

CITY OF WHEELING



CITY COUNTY BLDG., 1500 CHAPLINE STREET
WHEELING, WEST VIRGINIA 26003

May 22, 2013

Honorable Members of the Board
WV Home Rule Pilot Program
WV Department of Commerce
State Capitol Complex
Building 6, Room 525
Charleston, WV 25305-0311

RE: Municipal Home Rule Pilot Program Amendment

Dear Board Members:

The City of Wheeling respectfully herein submits its Amendment for consideration as an approved Plan participant in the West Virginia Municipal Home Rule Pilot Program. Enclosed please find the Amendment with attachments, as well as the requisite affidavits and documents evidencing that the procedural requirements of West Virginia Code § 8-1-5a et seq. have been met.

Thank you in advance for your consideration. Should you have any questions regarding the enclosed, please do not hesitate to contact me.

Sincerely,

A handwritten signature in blue ink, appearing to read "RH", with a horizontal line extending to the right.

Robert Herron
City Manager

RH:jb

Enclosure

PILOT HOME RULE PROGRAM PLAN

PROPOSED AMENDMENT

OF THE CITY OF WHEELING

CITY OF WHEELING
Proposed Amendment to its
Previously Approved Home Rule Plan

Introduction

In the City of Wheeling Home Rule Application Plan submitted on Wednesday, December 19, 2007, the following section was specifically stated:

PILOT PLAN FLEXIBILITY AVAILABLE THROUGH AMENDMENT TO THE PLAN

As the enabling statute at West Virginia Code § 8-1-5a(f)(5) suggests, the City of Wheeling wishes also to have its plan proposal be interpreted in a flexible manner which may permit amending its plan, if chosen as a pilot municipality. West Virginia Code § 8-1-5a(f)(5) provides that the Board may authorize amendments to approved plans. The City of Wheeling understands that amendments which vary the initial proposals may need to proceed procedurally as do tax increment financing plan amendments, which require a public hearing and an amending ordinance, etc. However, the City wishes to have an ability, if the Home Rule Board believes that such flexibility is permitted, to present new proposals or amendments to its plan for the board to consider during the initial term of the program. This could provide the City with further opportunities to explore other potential areas not specifically identified herein where Home Rule Authority may be applied in the City of Wheeling. As well, there may be ideas or proposals from other municipalities that, if chosen as a pilot municipality, the City of Wheeling may wish to implement if feasible during the pilot time frame.

During the City's initial presentation to the Pilot Home Rule Board members, the City reiterated its desire for flexibility by way of modification and possible amendment.

In 2008, pursuant to the authority provided by West Virginia Code § 8-1-5a, the Municipal Home Rule Board (The "Board") selected the City of Wheeling ("Wheeling"), along with three other municipalities, to participate in the West Virginia Home Rule Pilot Program and approved the original Home Rule Plan of Wheeling. As evidenced by the Performance Evaluation and Research Division's special report on the Municipal home Rule Pilot Program, Wheeling has successfully and responsibly exercised its powers under Home Rule and has, without challenge from either its City Council or citizenry, judiciously implemented its plan. Several of Wheeling's Board approved proposals have been implemented state wide, and other proposals implemented by Wheeling, or parts thereof, are now under consideration for state wide implementation.

Under West Virginia Code § 8-1-5a(f)(5), the Board has the power to authorize amendments to approved plans and has done so at the request of other participating municipalities. Wheeling has previously requested, and received approval of, an amendment in 2009. The City's initial plan was

CITY OF WHEELING HOME RULE PROPOSED AMENDMENT

approved in 2008 by the Board. For the reasons set for there herein, Wheeling is now requesting that the Board authorize the following amendment to Wheeling's approved plan in the category of taxation.

Specific state laws, policies, rules or regulations

West Virginia Code § 18-13C-4(a) & § 18-13C-4(b)

Problem: State law unduly restricts Wheeling's ability to timely and effectively generate revenue for essential economic and community development in a manner and method consistent with local needs and resources, and current economic conditions.

West Virginia law currently provides little flexibility with respect to taxation structure and funding sources available to municipalities. Other than the ability to assess minimal fees for certain services, which typically only cover a very small portion of the cost to deliver those essential services, municipalities have few other revenue generating options. Primarily, municipalities in West Virginia are permitted to impose Business and Occupation ("B&O") taxes under West Virginia Code § 8-13-5 *et seq.* The rates, classifications and exemptions governing the application of B&O taxes were adopted for use by the State of West Virginia, not its municipalities, decades ago and have not been regularly updated to reflect the current economic environment and funding challenges facing many of the state's municipalities. They also limit the source of funding and can negatively impact a municipality's ability to attract and retain businesses within municipal borders.

In order to provide necessary revenue to fund its required duties and obligations, Wheeling currently imposes B&O taxes within rates permitted by state law, which can be a detriment when recruiting businesses to locate within the City limits, or keeping business from relocating outside city limits. In some circumstances, businesses prefer to operate just outside the city limits giving the business access to the population and benefits/resources of the city, without having to pay the city's B&O tax. In addition, businesses have the added incentive to consider locations in Ohio and still be well within the Wheeling Market area. Consideration has been given of potentially increasing the B&O tax rates, however the city determined that an increase in revenue gained by increasing the B&O tax rates or changing the B&O tax structure will likely come at the expense of economic development by placing an increased tax burden on existing businesses and inhibiting the location of new businesses within the city limits. Wheeling examined lowering B&O tax rates on classifications of businesses as an incentive to develop new and/or retain existing business in Wheeling, but the losses to revenue by doing so could not be sustained over the time it would take for the anticipated economic and financial benefits resulting from such expansion and development to be realized (with no promise that such growth will occur). Moreover, the loss of B&O tax revenue during such expansion and development period would have to be offset by raising B&O tax rates for certain other classifications thereby placing a disproportionate burden on those businesses.

Currently under West Virginia Code § 8-13-4(a) (Pension Relief Municipal Sales Tax) and

CITY OF WHEELING HOME RULE PROPOSED AMENDMENT

§ 8-13C-4(b) (Alternative Municipal Sales Tax), municipalities are allowed to impose a municipal sales and service tax and use tax (hereinafter collectively “consumer sales/use tax”), but only if, respectively, the police and fire pension funds are severely underfunded, in which case any revenue generated by the sales/use tax could only be applied toward the pension funds, or, alternatively, if the municipality intends to use the proceeds from a municipal consumer sales/use tax for any other purpose, it must forgo the imposition of all B&O taxes. A municipal consumer sales/use tax, even at the statutory maximum rate of one percent, will not generate enough revenue on its own to replace the approximately \$9 million in revenue generated by the collection of B&O taxes within the City of Wheeling. A municipal consumer sales/use tax operating under current state statute is not a feasible revenue source for Wheeling to be able to continue to provide services to its citizens and promote economic development in one of the largest municipalities in the Northern Panhandle of West Virginia.

Additionally, current State code affords municipalities certain other taxing authority, including the privilege to impose an amusement tax under West Virginia Code § 8-13-6 and a tax on liquors and private club fees under West Virginia Code § 8-13-7, and the ability to propose the imposition of a special district excise tax (an incremental sales tax TIF District tax) under West Virginia Code § 8-32-12. While Wheeling currently imposes such an amusement tax, neither it nor any combination of the aforementioned taxes are capable of currently generating sufficient amounts of revenue to meet the financial obligations of the city or to fund the public improvements necessary for sustained economic growth. Further, Wheeling already collects a six percent (6%) hotel occupancy tax under West Virginia Code § 8-13-3, however, such hotel occupancy taxes now generates the city’s annual subsidy towards the Greater Wheeling Sports and Entertainment Authority operating budget as well as funding the City’s Recreation Department. Consequently, the prohibition under current law respecting the imposition of both a municipal consumer sales/use tax for non-pension uses and a B&O tax, prohibits Wheeling’s ability to carry out the City’s duties and responsibilities in a cost effective, efficient and timely manner for the benefit of its citizens.

Wheeling’s proposal will effectively and efficiently address an immediate need to undertake a major and essential improvement projects to expand, improve and rehabilitate the WesBanco Arena and surrounding City owned property necessary for maintaining and growing the city’s current entertainment and tourism business as well as promoting new convention possibilities. The project includes the proposed addition of convention and banquet space, increasing the number of meeting rooms, improving energy efficiency and technology resources, and generally updating of appearance and programs to be competitive with state-of-the-industry standards. Also included is the ability to make general upgrades to the facility as determined to be in the Arena’s best interest for its long term viability. These improvements will draw more consumers to Wheeling and the State through the enhanced ability to attract, service, and support new convention, entertainment, recreation and tourism business. It is anticipated that the necessary improvements will cost between \$7 million to \$10 million with the potential to leverage an additional \$10 to \$20 million in private investment. An existing Tax Increment Financing District is well established and could generate limited revenues to assist with project costs, however, not at a level sufficient to undertake a project of this nature. Without a new source for such revenue, this project cannot proceed and the City will not be able to grow new convention activity and maintain its existing recreational, entertainment and tourism

CITY OF WHEELING HOME RULE PROPOSED AMENDMENT

activity, let alone attract additional business to our city, state and region.

City-wide infrastructure continue to age and, in some cases, deteriorate to unsafe levels. The City annually prioritizes infrastructure needs throughout the City. Unfortunately existing available funds fall far below the levels needed to address the many needs. Necessary public projects include, but are not limited to, street resurfacing; storm water management; bridge repair and replacement; sidewalks; playground equipment; park facilities such as baseball fields, tennis and basketball courts, etc.; retaining walls for public streets; equipment; City owned buildings maintenance and improvements; and other applicable public infrastructure projects.

This proposed Amendment would enable the City to annually make available approximately ½ of the new net revenue from this proposal specifically for the above referenced public infrastructure issues. Adoption of this proposed Amendment will greatly enhance the City's ability to address this significant community need to the betterment of all of its citizens.

Wheeling, the state's only Class II city which borders two states which can be accessed within minutes by driving across Interstate 70, needs to move forward with this project now in order to remain competitive and viable. Thus, the limitations under current state law not permitting a municipality to impose both B&O taxes and a municipal consumer sales/use tax do not afford Wheeling the ability to formulate an equitable and balanced tax structure that raises sufficient operating revenues, promotes economic development and growth (through reduction, but not elimination, of existing B&O taxes), while raising additional revenues (through imposition of a new municipal consumer sales/use tax) to fund public improvements, including specifically the project noted above, necessary for continued growth and diversification of the city's economy.

Solution: The fiscal flexibility to supplement the revenue stream with a municipal consumer sales/use tax which will facilitate essential economic and community development, without unduly burdening Wheeling businesses.

The City of Wheeling is proposing the enactment of a municipal consumer sales/use tax within the City of Wheeling, while continuing to collect B&O taxes. Wheeling is proposing that it be allowed to impose a municipal consumer sales/use tax, notwithstanding the current prohibitions to do so under West Virginia Code § 8-13C-4, while at the same time maintaining its current B&O tax. Specifically, the City's request of the Board is to permit Wheeling the privilege of imposing a municipal consumer sales/use tax within the City. The City continues to exercise its statutory authority to impose, collect, administer, and enforce its B&O tax.

Adjustments and reductions will also be considered for the City's Amusement Tax category. In addition to continuing to impose its B&O tax, it is Wheeling's current intent to impose a 0.5% municipal consumer sales/use tax. Exclusions to this proposed ½% local sales tax would include unprepared food goods. It is Wheeling's intent to establish the new municipal consumer sales/use tax as a special revenue source of the City for purposes of meeting debt service for an applicable bond/note/loan for the referenced municipal civic arena improvements and development of surrounding City owned properties improvements, City infrastructure improvements, providing funds for other essential future economic development projects. The clear relationship between a

CITY OF WHEELING HOME RULE PROPOSED AMENDMENT

municipal arena/convention improvement project and the economic impact of the additional convention, entertainment and tourism dollars that such improvements will bring into the City, as well as solid City-wide infrastructure, in addition to the economic development benefits provided by the fiscal flexibility implement a municipal consumer sales/use tax within the City, supports the public policy behind Wheeling's proposal.

Specific Power Requested under Proposed Amendment to Wheeling's Home Rule Plan

Wheeling respectfully requests that it be granted the power under West Virginia Code § 8-1-5a to amend its approved Home Rule Plan to permit Wheeling the ability to impose a municipal consumer sales/use tax within the city without the restrictions imposed on municipalities under West Virginia Code § 8-13C-1 *et seq.* Wheeling further requests such other powers deemed necessary to enact and implement the requested municipal consumer sales/use tax and as may be required to coordinate with the West Virginia State Tax Commissioner for the administration, enforcement and collection of the municipal consumer sales/use tax by the Tax Commissioner.

Wheeling hopes to have an opportunity at the next meeting of the Board to have this, its second, Pilot Home Rule Plan Amendment reviewed, evaluated and acted upon and is open to discussing any and all recommendations of the Board to this proposed Plan Amendment submitted by the City.

In conclusion, should the Board approve the City's request to amend its approved Home Rule Plan, the City shall proceed to craft an Ordinance that effectuates the purpose of the Amendment. The City of Wheeling's Amendment is quite similar to that most recently submitted by the City of Charleston, WV, a sister city in the Pilot Municipal Home Rule Program. If this Amendment is approved by the Board, the procedure for the City would be as follows: ① Craft the Ordinance along the parameters discussed herein; ② Review the status of the similar City of Charleston Ordinance which is an amendment to Charleston's Pilot Program Application which has been publicly circulated; ③ Wheeling's Draft Ordinance would be reviewed by the Rules/Finance Committee of City Council; ④ the Committee Minutes would be read and voted upon as to approval; ⑤ there would be a public hearing; and ⑥ the Ordinance would be read twice and thereafter a majority vote would be needed for passage. The City would envision enactment at the beginning of the 2013-14 Fiscal Year being July 1, 2013.

The City thanks the Board in advance for consideration of this Plan Amendment.

CITY OF WHEELING HOME RULE PROPOSED AMENDMENT

Projected Fiscal Impact/Feasibility

Introduction

Lost Economic Opportunity

In the last five years the City of Wheeling has lost the opportunity to be the location of numerous national, regional and state meetings simply because meeting facilities at the WesBanco Arena and its property did not satisfy the criteria necessary for those meetings to be held in Wheeling. In addition, this active facility is 36 years old and in need of upgrades. It's not known the number of conventions and meetings that were not held in Wheeling simply because Wheeling did not have the facilities for Wheeling to be considered in the first place without this opportunity. The City estimated it will be unable to leverage an additional \$10 to \$15 million in private investment in the Arena area for hotel and convention space.

Projected Municipal Consumer Sales/Use Tax Impact

The base fiscal impact of the municipal consumer sales/use tax is estimated to be more than \$2,484,000 in revenue per year to Wheeling once the tax is in effect for a full calendar year. Based on information and belief, the West Virginia State Department of Revenue is currently unable to provide detailed data regarding retail sales tax receipts for the Retail Tax base in Wheeling or Ohio county. In order to estimate the impact of a municipal sales/use tax, Wheeling estimated retail bases sales by examining the gross sales reported to Wheeling in the Retail classification under its B&O Taxes over the past 3 years, which produced estimated retail bases sales after adjustments for exemption of unprepared food sales and automobile sales of \$534,197,000 annually. The proposed tax rate of .5% applied to the estimated retail base sales represents an estimated \$2,484,000 in revenue.

Administrative Processing

The mechanism by which a municipal consumer sales/use tax is administered is established in West Virginia Code §§ 8-13C-6, 8-13C-7, 11-15B-33, 11-15B-34 and 11-15B-35, with the State Tax Commissioner acting as the administrative, collecting, and enforcing agency. Currently three municipalities, Huntington, Rupert and Williamstown, impose a 1% municipal consumer sales/use tax. Williamstown's tax has been in effect since October 1, 2011. Huntington's tax became effective January 1, 2012, and Rupert's tax became effective April 1, 2013. Thus the State Tax Commissioner has had experience executing the provisions of the state code regarding the administration, collection and remittance to a city of that city's municipal consumer sales/use tax. The City of Wheeling will communicate with the State Tax Commissioner to review the administrative process and the fee for collection that the State Tax Commissioner's office will retain, and to become familiar with the rules and requirements under which a municipal consumer sales/use tax can be implemented and administered. Wheeling intends to cooperate with the State Tax Commissioner and his staff throughout the implementation, administration and collection of the municipal consumer sales/use tax. It is also contemplated that the cooperation and sharing of information between Wheeling and the State will ultimately result in increased revenue for both.

CITY OF WHEELING

WEST VIRGINIA MUNICIPAL HOME RULE PILOT PROGRAM

PROPOSED AMENDMENT

**ATTORNEY OPINION STATING
APPLICATION COMPLIES WITH STATUTORY REQUIREMENTS**

CITY OF WHEELING



OFFICE OF THE CITY SOLICITOR

CITY COUNTY BUILDING
1500 CHAPLINE STREET
WHEELING, WEST VIRGINIA 26003
TELEPHONE (304) 234-3736
FACSIMILE (304) 234-3605

Date : May 8, 2013

Applicant : CITY OF WHEELING, WEST VIRGINIA

Re : City of Wheeling Municipal Home Rule Proposal Amendment

Ladies and Gentlemen:

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

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

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

The Municipal Home Rule Board may rely upon this opinion. As well, since the City of Wheeling's Amendment is substantially similar to that proposed by the City of Charleston, WV and the Legal Opinion of Brian Herrick, Esq. and Dale Steager, Esq. of Spilman Thomas & Battle, PLLC regarding substantive issues concerning the constitutionality of the Proposed Home Rule Plan Amendment is similarly applicable, it is being referenced herein and is included immediately following this document .

Sincerely,

A handwritten signature in blue ink that reads "Rosemary Humway-Warmuth".

Rosemary Humway-Warmuth
City Solicitor

RHW:jb

City of Charleston Home Rule Plan Proposed Amendment



Brian C. Helmick
304.340.3826
e-mail: bhelmick@spilmanlaw.com

Dale W. Steager
304.340.1692
e-mail: dsteager@spilmanlaw.com

April 15, 2013

The Honorable Patsy Trecost II, Chair
Municipal Home Rule Board
c/o West Virginia Development Office
Building 6, Room 553
State Capital Complex
1900 Kanawha Boulevard, East
Charleston, WV 25305-0311

Re: Constitutionality of the City of Charleston's proposed Home Rule Plan Amendment

Dear Chair Trecost:

Spilman Thomas & Battle, PLLC was asked by the City of Charleston, West Virginia, to write to the Municipal Home Rule Board regarding the proposal by the City to amend its Home Rule Plan for the purpose of imposing sales and use taxes that would be levied on the same tax base upon which the State consumers sales and use taxes are imposed that are deposited in the State General Revenue Fund, and which would be administered and collected by the State Tax Commissioner.

As you are aware, municipal corporations have no inherent authority to impose a sales tax or a use tax. "The taxing power of a municipality depends upon legislative authority, expressed or necessarily implied." Syllabus point, *The Anderson-Newcomb Co. v. The City Of Huntington.*, 117 W. Va. 716, 188 S.E. 118 (1936).

Nothing in article 13, chapter 8 of code of West Virginia of 1931, as amended, which relates generally to municipal taxation and finance, authorizes municipal corporations to impose a sales and service tax or a use tax. The Legislature has authorized municipal corporations, in W. Va. Code § 8-13C-4, to impose sales and use taxes subject to restrictions that make it fiscally impossible for the City of Charleston to impose municipal sales and use taxes under that section. Because of these burdensome restrictions, the City has asked this Board to approve an amendment to its previously approved Home Rule Plan that would allow the City to impose municipal sales and use taxes without the restrictions in W. Va. Code § 8-13C-1 *et seq.*

Spilman Center 300 Kanawha Boulevard, East Post Office Box 273 Charleston, West Virginia 25321-0273
www.spilmanlaw.com 304.340.3800 304.340.3801 fax

West Virginia North Carolina Pennsylvania Virginia

City of Charleston Home Rule Plan Proposed Amendment

 SPILMAN THOMAS & BATTLE, LLC
ATTORNEYS AT LAW

The Honorable Patsy Trecoast II, Chair
Municipal Home Rule Board
April 15, 2013
Page 2 of 2

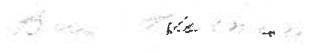
Pursuant to W. Va. Code § 8-1-5a (2007), a pilot plan municipality, such as the City of Charleston, shall have "(1) the authority to pass any ordinances . . . not contrary to the constitutions of the United States or West Virginia, federal law or chapters sixty-a, sixty-one and sixty-two of this code as specified in their written and approved plans: *Provided*, That the pilot municipalities may not adopt any ordinance, rule, regulation or resolution or take any action that would create a defined contribution employee pension or retirement plan for its employees currently covered by a defined benefit pensions plan;" and (2) shall have "[a]ny other powers necessary to implement the provisions of its approved plan." W. Va. Code § 8-1-5a(j)(1) and (2).

We have reviewed the City of Charleston's Home Rule Plan Amendment and believe the City has complied with the various requirements set forth in W. Va. Code § 8-1-5a (2007) that the City must satisfy as a condition precedent to submission of its Home Rule Plan Amendment to the Board as provided in W. Va. Code § 8-1-5a. We have also reviewed the latest drafts of ordinances that the City intends to adopt after its Home Rule Plan amendment is approved by the Board.

It is our opinion and belief that the City of Charleston's proposed amendment to its Home Rule Plan is constitutional and that it does not violate the provisions of W. Va. Code § 8-1-5a (2007). The plan amendment and the proposed sales and use tax are not contrary to (1) the Constitution of the United States or any other federal law, (2) the Constitution of this State, or (3) chapters 60A, 61 and 62 of the Code of West Virginia. Additionally, the City is not proposing to adopt any ordinance, rule, regulation or resolution, or take any other action that would create a defined contribution employee pension plan or retirement plan for its employees currently covered by a defined benefit plan.

Please let us know if you have any questions regarding this letter or if we may be of further service to the Board.

Spilman Thomas & Battle, PLLC


Brian C. Helmick (State Bar I.D. No. 8815)
Dale W. Steager (State Bar I.D. No. 3581)

BCH/DWS/ljr
4689077 (477.326)

CITY OF WHEELING

WEST VIRGINIA MUNICIPAL HOME RULE PILOT PROGRAM

PROPOSED AMENDMENT

PUBLICATION MANDATE VERIFICATION

**AFFIDAVIT OF THE CITY OF WHEELING
CITY CLERK**

In accord with the requirements of the West Virginia Municipal Home Rule Pilot Program, pursuant to West Virginia Code § 8-1-5a, I hereby certify that: the affidavits of publication are true and exact copies; that a public hearing was held on Tuesday, May 14, 2013 at 12:00 noon, which hearing was preserved upon recording tape and wherein members of the public were heard all speaking in favor of the amendment and that the Ordinance, also attached herein, received two readings, the second being on Tuesday, May 21, 2013 at the regular meeting of Wheeling City council, was discussed by members of the governing body, voted upon and duly adopted by a vote of Council.

Given under my hand and seal of the
City of Wheeling this 22nd day of May, 2013



Janice L. Jones, City Clerk

**NOTICE OF SPECIAL MEETING OF COUNCIL, PUBLIC HEARING
AND PROPOSED ADOPTION OF PROPOSED ORDINANCE**

Please take notice that during a SPECIAL meeting Tuesday, May 14, 2013 at 12:00 Noon, in the City Council Chambers, First Floor, City-County Building, 1500 Chapline Street, Wheeling, WV, the Wheeling City Council will conduct a public hearing and thereafter a first reading of the Ordinance as an Original Proposition will be presented as follows:

AN ORDINANCE AUTHORIZING THE GOVERNING BODY OF THE CITY OF WHEELING TO SUBMIT TO THE MUNICIPAL HOME RULE BOARD A PROPOSED AMENDMENT TO THE CITY OF WHEELING'S MUNICIPAL HOME RULE PLAN CONSISTENT WITH W.VA. CODE §8-1-5A REQUESTING APPROVAL TO ENACT A MUNICIPAL SALES AND SERVICE TAX AND MUNICIPAL USE TAX UNDER THE CITY'S HOME RULE POWERS.

Second and final vote of proposed ordinance will take place on Tuesday, May 21, 2013 at 5:30 p.m. during the regular third Tuesday Council meeting. Copy of written proposed amendment and full text of the ordinance is available to the public and may be inspected by the public at the Office of the City Clerk, Room 303, City-Council Building; interested parties may appear at the above public hearing scheduled at the beginning of the City Council meeting on May 14, 2013 and be heard with respect to the proposed amendment to the City's Home Rule Plan and the proposed Ordinance.

Please publish as a Class II Legal Ad on
April 12, 2013 and April 19, 2013 in
The Intelligencer and Wheeling News Register.

Send statement of charges to:

Janice L. Jones
City Clerk
City of Wheeling
1500 Chapline Street - Room 303
Wheeling WV 26003

NOTICE

Wheeling City Council will meet in special session on Tuesday, May 14, 2013, at 12:00 noon in Council Chambers (first floor) of the City-County Building. The purpose of the meeting is to hold a public hearing and thereafter the first reading of an Ordinance as an Original Proposition will be presented as follows:

AN ORDINANCE AUTHORIZING THE GOVERNING BODY OF THE CITY OF WHEELING TO SUBMIT TO THE MUNICIPAL HOME RULE BOARD A PROPOSED AMENDMENT TO THE CITY OF WHEELING'S MUNICIPAL HOME RULE PLAN CONSISTENT WITH W.VA. CODE §8-1-5A REQUESTING APPROVAL TO ENACT A MUNICIPAL SALES AND SERVICE TAX AND MUNICIPAL USE TAX UNDER THE CITY'S HOME RULE POWERS.

Second and final vote of proposed ordinance will take place on Tuesday, May 21, 2013 at 5:30 p.m. during the regular third City Council meeting. Interested parties may appear at the above mentioned public hearing scheduled at the beginning of the City Council meeting on May 14, 2013 and be heard with respect to the proposed amendment to the City's Home Rule Plan and the proposed Ordinance.

A copy of the proposed ordinance is available for review at the Office of the City Clerk during regular business hours.

Please publish in the Wheeling News Register and the Intelligencer on May 7, 2013.

Please send bill to:

Janice L. Jones
City Clerk
City of Wheeling
1500 Chapline St.
Wheeling, WV 26003

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Publications ... Runs News-Register-Legals ... 2		Solicitor: LE	Origin: 1	Sales Rep: 0	Credit Card	Credit Card Number	Card Expire		
<table border="1"> <tr> <th align="center">Identifier</th> </tr> <tr> <td> NOTICE NOTICE OF SPECIAL MEETING OF COUNCIL, PUBLIC HEARING AND PROPOSED ADOPTION OF PROPOSED ORDINANCE </td> </tr> </table>					Identifier	NOTICE NOTICE OF SPECIAL MEETING OF COUNCIL, PUBLIC HEARING AND PROPOSED ADOPTION OF PROPOSED ORDINANCE	<i>Home Rule</i>		
Identifier									
NOTICE NOTICE OF SPECIAL MEETING OF COUNCIL, PUBLIC HEARING AND PROPOSED ADOPTION OF PROPOSED ORDINANCE									
Department <u>City Clerk</u> Budget Item <u>001 4415-20-2101</u> Person Signing for Materials _____ Date Material Picked Up _____ Department Head Signature <u>Janece Jones</u>					R. O. Number _____ Date Bill Received <u>4/22/13</u> Competitive Bids _____				

*=Extend Expiration Date

231925

**NOTICE
NOTICE OF SPECIAL
MEETING OF COUNCIL,
PUBLIC HEARING AND
PROPOSED ADOPTION
OF PROPOSED ORDINANCE**

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Second and final vote of proposed ordinance will take place on Tuesday, May 21, 2013 at 5:30 p.m. during the regular third Tuesday Council meeting. Copy of written proposed amendment and full text of the ordinance is available to the public and may be inspected by the public at the Office of the City Clerk, Room 303, City-Council Building; interested parties may appear at the above public hearing scheduled at the beginning of the City Council meeting on May 14, 2013 and be heard with respect to the proposed amendment to the City's Home Rule Plan and the proposed Ordinance.
Int. April 12, 19, 2013
N.R. April 12, 19, 2013

**STATE OF WEST VIRGINIA,
COUNTY OF OHIO.**

I, Kenneth Bales for the publisher of the *Wheeling News Register* newspaper published in the CITY OF WHEELING, STATE OF WEST VIRGINIA, hereby certify that the annexed publication was inserted in said newspaper on the following dates:

4/12/13 4/19/13

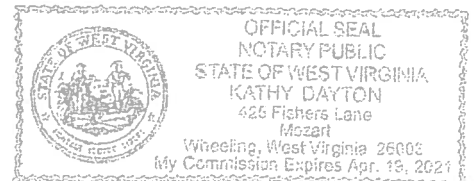
Given under my hand this 19th day of April, 2013

Sworn to and subscribed before me this 19th day of April, 2013 at WHEELING, OHIO COUNTY, WEST VIRGINIA

Kathy Dayton
Notary Public

of, in and for OHIO COUNTY, WEST VIRGINIA.

My Commission expires April 19, 2021



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04/10/2013 8:42:32AM

26003

No: 231924

Phone: 304 234-6401

Ad No 231924	Customer No: L00131	Start Date 04-12-2013	Stop Date 04-19-2013	Category: Announcements			Classification: Legal Notices			
Order No	Rate: L	Lines: 72	Words: 237	Inches: 7.00		Cost 68.85	Payments .00	Balance 68.85		
Publications ... Runs Intelligencer-Legals ... 2		Solicitor: LE	Origin: 1	Sales Rep.: 0	Credit Card	Credit Card Number	Card Expire			
<table border="1"> <tr> <th align="center">Identifier</th> </tr> <tr> <td> NOTICE NOTICE OF SPECIAL MEETING OF COUNCIL, PUBLIC HEARING AND PROPOSED ADOPTION OF PROPOSED ORDINANCE </td> </tr> </table>					Identifier	NOTICE NOTICE OF SPECIAL MEETING OF COUNCIL, PUBLIC HEARING AND PROPOSED ADOPTION OF PROPOSED ORDINANCE	<i>Home Rule</i>			
Identifier										
NOTICE NOTICE OF SPECIAL MEETING OF COUNCIL, PUBLIC HEARING AND PROPOSED ADOPTION OF PROPOSED ORDINANCE										
Department <u><i>City Clerk</i></u> Budget Item <u><i>001.4415.20.2101</i></u> Person Signing for Materials _____ Date Material Picked Up _____ Department Head Signature <u><i>Janice L. Jones</i></u> R. O. Number _____ Late Bill Received <u><i>4/22/13</i></u>					Competitive Bids <u><i>#001956</i></u>					

*=Extend Expiration Date

NOTICE
NOTICE OF SPECIAL MEETING OF COUNCIL, PUBLIC HEARING AND PROPOSED ADOPTION OF PROPOSED ORDINANCE

Please take notice that during a SPECIAL meeting Tuesday, May 14, 2013 at 12:00 Noon, in the City Council Chambers, First Floor, City-County Building, 1500 Chapline Street, Wheeling, WV, the Wheeling City Council will conduct a public hearing and thereafter a first reading of the Ordinance as an Original Proposition will be presented as follows:

AN ORDINANCE AUTHORIZING THE GOVERNING BODY OF THE CITY OF WHEELING TO SUBMIT TO THE MUNICIPAL HOME RULE BOARD A PROPOSED AMENDMENT TO THE CITY OF WHEELING'S MUNICIPAL HOME RULE PLAN CONSISTENT WITH W.VA. CODE Section 8-1-5A REQUESTING APPROVAL TO ENACT A MUNICIPAL SALES AND SERVICE TAX AND MUNICIPAL USE TAX UNDER THE CITY'S HOME RULE POWERS.

Second and final vote of proposed ordinance will take place on Tuesday, May 21, 2013 at 5:30 p.m. during the regular third Tuesday Council meeting. Copy of written proposed amendment and full text of the ordinance is available to the public and may be inspected by the public at the Office of the City Clerk, Room 303, City-Council Building, interested parties may appear at the above public hearing scheduled at the beginning of the City Council meeting on May 14, 2013 and be heard with respect to the proposed amendment to the City's Home Rule Plan and the proposed Ordinance.
Int. April 12, 19, 2013
N.R. April 12, 19, 2013

STATE OF WEST VIRGINIA,
COUNTY OF OHIO.

I Conne Balle for the publisher of the *Intelligencer* newspaper published in the CITY OF WHEELING, STATE OF WEST VIRGINIA, hereby certify that the annexed publication was inserted in said newspaper on the following dates:

4/12/13 4/19/13

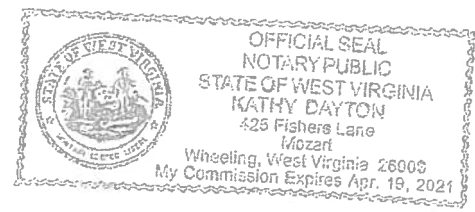
Given under my hand this 19th day of April, 2013

Sworn to and subscribed before me this 19th day of April 2013 at WHEELING, OHIO COUNTY, WEST VIRGINIA

Kathy Dayton
Notary Public

of, in and for OHIO COUNTY, WEST VIRGINIA.

My Commission expires April 19, 2021



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 WHEELING, WV

05/01/2013 3:28:43PM

26003

No: 232020

Phone: 304 234-6401

Ad No 232020	Customer No: L00131	Start Date 05-07-2013	Stop Date 05-07-2013	Category: Announcements		Classification: Legal Notices			
Order No	Rate: L	Lines: 60	Words: 206	Inches: 5.83	Cost 31.67	Payments .00	Balance 31.67		
Publications ... Runs News-Register-Legals ... 1		Solicitor: LE	Origin: 1	Sales Rep: 0	Credit Card	Credit Card Number	Card Expire		
		<table border="1"> <tr> <th align="center">Identifier</th> </tr> <tr> <td> NOTICE Wheeling City Council will meet in special session on Tuesday, May 14, 2013, at 12:00 noon in Council Chambers (first floor) of the City-County Building. The </td> </tr> </table>			Identifier	NOTICE Wheeling City Council will meet in special session on Tuesday, May 14, 2013, at 12:00 noon in Council Chambers (first floor) of the City-County Building. The	<p align="center"><i>Home Rule</i></p>		
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		Department <u><i>City Clerk</i></u> Budget Item <u><i>001.4415.20.2101</i></u> Person Sign. _____ Date Made _____ Department _____ <u><i>Janece Jones</i></u>							
		R. O. No. _____ Date Bill _____ <u><i>5/10/13</i></u> Competitive Bid _____							

*=Extend Expiration Date

V# 001956

NOTICE
Wheeling City Council will

meet in special session on Tuesday, May 14, 2013, at 12:00 noon in Council Chambers (first floor) of the City-County Building. The purpose of the meeting is to hold a public hearing and thereafter the first reading of an Ordinance as an Original Proposition will be presented as follows:

AN ORDINANCE AUTHORIZING THE GOVERNING BODY OF THE CITY OF WHEELING TO SUBMIT TO THE MUNICIPAL HOME RULE BOARD A PROPOSED AMENDMENT TO THE CITY OF WHEELING'S MUNICIPAL HOME RULE PLAN CONSISTENT WITH W.V.A. CODE §§1-5A REQUESTING APPROVAL TO ENACT A MUNICIPAL SALES AND SERVICE TAX AND MUNICIPAL USE TAX UNDER THE CITY'S HOME RULE POWERS.

Second and final vote of proposed ordinance will take place on Tuesday, May 21, 2013 at 5:30 p.m. during the regular third City Council meeting. Interested parties may appear at the above mentioned public hearing scheduled at the beginning of the City Council meeting on May 14, 2013 and be heard with respect to the proposed amendment to the City's Home Rule Plan and the proposed Ordinance.

A copy of the proposed ordinance is available for review at the Office of the City Clerk during regular business hours.
Int. May 7, 2013
N.R. May 7, 2013

**STATE OF WEST VIRGINIA,
COUNTY OF OHIO.**

I Kenneth Bell for the publisher of the *Wheeling News Register* newspaper published in the **CITY OF WHEELING, STATE OF WEST VIRGINIA**, hereby certify that the annexed publication was inserted in said newspaper on the following dates:

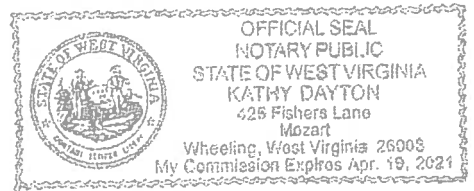
5-7-13

Given under my hand this 7th day of May, 2013

Sworn to and subscribed before me this 7th day of May, 2013 at **WHEELING, OHIO COUNTY, WEST VIRGINIA**

Kathy Dayton
Notary Public

of, in and for **OHIO COUNTY, WEST VIRGINIA**.
My Commission expires April 19, 2021



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CITY CLERKS OFFICE
 1500 CHAPLINE ST. ROOM 301
 WHEELING, WV

05/01/2013 3:28:29PM

26003

No: 232019

Phone: 304 234-6401

Ad No 232019	Customer No: L00131	Start Date 05-07-2013	Stop Date 05-07-2013	Category: Announcements		Classification: Legal Notices			
Order No	Rate: L	Lines: 60	Words: 206	Inches: 5.83	Cost 33.67	Payments .00	Balance 33.67		
Publications ... Runs Intelligencer-Legals ... 1		Solicitor: LE	Origin: 1	Sales Rep: 0	Credit Card	Credit Card Number	Card Expire		
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		<p align="center"><i>City Clerk</i></p> <p align="center"><i>CC# 4415.20.2101</i></p>		<p align="right"><i>Janice L. Jones</i></p> <p align="right"><i>5/10/13</i></p>					
		<p>*=Extend Expiration Date</p>							

CompuServe Bids

V# 001956

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A copy of the proposed ordinance is available for review at the Office of the City Clerk during regular business hours.
Int. May 7, 2013
N.R. May 7, 2013

**STATE OF WEST VIRGINIA,
COUNTY OF OHIO.**

I *Anna Balle* for the publisher of the *Intelligencer* newspaper published in the CITY OF WHEELING, STATE OF WEST VIRGINIA, hereby certify that the annexed publication was inserted in said newspaper on the following dates:

5-7-13

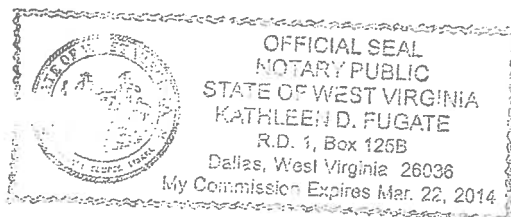
Given under my hand this 7th day of May, 2013

Sworn to and subscribed before me this 9th day of May, 2013 at WHEELING, OHIO COUNTY, WEST VIRGINIA

Kathleen D Fugate
Notary Public

of, in and for OHIO COUNTY, WEST VIRGINIA.

My Commission expires Mar 22, 2014



CITY OF WHEELING

WEST VIRGINIA MUNICIPAL HOME RULE PILOT PROGRAM

PROPOSED AMENDMENT

**HEARING MANDATE VERIFICATION AND
AGENDAS EVIDENCING TWO READINGS OF THE PROPOSED ORDINANCE**

CITY OF WHEELING



CITY COUNTY BLDG., 1500 CHAPLINE STREET
WHEELING, WEST VIRGINIA 26003

CERTIFICATION

The undersigned, being the duly qualified, elected and acting City Clerk of the City of Wheeling, does hereby certify that the attached is the true and exact copy of the Agenda and Minutes for the May 14, 2013 special meeting of City Council/

By: Janice L. Jones
Janice L. Jones, City Clerk

SPECIAL MEETING AGENDA

Wheeling, West Virginia
DATE: May 14, 2013

CONVENED: _____

ADJOURNED:

INVOCATION:

ROLL CALL

“PUBLIC HEARING - AMENDMENT TO CITY OF WHEELING’S MUNICIPAL HOME RULE PLAN”

ORIGINAL PROPOSITIONS

1. Amendment to the City of Wheeling’s Municipal Home Rule Plan - Requesting Approval to Enact a Municipal Sales and Service Tax and Municipal Use Tax.

EXECUTIVE SESSION

1. To discuss Personnel matters

Council of the City of Wheeling met in Special Session in Council Chambers, City-County Building on the above date with Mayor Andy McKenzie presiding.

The invocation was offered by Vice-Mayor Eugene Fahey.

On roll call, the following were present:

McKenzie, Delbrugge, Imer, Henry, Atkinson and Fahey

- 6

Mr. Miller was absent.

Mr. Fahey moved seconded by Mr. Henry, to suspend the regular order of business to conduct a public hearing. Motion carried.

**“PUBLIC HEARING - AMENDMENT TO CITY OF WHEELING’S
MUNICIPAL HOME RULE PLAN”**

City Manager Robert Herron explained that the City via WV Code §8-1-5a is proposing to amend their Municipal Home Rule Plan by implementing a 0.5 percent sales tax on goods sold in the City of Wheeling, with the exception of unprepared foods, cars and gasoline. This proposal is expected to generate \$2.4 million in revenue, half of which would be allocated for infrastructure projects with the other half set aside to repay bonds for future upgrades and possible convention space at WesBanco Arena and surrounding properties. Mr. Herron indicated that the City also plans to consider a separate ordinance process to review the Business and Occupation tax structure. That separate process could include revisions and reductions in the B & O tax rates. Mr. Herron also stressed that the Home Rule Application concerns instituting a municipal sales and services tax and municipal use tax pursuant to the City’s Home Rule powers. He said that if Council adopts the proposed amendment ordinance at the May 21, 2013 Council meeting, it will be forwarded to the Home Rule Board, which is scheduled to meet in Clarksburg on May 24, 2013.

Mayor McKenzie supports this proposal wholeheartedly as he believes a B & O tax places an unfair burden on job creation because it is imposed on gross revenue, regardless of how profitable a company may be.

Mayor McKenzie asked if there was anyone who wished to speak at the public hearing.

Tom Dailer, a Warwood resident, spoke in favor of the amendment as he believes the revenue this would generate would be used for much needed infrastructure improvements, such as paving, sidewalk repairs, bridge replacement and maintenance, etc.

Charles Ballouz, Windsor Manor, also spoke in favor. He hopes that Council will eventually use some of the additional revenue for infrastructure improvements such as replacing the Manchester Bridge that had connected Rock Point Rd. with East Wheeling before it was demolished years ago.

As there was no one else to speak, Mr. Fahey moved, seconded by Mr. Henry, to conclude the public hearing and resume the regular order of business.

ORIGINAL PROPOSITIONS

**AMENDMENT TO THE CITY OF WHEELING’S MUNICIPAL HOME RULE PLAN -
REQUESTING APPROVAL TO ENACT A MUNICIPAL SALES AND SERVICE TAX AND
MUNICIPAL USE TAX**

The following was then read:

AN ORDINANCE AUTHORIZING THE GOVERNING BODY OF

THE CITY OF WHEELING TO SUBMIT TO THE MUNICIPAL HOME RULE BOARD A PROPOSED AMENDMENT TO THE CITY OF WHEELING'S MUNICIPAL HOME RULE PLAN CONSISTENT WITH W.VA. CODE §8-1-5a REQUESTING APPROVAL TO ENACT A MUNICIPAL SALES AND SERVICE TAX AND MUNICIPAL USE TAX UNDER THE CITY'S HOME RULE POWERS.

Mr. Fahey moved, seconded by Mr. Henry, to suspend the regular order of business to conduct an executive session to discuss a personnel matter. Motion carried. Time: 12:15 p.m.

Mr. Fahey moved, seconded by Mr. Henry, to resume the regular order of business. Motion carried. Time 12:35 p.m.

Mayor McKenzie announced that no decisions were made in Executive Session and asked for a motion to adjourn.

There being no further business, Mr. Fahey moved, seconded by Mr. Henry, to adjourn. Motion carried. Time: 12:36 p.m.

City Clerk

Mayor

CITY OF WHEELING



CITY COUNTY BLDG., 1500 CHAPLINE STREET
WHEELING, WEST VIRGINIA 26003

CERTIFICATION

The undersigned, being the duly qualified, elected and acting City Clerk of the City of Wheeling, does hereby certify that the attached is the true and exact copy of the Agenda for the May 21, 2013 regularly scheduled meeting of City Council.

By: Janice L. Jones
Janice L. Jones, City Clerk

AGENDA

Wheeling, West Virginia
DATE: May 21, 2013

CONVENED: _____
ADJOURNED:
INVOCATION:

ROLL CALL

READING OF THE MINUTES - May 7, 2013 and May 14, 2013 (Special Meeting)

“PUBLIC HEARING - FRANCHISE AGREEMENT - AMERICAN ELECTRIC POWER OHIO & WV”

MAYOR'S REPORT

1. CLERK'S REPORT

1. Notice of Application to Operate a Private Club - Major Savings, Inc. dba Hole In One Wings And Brew - 260C Bethany Pike
2. Notice of Application to Operate a Private Club - Grindhouse WV LLC, dba Grindhouse Coffee & Tea 2085 National Road

2. UNFINISHED BUSINESS

1. Adopting Traffic Rule No. 4430 - Handicapped Parking - 225 29th St.
2. Adopting Traffic Rule No. 4431 - Handicapped Parking - 107 Alice Ave.
3. Adopting Traffic Rule No. 4432 - Handicapped Parking - 110 S. Broadway St.
4. Adopting Traffic Rule No. 4433 - No Parking Zone - East Sd. Of Bow St.
5. Adopting Traffic Rule No. 4434 - Removal of one hour parking - S. Sd. Of 7th St.
6. Zone Change - 111 Park View Lane - R-1B to EMO
7. Transfer of Property to WV Department of Transportation - Division of Highways -Glen Hollin Dr.
8. Franchise Agreement - American Electric Power Ohio & WV
9. Transfer of T.I.F. Funds to OVADC for Stone Center Renovation Project
10. Amendment to the City of Wheeling's Municipal Home Rule Plan - Requesting Approval to enact A Municipal Sales and Service Tax and Municipal Use Tax.

HELD OVER: Wheeling Housing Authority Minutes - 03/6/13; Greater Wheeling Sports & Entertainment Authority Income Statement - 02/28/13; Greater Wheeling Sports & Entertainment Authority Minutes - 03/26/13; Wheeling Traffic Commission Minutes - 04/11/13; Wheeling Human Rights Commission Minutes - 03/25/13; Wheeling Municipal Parking System Financial Statement - 03/31/13; Robert C. Byrd Intermodal Transportation Center Financial Statement - 03/31/13.

3. REMARKS FROM MEMBERS OF COUNCIL

4. REPORT OF COMMITTEES

5. REPORT OF CITY MANAGER

6. REPORT OF OTHER OFFICERS

1. Historic Landmarks Commission Minutes - 4/4/13
2. Comprehensive Plan Committee Minutes - 5/6/13
3. Planning Commission Minutes - 3/11/13
4. CDBG Program Status Report - 4/30/13
5. HOME Program Status Report - 4/30/13
6. Board of Zoning Appeals Minutes - 4/18/13
7. Financial Statement - 4/30/13

7. PETITIONS OF REDRESS OR GRIEVANCE

8. PETITIONS OF ALL OTHER KINDS

9. ORIGINAL PROPOSITIONS

1. Adoption of 2013 Replacement Pages to the Codified Ordinances
2. Resolution - Governor's Community Participation Grant Agreement- WV Sesquicentennial Celebration

THOSE WISHING TO BE HEARD

CERTIFICATION

Wheeling City Council met on May 21, 2013 at 5:30 p.m. to consider for adoption the following Ordinance:

AN ORDINANCE AUTHORIZING THE GOVERNING BODY OF THE CITY OF WHEELING TO SUBMIT TO THE MUNICIPAL HOME RULE BOARD A PROPOSED AMENDMENT TO THE CITY OF WHEELING'S MUNICIPAL HOME RULE PLAN CONSISTENT WITH W.VA. CODE §8-1-5a REQUESTING APPROVAL TO ENACT A MUNICIPAL SALES AND SERVICE TAX AND MUNICIPAL USE TAX UNDER THE CITY'S HOME RULE POWERS.

At that meeting, a motion was made by Mrs. Delbrugge, seconded by Mr. Henry, to adopt the ordinance. The motion passed unanimously. The minutes for this City Council meeting will be prepared for the next regularly scheduled City Council meeting which will be on June 4, 2013.

I certify, as City Clerk, however, for purposes of this submission for the Home Rule Amendment, that this Ordinance has been passed by the City Council of the City of Wheeling.

Given under my hand and the seal of the
City of Wheeling this 22nd day of May, 2013.


Janice L. Jones City Clerk

CITY OF WHEELING

WEST VIRGINIA MUNICIPAL HOME RULE PILOT PROGRAM

PROPOSED AMENDMENT

COPY OF ORDINANCE AUTHORIZING SUBMISSION OF AMENDMENT TO PLAN

AN ORDINANCE AUTHORIZING THE GOVERNING BODY OF THE CITY OF WHEELING TO SUBMIT TO THE MUNICIPAL HOME RULE BOARD A PROPOSED AMENDMENT TO THE CITY OF WHEELING'S MUNICIPAL HOME RULE PLAN CONSISTENT WITH W.VA. CODE §8-1-5a REQUESTING APPROVAL TO ENACT A MUNICIPAL SALES AND SERVICE TAX AND MUNICIPAL USE TAX UNDER THE CITY'S HOME RULE POWERS.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF WHEELING:

Section 1. The Mayor, as certifying official and the City Manager, as the contact person, are hereby directed to make a timely and complete amendment to the Municipal Home Rule Board for authorization of the proposed Amendment to the City's proposed Plan, pursuant to the rules and regulations found in West Virginia Code § 8-1-5a. A copy of the Home Rule Pilot Program Amendment Application and Exhibits which are available for review at the Office of the City Clerk is intended to be read as a part hereof.

Section 2. The City's initial Application and approved Home Rule Plan included provisions for flexibility of an amendment pursuant to West Virginia Code § 8-1-5a(f)(5), which provides that the Board may authorize amendments to approved plans.

Section 3. The Administration published the Notice of Proposed Adoption of the Proposed Ordinance as a Class II Legal Ad on April 12, 2013 and April 19, 2013 in The Intelligencer and Wheeling News Register, as required by law.

Section 4. A copy of written plan amendment application and full text of the ordinance has been available to the public and may be inspected by the public at the Office of the City Clerk, Room 303, City-County Building.

Section 5. A public hearing and first reading of the proposed ordinance will take place on May 14, 2013 during a special meeting in the City Council Chambers, First Floor, City-County Building, 1500 Chapline Street, Wheeling WV. The Wheeling City Council shall conduct this public hearing, during which interested parties may appear and their comments be heard and considered prior to the first reading of the Ordinance.

Section 6. Thereafter the Governing Body shall conduct the second reading of the Ordinance at its regular meeting Tuesday, May 21, 2013 at 5:30 p.m. in the City Council Chambers, First Floor, City-County Building, 1500 Chapline Street, Wheeling, WV, wherein the Ordinance shall be considered for final roll call vote on May 21, 2013.

Section 7. This ordinance shall be effective from and after the date of its passage.

By the Administration.

