax and fee moratorium shall be likewise applicable to the adjacent property annexed.

**WESTOVER INFRASTRUCTURE PARTICIPATION ARRANGEMENT:** In recognition of the continuing and significant benefit that will inure to the City from the development and construction of the infrastructure within, adjacent to, and/or providing service to the Project, as well as the significant and substantial financial benefit to the city of such infrastructure being developed and constructed without any capital outlay by the City, the City shall share with MAGCS and pay and deliver to MAGCS, calendar quarterly, within sixty (60) calendar days of the end of each calendar quarter, fifty percent (50%) of the B&O Taxes actually collected by the City from each and all of the owners, tenants, and occupants of the Project Property during such calendar quarter. The Westover Infrastructure Participation Arrangement shall be in effect and exist for the period commencing as of the Effective Date and continuing through and until the earlier to occur of June 30, 2033 or One Million Nine Hundred Thousand Dollars (\$1,900,000.00) having been paid and delivered to MAGCS with respect to the Westover Infrastructure Participation Arrangement.

**WEST RIDGE ANNEXATION: March 27, 2019**

Upon conveyance to the city, the City is willing and able to reimburse WestRidge for the investment of private funds into infrastructure dedicated for public use and, unless contractually prohibited from doing so, conveyed to the City.

**SALES TAX AND USER FEES:** In the event the State of West Virginia eliminates, modifies or amends the law relating to the levy and collection of Business and Occupational Taxes resulting in a loss of revenue to the City derived from the Annexed Property to the extent the City will not be able to fulfill its obligations under this agreement, the City may, impose a similar tax upon the owners and or occupants of the Annexed Property in order to replace, but not increase its revenues derived from the Annexed Property.

**CONSTRUCTION AND B&O TAX MORATORIUM:** For the period commencing as of the Effective Date and continuing for a period of ten (10) years, ("Tax Moratorium Period<sup>11</sup>"), the City waives and shall continue to waive and shall not levy, assess, impose, or collect B&O Taxes or other taxes imposed on construction and maintenance activities or application permit, or other fees payable by parties engaged in the performing site development, site preparation, infrastructure development, improvement construction, maintenance, renovation, or remodeling, and/or any and all other construction activities upon or within the Project Property. During the Tax Moratorium Period the City waives and shall continue to waive B&O Taxes or other taxes imposed upon income (rental, construction, maintenance or otherwise) earned in the Project Area by WestRidge, or any Affiliated Entity. Affiliated Entity shall be defined as an entity in which the majority of which is owned by or which is managed by John D. Lynch, Janet Lynch, John David Lynch, Jr. and Lori L. Lynch, Ryan Lynch (the Lynch Family) or trust established for the benefit of all or any member of the Lynch Family.

**WESTOVER INFRASTRUCTURE PARTICIPATION ARRANGEMENT:** In recognition of the continuing and significant benefit that will inure to the City from the development and construction of the infrastructure within, adjacent to, and/or providing service to the Project, as well as the significant and substantial financial benefit to the City derived from such infrastructure, being developed and constructed without an initial capital outlay by the City, and in order to fully and fairly reimburse WestRidge for its private investment in public infrastructure the City shall share with WestRidge an amount not to exceed Twelve Million Five Hundred Thousand Dollars (\$12,500,000.00) (the "Reimbursement Amount") payable as follows and subject to the below stated limitations:

- Within sixty (60) calendar days of the end of each calendar quarter, the City shall pay to WestRidge Fifty percent (50%) of the Project Taxes actually collected by the City from each and all of the owners, tenants, and occupants of the Annexed Property during such calendar quarter ("Westover Infrastructure Participation Arrangement").
- The Westover Infrastructure Participation Arrangement shall be in effect and exist for the period commencing as of the Effective Date and continuing through and until the earlier to occur of thirty (30) years from the Effective Date or upon the Reimbursement Amount having been paid and delivered to WestRidge with respect to the Westover Infrastructure Participation Arrangement (the "Tax Incentive Period"). (30 years or \$12,500,000.00).

**AFFIDAVIT OF  
NO  
OUTSTANDING  
STATE FEES**

CITY OF WESTOVER  
500 DUPONT ROAD  
WESTOVER, WV 26501  
PHONE: 304-296-6860 FAX: 304-296-6582  
[cityofwestover@comcast.net](mailto:cityofwestover@comcast.net)

**MAYOR ROBERT A. LUCCI**

**AFFIDAVIT**

STATE OF WEST VIRGINIA,  
COUNTY OF MONONGALIA, to wit:

The Affiant, after being duly sworn, swears and affirms as follows:

1. I, Robert A. Lucci, am the Mayor of the City of Westover
2. As the Mayor and Chief Executive Officer, I am familiar with all of the financial affairs for the City of Westover.
3. I certify that the City of Westover is not delinquent nor has any outstanding payments due to the State of West Virginia.

And further the affiant sayeth not.

City of Westover,

W

By: Robert A. Lucci

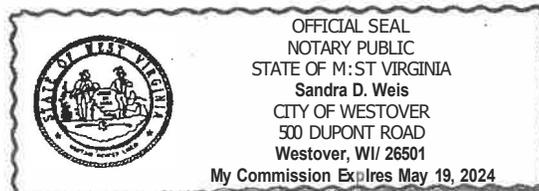
Its: Mayor

Taken, sworn to and subscribed before me the 8th of August, 2023.

My Commission expires: 1230( 11, 2024-

:Ap' \_\_\_\_\_

(SEAL)





STATE OF WEST VIRGINIA  
State Tax Department, Taxpayer Services Division  
P.O. Box 885  
Charleston, WV 25323-0885



Matthew R. Irby, State Tax Commissioner

WESTOVER CITY OF  
500 DUPONT RD  
WESTOVER WV 26501-9629

Letter Id: L0168437536  
Issued: 04/24/2023

## West Virginia State Tax Department

### Statement of Good Standing

EFFECTIVE DATE: April 24, 2023

A review of tax accounts indicates that WESTOVER CITY OF is in good standing as of the effective date of this document. Please note, this Statement of Good Standing expires on **July 23, 2023**.

The issuance of this Statement of Good Standing shall not bar any audits, investigations, assessments, refund or credits with respect to the taxpayer named above and is based only on a review of the tax returns and not on a physical audit of records.

Sincerely,

Nicole Grant, Tax Unit Supervisor  
Taxpayer Services Division

**ATTORNEY  
OPINION**

**ATTORNEY TIM STRANKO, PLLC**  
**424 Park Street**  
**MORGANTOWN, WV 26501**  
[304.288.7538/TStranko@wvcitylaw.com](mailto:304.288.7538/TStranko@wvcitylaw.com)

**West Virginia Bar ID# 7236**

July 31, 2023

West Virginia Home Rule Board  
Capitol Complex, Building 6, Room 525  
Charleston, WV 25305-0311

**RE: City of Westover Home Rule Application**

Dear Ladies and Gentlemen:

I serve as Counsel to the City of Westover, Monongalia County. In that capacity, and after review of West Virginia Code §§ 8-1-5a,6 and the ancillary guidelines regarding the Home Rule program, I make the following opinion:

- 1) That the subject application is fully compliant with authorizing and controlling West Virginia law and guidelines; and,
- 2) That the subject application does not provide for or suggest changes to statute or regulation prohibited at West Virginia Code § 8-1-5a(i); and,
- 3) That the subject application does not attempt any act prohibited by West Virginia Code § 8-1-5a(j); and,
- 4) That the subject application is fully compliant with West Virginia Code § 8-1-6.

Thank you for your service to our State and City. I am available at your convenience to provide additional information as may be requested by the Board.

Truly yours,



ATTORNEY TIM STRANKO, PLLC

cc: City of Westover