

AGENDA FOR THE REGULAR MEETING OF  
PARKERSBURG CITY COUNCIL FOR TUESDAY,  
DECEMBER 9, 2014, 7:30 PM, SECOND FLOOR  
COUNCIL CHAMBERS, MUNICIPAL BUILDING

PRAYER AND PLEDGE OF ALLEGIANCE

- I. CALL TO ORDER – Council President, John Rockhold
- II. ROLL CALL
- III. MINUTES – meeting held November 18, 2014
- IV. REPORTS FROM STANDING OR SPECIAL COMMITTEES
- V. MESSAGE FROM THE EXECUTIVE
- VI. PUBLIC FORUM
- VII. RESOLUTIONS
  1. Resolution declaring City Council District #7 seat vacant as of December 9 2014. (Sponsored by all members of City Council)
  2. Resolution requesting a budget revision in the amount of \$19,008.00 to fund an administrative assistant in the Finance Department, H-4, \$11.69 per hour. (Sponsored by the Finance Committee of City Council.)
  3. Resolution authorizing Mayor Robert D. Newell to sign a grant agreement in the amount of \$89,407.00 from the WV DEP to assist with a part-time recycling assistant (including taxes); a recycling truck (used side loader); promotional materials; a new/used baler, and travel to educational events. (Sponsored by Councilmen Rockhold, Reed, and Lynch)
- VIII. ORDINANCE, FIRST READING:
  4. An ordinance establishing the Parkersburg Land Reuse Agency. (Sponsored by the Public Works Committee of City Council)
  5. An ordinance naming and appointing the Board of the City of Parkersburg Land Reuse Agency. (Sponsored by Councilmen Lynch, Coram, Reynolds, and Carpenter)

(next page)

6. An ordinance amending and re-enacting the Personnel Policy and Procedure Manual to reflect pay rate changes for minimum wage at \$8.00 per hour effective January 1, 2015. (Sponsored by the Personnel Committee)

7. An ordinance establishing the position of Administrative Assistant in the Finance Department as an H-4 position, \$11.69 per hour. (Sponsored by the Personnel Committee of Council)

8. An ordinance reclassifying the Floodwall Maintenance Mechanic position from an H-4 position to H-7 position. (Sponsored by Councilmen Reed, Rockhold, and Lynch.)

9. An ordinance to rezone a portion of Tax Map 150, parcel 9; and Tax Map 146, parcel 76.1 from R-4 to B-2. (Fort Boreman area) (Sponsored by the Municipal Planning Commission.)

10. An ordinance amending and re-enacting portions of Article 779, Business and Occupation Taxes, making reductions in Manufacturing, Retailers/Restaurants, Electric, and Natural Gas categories. (Sponsored by Councilmen Rockhold, Coram, Carpenter, Reynolds and Lynch)

11. An ordinance to amend our codified ordinances by enacting article 778, Consumers Sales and use Tax, 1% (one percent) (Sponsored by Councilmen Rockhold, Coram, Carpenter, Reynolds, and Lynch)

## XI. ADJOURNMENT

**NOTE: Our next Council meeting is December 16, 2014**

The Council of the City of Parkersburg met in regular session Tuesday, November 18, 2014, at 7:30 PM in the Council Chambers on the second floor of the Municipal Building at One Government Square, Parkersburg, WV 26101. Councilman Roger Brown led the Lord's Prayer and Pledge of Allegiance.

The meeting was called to order by Council President, John Rockhold, who presided over the meeting. The clerk noted the attendance and those present included Councilmen Nancy Wilcox, Sharon Lynch, Roger Brown, Kim Coram, JR, Carpenter, Mike Reynolds, John Kelly, Jim Reed and John Rockhold.

MINUTES – Mr. Reed moved, seconded by Ms. Wilcox, to dispense with the reading of the journal and approve the minutes of November 6, 2014 as distributed, and the motion was adopted by unanimous vote.

REPORTS FROM STANDING OR SPECIAL COMMITTEES – Councilman Brown reported that the Public Works Committee met earlier this evening to discuss an ordinance establishing a land reuse agency, and referred it on to City Council for approval.

Ms. Wilcox again announced the opening of Holiday In The Park for Saturday, November 22, 2014 at 6:00 PM beside the horseshoe pits in the City Park, and invited all to attend.

MESSAGE FROM THE EXECUTIVE – Mayor Robert Newell stated that he knew there were some questions about how the land was acquired, then donated, on Avery Street at the base of the steps leading up to Quincy Hill Park. This is a unique situation, he said, and this is what democracy is all about, noting approximately 50 people in attendance this evening. He said they may not have all the answers to make a final decision, but said from the beginning the ordinance on the agenda tonight is just to transfer that lot #233 to the Urban Renewal Authority, then that authority has to decide. We promote people fixing up their properties, he said, and Mr. Clyde Way has done that. But, on the other hand, that lot may have been donated for a specific purpose. It has no other use and they don't pay taxes, and there was an advantage to donate the lot to the City in 2004. In this instance, he said he was trying to help all of them, and he does not want Council to pass something then find out tomorrow they did not have enough information. He does think it should go to the Urban Renewal Authority to make sure they have all the information before deciding what to do with the lot.

PUBLIC FORUM – Out of those attending the meeting this evening, there were twelve (12) who spoke against the ordinance transferring parcel 233 on Avery Street to the Urban Renewal Authority for safety and/or historic reasons, including:

Felice Jorgenson, 2407 23<sup>rd</sup> Street, Sharon Marks, Parkersburg; C.M. (Monty) Craig, 2522 40<sup>th</sup> Street, Debra Shahan, 2307 Plum Street, Kim VanRijn, 608 13<sup>th</sup> Street, Robert Merriweather, 1030 Market Street apartments, Ms. Poling, 1613 24<sup>th</sup> Street; Yvonne Postlewait, 4814 Hazel Street; Robert Postlewait, 4814 Hazel Street; Cathy Wermter, 2605 Capital Drive, Nancy Bremmer, 3002 Morningside, and Willow Wright, 14<sup>th</sup> Street, Vienna.

Speaking in favor of the transfer was Mr. John Romine, 2537 15<sup>th</sup> Avenue.

#### RESOLUTION

WHEREAS, the City of Parkersburg has over the years accumulated numerous documents and artifacts related the business, culture and activities of and within the City;

WHEREAS, the City now wishes to establish an archive to maintain and display these items to the general public, and

WHEREAS, in order to do so it is felt best that an archive be established to properly keep, store and display such items and especially any and all such material that may be given or loaned to the City for display.

NOW THEREFORE BE IT RESOLVED BY THE COUNCIL OF THE CITY OF PARKERSBURG that the City of Parkersburg Display Archive be established to collect, store and display items related to and connected with the greater City of Parkersburg and including its history, culture, business and other activities.

BE IT FURTHER RESOLVED that the said City of Parkersburg Display Archive be organized and maintained by the City of Parkersburg and administered by and through the Office of the City Clerk.

MOTION – Ms. Wilcox moved, seconded by Ms. Lynch, to adopt the resolution, and the motion was adopted by unanimous vote.

#### RESOLUTION:

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF PARKERSBURG that the two lots along Avery Street and adjacent and contiguous to and at the base of the steps known as the Quincy Hill Steps and which two lots are identified as Map 76, Parcel 233 (25' x 125'), and Map 80, Parcel 126 (32.5 x 75' and more particularly described in that Deed of Record in Deed Book 1069, at Page 199 together with the said Quincy Hill Steps be hereafter accepted as, and be a part of, the Parkersburg Quincy Hill City Park.

MOTION – Mr. Carpenter moved, seconded by Ms. Coram, to adopt the resolution.

Councilman Carpenter asked the Clerk to read a letter from Mr. Jeff Campbell, 517-519 Market Street, telling them he is opposed to the sale of the lot because there is a better use of the land by the City rather than to sell to a private party.

VOTE – The motion failed, as follows:

Castro & Haines, Inc., Spencer, WV, File Order No. 12275-13

VOTING 'YES'  
 Ms. Coram  
 Mr. Carpenter  
 Mr. Reynolds  
 Mr. Kelly

VOTING 'NO'  
 Ms. Wilcox  
 Ms. Lynch  
 Mr. Brown  
 Mr. Reed  
 Mr. Rockhold

ORDINANCE, FINAL READING:

AN ORDINANCE TRANSFERRING PROPERTY ON AVERY STREET,  
 CITY CORPORATION MAP 76, PARCEL 233, FROM THE CITY  
 OF PARKERSBURG TO THE URBAN RENEWAL AUTHORITY  
 OF THE CITY OF PARKERSBURG, WEST VIRGINIA

THE COUNCIL OF THE CITY OF PARKERSBURG HEREBY ORDAINS that the Mayor of the City of Parkersburg is hereby authorized to transfer by deed real property on Avery Street, City Corporation Map 76, Parcel 233 to the Urban Renewal authority of the City of Parkersburg, a public corporation, to promote ongoing efforts to beautify and develop downtown Parkersburg. The property to be transferred is described as follows:

Beginning at a point where the northerly line of Tenth Street intersects the easterly line of Avery Street, thence running in a northerly direction with the easterly line of Avery Street 25 feet to a point, thence at right angles running in an easterly direction 125 feet to a point, thence at right angles running in a southerly direction 25 feet to the northerly line of Tenth Street; thence at right angles running in a westerly direction with the northerly line of Tenth Street, 125 feet to the place of beginning.

And being the same real estate conveyed to the City of Parkersburg, by deed and dated June 18, 2004 and of record in the Office of the Wood County Clerk in Deed Book 1069, at Page 199.

MOTION – Mr. Brown moved, seconded by Ms. Lynch, to renew the vote from November 6, 2014 on the motion to transfer property on Avery Street, Map 76, parcel 233, from the City of Parkersburg to the Urban Renewal Authority

Mr. Brown voted on the prevailing side on November 6, 2014.

President Rockhold asked the City Attorney to explain this motion.

City Attorney, Joe Santer, told the Council that if an action comes before them and it is defeated, it can come back with a motion to renew, and the original motion then comes back. If they approve that motion to renew, they then take action.

VOTE – the motion (to renew) was adopted by majority vote, as follows

VOTING 'YES'  
 Ms. Wilcox  
 Ms. Lynch  
 Mr. Brown  
 Mr. Reed  
 Mr. Rockhold

VOTING 'NO'  
 Ms. Coram  
 Mr. Carpenter  
 Mr. Reynolds  
 Mr. Kelly

Mayor Robert Newell stated that as Mayor, he wants to make sure that City Council knows everything about this matter, as it is evident that there is a split. It is in the best interests of the citizens that they know all the information. He said that he sees both sides for Mr. Way and Mr. Postlewait. He also said he has an interest in history including knowing when the houses were torn down on the lots beside the steps. Whatever the decision is, they should send this ordinance somewhere to get all their questions answered to make the best decision. Mayor Newell also said he appreciated all the citizens who came to Council this evening, but he also wishes they were as interested in heroine use in our schools.

MOTION – Ms. Wilcox moved, seconded by Mr. Reed, to adopt the ordinance on final reading, and the motion was adopted by majority vote as follows:

VOTING 'YES'  
 Ms. Wilcox  
 Ms. Lynch  
 Mr. Brown  
 Mr. Reed  
 Mr. Rockhold

VOTING 'NO'  
 Ms. Coram  
 Mr. Carpenter  
 Mr. Reynolds  
 Mr. Kelly

ORDINANCE, FINAL READING:

AN ORDINANCE AUTHORIZING THE PURCHASE OF REAL  
 PROPERTY BY THE CITY OF PARKERSBURG  
 (Keever Street)

WHEREAS, the City is in need of facility in which to house and provide for the training and physical conditioning of its Police Officers;

WHEREAS, the City has negotiated the proposed purchase of a tract consisting of 2.23 acres and containing several buildings that are suitable for the needs of the City and its Police Department, and WHEREAS, said tract is along, 24th and Keever Streets and adjacent to property presently owned by the City and part of which property is presently used by the Parkersburg Police Department as its Police Department Shooting Range.

NOW THEREFORE BE IT ORDAINED BY THE COUNCIL OF THE CITY OF PARKERSBURG that the City enter into a contract for the purchase of the 2.23 acre tract along 24th and Keever Streets in the City of Parkersburg, and which tract is known and identified as Map 44, Tract B, for the total sum of Fifty-Thousand Dollars (\$50,000) and which property is more particularly set forth and described as follows:

BEGINNING on the Westerly side of Keever Street at a point in a line of lot No. 60 of Anderson's Addition, which point would be the terminus of the Southerly line of the alley if extended between Florida Avenue and Addison Street of said Addition, and running thence Westerly through lot No. 60 crossing the alley in the rear of said lot and continuing in the line of the alley herein first above mentioned to Water Street, thence the same course continued crossing said Water Street and thence to low water mark of said River, Southerly to the lands now or formerly of Lucy F. Jackson, thence with the line of said Lucy F. Jackson property, being the Southerly line of Addison Street to Keever Street, thence Northerly with the line of Keever Street to the place of beginning, containing lots Nos. 39 to 50 inclusive in said Anderson's Addition, also lots 61 and 62 and a part of lot No. 60 in said Addition, also embracing a portion of the alley between lots 50, 61 and 62 and a part of 60 conveyed by this deed: also that portion of Addison Street lying West of Keever Street, and that portion of Water Street between Addison Street and the alley first above mentioned, the said streets and alleys embraced herein never having been dedicated to public use are conveyed as fully as if said ground had never been platted and laid off into streets and alleys.

And being as the third tract in a deed from Sterling Oil Company of Pennsylvania to the party of the first part dated December 1, 1936, and filed for record December 9, 1936 in Deed Book 215, page 248 in the records at Wood County, West Virginia.

BE IT FURTHER ORDAINED that Mayor Robert D. Newell is authorized to sign said contract and any and all papers to effect said purchase and transfer to the city of Parkersburg.

MOTION – Ms. Wilcox moved, seconded by Ms. Coram, to adopt the ordinance on final reading, and the motion was adopted by unanimous vote.

#### PUBLIC HEARING

(As advertised in the News and Sentinel October 18, 2014) A public hearing to discuss the City of Parkersburg's admittance to the WV Home Rule Pilot Program and two subsequent ordinances proposed for adoption; an ordinance reducing Business and Occupation taxes, and an ordinance establishing a one percent (1%) sales tax on goods and services.

At 8:16 PM, President Rockhold declared the floor open to hear any comments offered concerning this matter.

There were no comments, and the hearing was declared closed at 8:17 PM.

City Attorney, Joe Santer, told City Council that this information will go to the Home Rule Board showing there were no comments made during the public hearing, (and no letters received by the City Clerk) and later the two ordinances will come back to City Council for a vote.

Councilman John R. Kelly gave written notice to the Mayor, City Council, and citizens that he is resigning his City Council seat in District #7 effective at 11:59 PM on November 30, 2014, due to being elected to the West Virginia House of Delegates in the November 4<sup>th</sup> election.

MOTION – Mr. Reed moved, seconded by Ms. Wilcox, to accept the resignation by Mr. Kelly and to declare District #7 vacant on December 1, 2014, and the motion was adopted by majority vote with all members voting "yes" with the exception of Mr. Kelly, who abstained.

The meeting adjourned at 8:20 PM.

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

\_\_\_\_\_  
Council President

## RESOLUTION

WHEREAS, as of November 30, 2014 at 11:59 PM, former City Councilman, John R. Kelly resigned his Council seat in District #7 due to being elected to the West Virginia House of Delegates on November 4, 2014; and

WHEREAS, City Charter Section 2.206, paragraph 2, states "Within ten (10) days after the occurrence of the vacancy, the Municipal Executive Committee of the party represented by the vacating Councilman shall submit a list of three (3) citizens with requisite qualifications to the Mayor."; and

WHEREAS, City Council desires to declare District #7 to be vacant as of Tuesday, December 9, 2014;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF PARKERSBURG that City Council, District #7, is hereby declared vacant as of December 9, 2014.

Sponsored by all members of City Council

## RESOLUTION



BE IT RESOLVED BY THE COUNCIL OF THE CITY OF PARKERSBURG that the Finance Director be authorized to revise the Adopted Budget for FY 2014-15 to reflect the Salaries – Other amount in the Finance Dept. for the creation of an Finance Administrative Assistant. T

### GENERAL FUND

#### REVENUES

<u>DEPT</u>	<u>ACCOUNT</u>	<u>DESCRIPTION</u>	<u>Debit(Increase)</u>	<u>Credit (Decrease)</u>
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#### EXPENSES

<u>DEPT</u>	<u>ACCOUNT</u>	<u>DESCRIPTION</u>	<u>Debit(Increase)</u>	<u>Credit (Decrease)</u>
Mayor	001-409-459-000	Capital – Equipment		2,000
Finance	001-414-103-315	Other Salaries	12,153	
Finance	001-414-104-000	FICA Expense	930	
Finance	001-414-105-000	Heath & Life Ins	4,000	
Finance	001-414-106-000	Retirement	1,702	
Finance	001-414-218-000	Postage Expense		6,243
Finance	001-414-226-000	Auto & Liability Ins Premium		846
Finance	001-414-226-005	Ins – Workman’s Comp	223	
Finance	001-414-230-000	Contr. Services		4,523
Sanitation	001-800-226-000	Auto & Liability Ins Premium		5,396

Total Increase (Decrease) Expenses: 0

## RESOLUTION

WHEREAS, the City of Parkersburg recognizes the importance of promoting recycling in the community; and

WHEREAS, recycling helps to reduce the need for new landfills and extends the useful life of present landfills and allows the recycling of valuable materials; and

WHEREAS, the City of Parkersburg has been awarded a 2015 REAP Recycling Assistance Grant from the West Virginia Department of Environmental Protection in the amount of \$89,407.00; and

WHEREAS, these funds will be used to assist with a part-time recycling assistant, employer taxes, workers compensation, unemployment contribution, a recycling truck (used side loader) recycling promotional/advertising, new/used baler and travel to conference/educational events.

NOW, THEREFORE BE IT RESOLVED BY THE COUNCIL OF THE CITY OF PARKERSBURG that Mayor Robert D. Newell be and hereby is authorized to sign a grant agreement in the amount of \$89,407.00 to the WV DEP, Division of Land Restoration for a Recycling Assistance Grant which requires no match.

Sponsored by Councilmen Rockhold, Reed, and Lynch.



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west virginia department of environmental protection

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Division of Land Restoration  
Rehabilitation Environmental Action Plan  
601 57<sup>th</sup> Street, SE  
Charleston, WV 25304

Earl Ray Tomblin, Governor  
Randy C. Huffman, Cabinet Secretary  
[www.dep.wv.gov](http://www.dep.wv.gov)

November 21, 2014

Rickie Yeager  
City of Parkersburg  
One Government Square  
Parkersburg, WV 26102

Dear Mr. Yeager:

Congratulations on being a recipient of a 2015 REAP Recycling Assistance Grant from the West Virginia Department of Environmental Protection. The City of Parkersburg has been awarded a grant in the amount of \$89,407. This grant will be used to assist with a part-time recycling assistant, employer taxes, workers compensation, unemployment contribution, a recycling truck (used side loader), recycling program website update, recycling program education materials, recycling program promotional/advertising, new/used baler and travel to conference/educational events.

WVDEP Cabinet Secretary Randy C. Huffman will present the awards at a ceremony at the WV Department of Environmental Protection building in Kanawha City. Please see attached map.

This event will be held on **Tuesday, December 16 at 1:30 p.m.** Plan to arrive by **1:15 p.m.** Please call **Lisa Facemyer at (304) 926-0499 extension 1002** as soon as possible to R.S.V.P. Please come to the front of the building and sign in at the front desk. You will then be escorted to the training room.

Immediately following the ceremony, we will be conducting grant training. This **grant training is mandatory**. Please make a copy of the signed grant agreement for your files and **return the original** at the training so that we will be able to start your grant process.

On behalf of the WV Department of Environmental Protection, I would like to commend you on your achievements in creating a cleaner, more sustainable environment.

Sincerely,

Sandra D. Rogers  
REAP Grant Programs Manager

SR:lf  
attachments



West Virginia  
Department of  
Environmental Protection

		CFDA#	WV CODE	CSR
		N/A	§22-15A-19(h)(1)	33-10
Recipient Type:	Grant Year:	Grant Number:	Mailing Date:	Date of Award:
Local Government	2015	772	N/A	01/01/2015
Sub Recipient: (Include FEIN)		Sub Recipient Contact:		
City of Parkersburg One Government Square Parkersburg, WV 26102  FEIN# 556000227		City of Parkersburg Rickie Yeager One Government Square Parkersburg, WV 26102 (304) 424-8415		
<b>Project Description:</b>				
To assist with part-time recycling assistant, employer taxes, workers compensation, unemployment contribution, recycling truck, recycling program website update, recycling program education materials, recycling program promotional/advertising, new/used recycling baler and travel to conference/educational events.				
Performance Period:		Total Sub Grant Award:		
January 1, 2015 to February 28, 2016		\$89,407.00		
<b><u>NOTICE OF AWARD</u></b>				
The West Virginia Department of Environmental Protection (WVDEP) under Chapter 22 Article 15A of the Code of West Virginia is authorized to provide grants to assist municipalities, counties, and other interested parties in the planning and implementation of recycling programs, public education programs and recycling procurement efforts.				
This award may be terminated by WVDEP without further cause if the sub recipient fails to provide timely affirmation of the award by signing under the Affirmation of Award section and returning all pages of this agreement to the Sub Grant Unit listed below within 21 days after receipt. This agreement is subject to applicable federal and state statutory provisions, and all terms and conditions of this agreement and any attachments.				
<b>AWARD APPROVAL OFFICE</b>				
<b>ORGANIZATION / ADDRESS</b>				
Randy C. Huffman, Cabinet Secretary West Virginia Department of Environmental Protection 601 57 <sup>th</sup> Street, S.E. Charleston, WV 25304				
WVDEP Comptroller:	WVDEP Sub Grant Unit:	WVDEP (Project Manager):		
WVDEP Randy Taylor, Comptroller Office of Administration 601 57 <sup>th</sup> Street, S.E. Charleston, WV 25304 Phone: 304-926-0499 ext 1552	WVDEP Gary Rogers, ERS III Office of Administration 601 57 <sup>th</sup> Street, S.E. Charleston, WV 25304 Phone: 304-926-0499 ext 1115	WVDEP Daniel Haught, Chief of REAP Division of Land Restoration 601 57 <sup>th</sup> Street, S.E. Charleston, WV 25304 Phone: 304-926-0499 ext 1137		
<b>WEST VIRGINIA DEPARTMENT OF ENVIRONMENTAL PROTECTION</b>				
Signature of Award Official Digital signature applied by WVDEP Award Official	Typed Name and Title Randy C. Huffman, Cabinet Secretary WVDEP		Date 11/20/2014	
<b>AFFIRMATION OF AWARD</b>				
<b>BY AND ON BEHALF OF THE DESIGNATED RECIPIENT ORGANIZATION</b>				
Signature	Typed Name and Title		Date	



**West Virginia Department of Environmental Protection  
Division of Land Restoration  
Rehabilitation Environmental Action Plan**

**TERMS AND CONDITIONS**

The West Virginia Department of Environmental Protection (hereinafter referred to as “WVDEP”), through the Cabinet Secretary, or his delegate, agrees to grant funds in accordance with the approved work plan and terms and conditions set forth in this document and application identified below, and made a part hereof by reference. By acceptance of the funds granted, City of Parkersburg agrees to abide by the terms and conditions of the award as set forth in this document and the documents identified below, and made a part hereof by reference.

The specific terms and conditions of this award are as follows:

1. The scope and conditions of the tasks to be undertaken by grantee with the amount of money identified as the Grant Amount during the time identified above as the Grant Period are contained in the application, as amended, which is made a part of this grant by reference.

**Grant Financial Data**

Total Grant Amount of **\$89,407.00** will be distributed upon receipt by the WVDEP of a completed quarterly progress report from the grantee as follows:

January 1, 2015	30%	\$26,822.10
April 30, 2015	30%	\$26,822.10
July 31, 2015	30%	\$26,822.10
October 31, 2015	10%	\$8,940.70

**The following are hereby incorporated into this grant by reference:**

WV Code Chapter 22-1-6 and 22-15A-19(h)(1)  
Recycling Assistance Grant Program Guidelines (i.e. Legislative Rule Title 33, Series 10)  
Budget Analysis Form  
Original Grant Proposal

2. The funds for this grant shall only be used to cover allowable costs that are incurred during the grant period. Valid obligations incurred during the grant period for purchased services, equipment and supplies contained in the approved application shall be considered allowable costs to the extent of actual subsequent expenditures. If obligations are included in the claimed grant costs, adequate records will be maintained to document the date and amount incurred and the date and amount of subsequent payments.



3. Grantee will submit quarterly accounting and performance reports according to the timing, content and format as required by WVDEP. A final comprehensive report will be due on or before March 31, 2016.
4. During the performance of the grant, the Grantee will not discriminate against any employee or individual applying for employment because of race, religion, color, sex, handicap, or national origin.
5. Grantee will not use any part of the grant award for any activity or the publication or distribution of literature that in any way tends to promote public support or opposition to any legislative proposal on which Congressional or Legislative action is not complete.
6. Grantee shall comply with the following procurement requirements as they relate to:
  1. State procurement laws, rules and regulations for purchases with an aggregate value of \$5,000;
  2. Preference to the purchase of recycled products pursuant to guidelines outlined by the Environmental Protection Agency;
7. Grantee shall sign a security agreement for each piece of equipment purchased with grant funds, whether wholly or in part, and agrees that the equipment cannot be sold, used as collateral for other financing, or used for a purpose other than which it was intended. The WVDEP shall perfect the lien through the WV Secretary of State's Office and hold the title to the equipment for a period of five years.
8. Grantee agrees that in the event that equipment purchased with grant funds has remained idle for more than 180 consecutive days, it may be repossessed by the WVDEP and placed in another recycling operation.
9. Grantee assumes all risk of loss to equipment purchased with grant funds and shall keep the equipment in good repair. The grantee shall keep maintenance records on the equipment and adequately insure the equipment during the lien period.
10. No subsequent monetary increases or time extension amendments to expend the grant funding will be approved.
11. This grant takes effect at the time of signing by the WVDEP Cabinet Secretary or his authorized delegate. However, Grantee shall have a period of 21 calendar days from the date of signing to execute this grant in order to indicate its agreement of the terms and conditions. Unless an extension of time is formally approved by WVDEP, failure to execute the agreement within the stated period shall result in a de-obligation of the total Grant Amount.



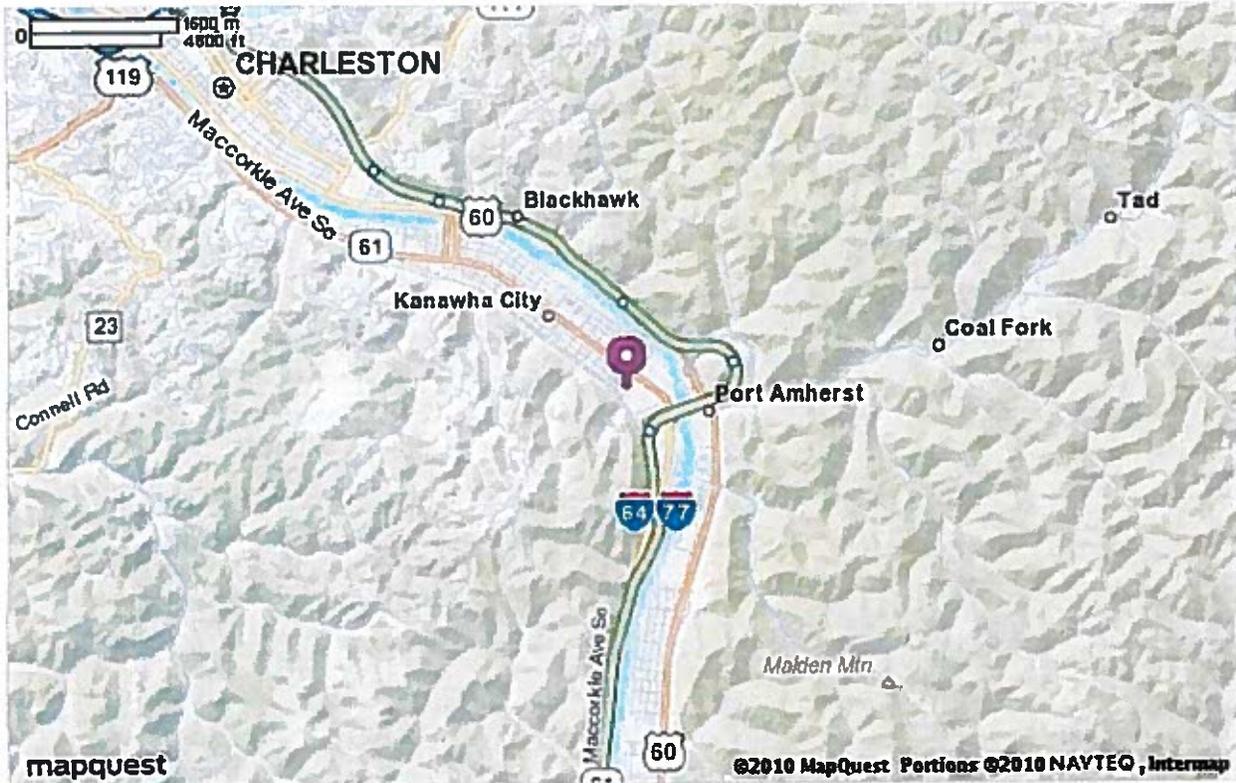


**Map of:**

601 57th St SE  
Charleston, WV 25304-2345

**Notes**

Take exit 95 off of I 64. Get in left hand lane, exit will loop back under bridge. Make a right back towards Charleston. On third light make a left in front of Captain D's. Go to large building with green tinted windows on your right. Elder-Beerman store will be on your left.



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AN ORDINANCE ESTABLISHING  
THE PARKERSBURG LAND REUSE AGENCY  
(amended November 12, 2014 by Joe Santer,  
See 3 (a) below, underlined.

Now Be It Ordained By the Council of the City of Parkersburg that there be created and established the Parkersburg Land Reuse Agency as follows:

1. Purpose.

It is the purpose of this ordinance to create and have a Parkersburg Land Reuse Agency to aid and assist the City in turning vacant, abandoned and tax delinquent spaces into vibrant spaces by facilitating the return of such properties to productive use.

2. Established.

There is hereby established the Parkersburg Land Reuse Agency pursuant to West Virginia Code §31-18E-1 et seq.  
The Agency shall be and is a public body corporate and politic; exercising public and essential governmental functions, and having all the powers necessary and convenient to carry out and effectuate the purpose and provisions of this ordinance and of West Virginia Code §31-18E-1 et seq.

3. Board of Directors, Composition and Membership.

- a) The Board shall consist of nine (9) members who shall have expertise in relevant areas, including but not limited to planning, real estate, development and architecture.
- b) The Board shall include at least one (1) voting member who is a resident of the City; who is not a public official nor a City employee; and who maintains membership with a recognized civic organization within the City.
- c) The board shall further include at least five (5) members who are residents of the City; own a business with its principal office five within the City; or who are employed or self-employed within the City and subject to and pay the City Service User Fee.
- d) The term of membership of the Board first selected shall be for one (1) year, two (2) years and three (3) years divided equally between the three terms; Thereafter members shall serve three year terms.
- e) Nominations for the Board shall be made by the Mayor and confirmed by City Council.

4. Officers.

The members of the Board shall select annually from among their members a chair, vice chair, secretary, treasurer and such other officers as the Board may determine.

5. Rules.

The Board shall establish rules on the following:

- a) Duties of officers;
- b) Attendance and participation of members in its regular and special meetings;
- c) A procedure to remove a member by a majority vote of the other members for failure to comply with a rule; and
- d) Such other matters necessary to govern the conduct of the agency.

6. Vacancies.

A vacancy on the Board shall be filled for the unexpired term and made in the same manner as the original appointment.

Upon removal under section 5 (Rules) subdivision (3) the position becomes vacant. A member removed thereunder is ineligible for reappointment to the Board unless the reappointment is confirmed unanimously by the Board.

7. Compensation.

Board members shall serve without compensation. The Board may reimburse a member for expenses actually incurred in the performance of duties on behalf of the Agency.

8. Meetings.

(1) The Board shall meet as follows;

- A. In regular session according to a schedule adopted by the Board;
- B. In special session:
  - i) As convened by the chair; or
  - ii) Upon written notice signed by a majority of the members.

9. Quorum.

A majority of the Board, excluding vacancies, is a quorum. Physical presence of the member is required under this section.

10. Voting.

- (1) Except as set forth in subdivision (2) or (3) of this section or elsewhere in this article, action of the board must be approved by the affirmative vote of a majority of the board present and voting.
- (2) Action of the board on the following matters must be approved by a majority of the entire board membership;
  - A) Adoption of bylaws;
  - B) Adoption of rules under section 5 (Rules);
  - C) Hiring or firing of an employee or contractor of the land reuse agency. This function may, by majority vote of the entire board

membership, be delegated by the board to a specified officer or committee of the land reuse agency;

D) Incurring of debt;

E) Adoption or amendment of the annual budget; or

F) Sale, lease, encumbrance or alienation of real property or personal property with a value of more than \$50,000.00.

(3) A resolution under West Virginia State Code §31-18E-14, relating to dissolution of the land reuse agency, must be approved by two thirds of the entire board membership.

(4) A member of the board may not vote by proxy.

(5) A member may request a recorded vote on any resolution or action of the land reuse agency.

#### 11. Staff of land reuse agency

(1) Employees - The agency may employ or enter into a contract for an executive director, counsel and legal staff, technical experts and other individuals and may determine the qualifications and fix the compensation and benefits of those employees.

(2) Contracts – the land reuse agency may enter into a contract with the City for:

A) The City to provide staffing services to the land reuse agency; or

B) The land reuse agency to provide staffing services to the City.

#### 12. Powers of the land reuse agency.

The land reuse agency is a public body, corporate and politic, exercising public and essential governmental functions, and having all the powers necessary or convenient to carry out and effectuate the purposes and provisions of this ordinance, including but not limited to the following;

1. To adopt, amend and repeal bylaws for the regulation of its affairs and the conduct of its business;

2. To sue and be sued in its own name and be a party in a civil action.

This paragraph includes an action to clear title to property of the land reuse agency;

3. To adopt a seal and to alter the same at pleasure;

4. To borrow from federal government funds, from the state, from private lenders or from municipalities or counties, as necessary, for the operation and work of the land reuse agency;

5. To issue negotiable revenue bonds and notes according to the provisions of this ordinance and West Virginia State Code §31-18E-1 et seq.

6. To procure insurance or guarantees from the federal government or the state of the payment of debt incurred by the land reuse agency and to pay premiums in connection with the insurance or guarantee;

7. To enter into contracts and other instruments necessary, incidental or convenient to the performance of its duties and the exercise of its powers. This paragraph includes intergovernmental cooperation agreements for the joint exercise of powers under this ordinance;

8. To enter into contracts and intergovernmental cooperation agreements with municipalities or counties for the performance of functions by

municipalities or counties on behalf of the land reuse agency or by the land reuse agency on behalf of municipalities or counties;

9. To make and execute contracts and other instruments necessary or convenient to the exercise of the powers of the land reuse agency. Any contract or instrument signed shall be executed by and for the land reuse agency if the contract or instrument is signed, including an authorized facsimile signature, by;
  - A) The chair or vice chair of the land reuse agency; and
  - B) Either:
    - i) The secretary or assistant secretary of the land reuse agency; or
    - ii) The treasurer or assistant treasurer of the land reuse agency;
10. To procure insurance against losses in connection with the real property, assets or activities of the land reuse agency;
11. To invest money of the land reuse agency at the discretion of the board in instruments, obligations, securities or property determined proper by the board and to name and use depositories for its money;
12. To enter into contracts for the management of, the collection of rent from or the sale of real property of the land reuse agency;
13. To design, develop, construct, demolish, reconstruct, deconstruct, rehabilitate, renovate, relocate and otherwise improve real property or rights or interests in real property;
14. To fix, charge and collect rents, fees and charges for the use of real property of the land reuse agency and for services provided by the land reuse agency;
15. To grant or acquire licenses, easements, leases or options with respect to real property of the land reuse agency;
16. To enter into partnerships, joint ventures and other collaborative relationships with municipalities, counties and other public and private entities for the ownership, management, development and disposition of real property;
17. To organize and reorganize the executive, administrative, clerical and other departments of the land reuse agency and to fix the duties, powers and compensation of employees, agents and consultants of the land reuse agency; and
18. To do all other things necessary or convenient to achieve the objectives and purposes of the land reuse agency or other law related to the purposes and responsibility of the land reuse agency.

### 13. Eminent Domain.

The land reuse agency does not possess the power of eminent domain. Any property obtained by the power of eminent domain after June 5, 2014 may not be acquired by the land reuse agency by any means.

### 14. Acquisition of property.

- A) Title to be held in its name. – The land reuse agency shall hold in its own name all real property it acquires.
- B) Tax exemption.
  - 1. Except as set for in subdivision (2) of this subsection, the real property of the land reuse agency and its income and operations are exempt from property tax.
  - 2. Subdivision (1) of this subsection does not apply to real property of the land reuse agency after the fifth consecutive year in which the real property is continuously leased to a private third party. However, real property continues to be exempt from property taxes if it is leased to a non-profit or governmental agency at substantially less than fair market value.
- C) Methods of acquisition. – The land reuse agency may acquire real property or interests in real property by any means or terms and conditions and in a manner the land reuse agency considers proper; Provided, that the land reuse agency may not acquire any interest in oil, gas or minerals which have been severed from the realty.
- D) Acquisitions from municipalities or counties.
  - 1. The land reuse agency may acquire real property by purchase contracts, lease purchase agreements, installment sales contracts and land contracts and may accept transfers from municipalities or counties upon terms and conditions as agreed to by the land reuse agency and the municipality or county.
  - 2. A municipality or county may transfer to the land reuse agency real property and interests in real property of the municipality or county on terms and conditions and according to procedures determined by the municipality or county as long as the real property is located within the jurisdiction of the land reuse agency.
  - 3. An urban renewal authority, as defined in section four (§16-18-4), article eighteen, chapter sixteen of the West Virginia State Code, located within the land reuse jurisdiction established under this ordinance may, with the consent of the City Council and without a redevelopment contract, convey property to the land reuse agency. A conveyance under this subdivision shall be with fee simple title, free of all liens and encumbrances.
- E) Maintenance. – The land reuse agency shall maintain all of its real property in accordance with the statutes and ordinances of the City of Parkersburg.
- F) Prohibition.
  - 1. Subject to the provision of subdivision (2) of this subsection, a land reuse agency may not own or hold real property located outside the jurisdictional boundaries of the City of Parkersburg.
  - 2. The land reuse agency may be granted authority pursuant to an intergovernmental cooperation agreement with a municipality or county to manage and maintain real property located within the jurisdiction of the municipality or county.

G) Acquisition of tax delinquent properties. – If authorized by the Council of the City of Parkersburg the land reuse agency may acquire an interest in tax delinquent property through the provision of chapter eleven-a (§§ 11A-1-1 et seq.) of the West Virginia State Code. Notwithstanding the provisions of section eight (§ 11A-3-8), article three, chapter eleven-a of the West Virginia State Code, if no person present at the tax sale bids the amount of the taxes, interest and charges due on any unredeemed tract or lot or undivided interest in real estate offered for sale, the sheriff shall, prior to certifying the real estate to the auditor for disposition pursuant to section forty-four (§ 11A-3-44), article three chapter eleven-a of this code, provide a list of all of said real estate within the land reuse jurisdiction to the land reuse agency and the land reuse agency shall be given an opportunity to purchase the tax lien and pay the taxes, interest and charges due for any unredeemed tract or lot or undivided interest therein as if the land reuse agency were an individual who purchased the tax lien at the tax sale.

15. Disposition of property.

A) Public access to inventory. – The land reuse agency shall maintain and make available for public review and inspection an inventory of real property held by the land reuse agency.

B) Power. – The land reuse agency may convey, exchange, sell transfer, lease, grant or mortgage interests in real property of the land reuse agency in the form and by the method determined to be in the best interests of the land reuse agency.

C) Consideration.

1. The land reuse agency shall determine the amount and form of consideration necessary to convey, exchange, sell, transfer, lease as lessor, grant or mortgage interests in real property.

2. Consideration may take the form of monetary payments and secured financial obligations, covenants and conditions related to the present and future use of the property, contractual commitments of the transferee and other forms of consideration as determined by the board to be in the best interest of the land reuse agency.

D) Policies and procedures. – The board shall determine and state in the land reuse agency policies and procedures the general terms and conditions for consideration to be received by the land reuse agency for the transfer of real property and interests in real property, including but not limited to, a process for distribution of any proceeds to any claimants, taxing entities and the land reuse agency.

E) Ranking of priorities.

1. The land reuse jurisdiction may establish a hierarchial ranking of priorities for the use of real property conveyed by a land reuse agency, including use for;

a) Purely public spaces and places;

- b) Affordable housing;
  - c) Conservation areas; and
  - d) Retail, commercial and industrial activities.
2. The priorities established may be for the entire land reuse jurisdiction or may be set according to the needs of different neighborhoods, the City of Parkersburg or other locations within the land reuse jurisdiction, or according to the nature of the real property.
- F) Land use plans. – The land reuse agency shall consider all duly adopted land use plans and make reasonable efforts to coordinate the disposition of land reuse agency real property with the land use plans.
1. Except as restricted or constrained under this subsection, the board may delegate to officers and employees the authority to enter into and execute agreements, instruments of conveyance and other related documents pertaining to the conveyance of real property by the land reuse agency.

16. Financing of land reuse agency operations.

- A) General rule. – The land reuse agency may receive funding through grants and loans from:
- 1. The federal government;
  - 2. The state;
  - 3. A municipality or county; and
  - 4. Private and other public sources.
- B) Funding. – The land reuse agency may receive and retain payments for services rendered, for rents and leasehold payments received, for consideration for disposition of real and personal property, for proceeds of insurance coverage for losses incurred, for income from investments and for an asset and activity lawfully permitted to a land reuse agency under this ordinance.

17. Borrowing and issuance of bonds.

- A) Authority
- 1. The land use agency may issue a bond for any of its corporate purposes in accordance with and pursuant to West Virginia State Code §31-18E-12.

18. Public records and public access

- A) Public records. – The board shall keep minutes and a record of its proceedings.
- B) Public access. – The land reuse agency is subject to article nine-a (§§ 6-9-A-1 et seq.), chapter six of this code, relating to open meetings, and chapter twenty nine-b (§§ 6-9B-1 et seq.) of this code, relating to public records.
- C) The board shall make each meeting's agenda available on the City's website and post the same in the Municipal Building at least seven

(7) days in advance of any meeting and shall allow for public comment on matters under deliberation at each such public meeting.

19. Conflicts of interest.

- A) Ethics Act. – The acts and decisions of members of a board and of employees of a land reuse agency are subject to chapter six-b (§§ 6B-1-1 et seq.) of the West Virginia State Code.
- B) Supplemental rules and guidelines. – The board may adopt;
  - 1. Supplemental rules addressing potential conflicts of interest; and
  - 2. Ethical guidelines for members of the board and land reuse agency employees.

20. Expedited quiet title proceedings.

A) Authorization.

- 1) The land reuse agency may file an action in Circuit Court to quiet title to real property in which the land reuse agency has an interest.
- 2) The land reuse agency may join in a single complaint to quiet title to one or more parcels of real property.
- 3) For purposes of an action under this section, the land reuse agency shall be deemed to be the holder of sufficient legal and equitable interests and possessory rights so as to qualify the land reuse agency as an adequate complainant in the action.

B) Procedural requirements.

- 1) Prior to the filing of an action to quiet title, the land reuse agency must conduct an examination of title to determine the identity of any person possessing a claim or interest in or to the real property.
- 2) Service of the complaint to quiet title shall be provided in accordance with the requirements to serve a civil complaint generally, including that service to interested parties be made as follows:
  - a) By first class mail to the identity and address reasonably ascertainable by an inspection of public records;
  - b) In the case of occupied real property, by first class mail, addressed to "occupant";
  - c) By posting a copy of the notice on the real property;
  - d) By publication; and
  - e) As ordered by the court.
- 3) As part of the complaint to quiet title, the land reuse agency must file an affidavit identifying:
  - a) Persons discovered under subdivision (1) of this subsection; and
  - b) The form of service under subdivision (2) of this subsection.

C) Hearing.

- 1) The court shall schedule a hearing on the complaint within ninety days following filing of the complaint and as to all matters upon which an answer was not filed by an interested party.

2) The court shall issue its final judgment within one hundred twenty days of the filing of the complaint.

21. Annual audit and report.

- A) The land reuse agency shall annually, within one hundred twenty days after the end of the fiscal year, submit an audit of income and expenditures, together with a report of its activities for the preceding year, to the West Virginia Housing Development Fund.
- B) A duplicate of the audit and the report shall be filed with the Parkersburg City Council.

**ORDINANCE NAMING AND  
APPOINTING THE BOARD OF  
THE CITY OF PARKERSBURG  
LAND REUSE AGENCY**

Be It Ordained By The Council Of The City Of Parkersburg that the following individuals be and they are hereby named and appointed as members of the initial board of the City of Parkersburg Land Reuse Agency and for the terms as herein set forth.

Tres Ross	1 Year Term
Rev. Marjorie Bevans	2 Year Term
Cam Huffman	3 Year Term
Joe D. Campbell	1 Year Term
Linda McLean	2 Year Term
Shelly Plauche	3 Year Term
Chip Pickering	1 Year Term
Gerard El Chaar	2 Year Term
Breck Martin	3 Year Term

See Exhibit A attached and made a part hereof for members addresses and work or organization affiliations.

Sponsored By Councilmen

Below is a list of citizens who have volunteered to be considered for board member for the Parkersburg Land Reuse Agency.

	Name	Home Address	Work Address	Civic Group
1.	Tres Ross	4602 River Road Vienna, WV 26105	<b>Executive Director</b> <i>The Ross Foundation</i> 200 Star Avenue Suite 212 Parkersburg, WV 26101  <b>Co-owner</b> <i>The Blennerhassett</i> 320 Market Street Parkersburg, WV 26101	
2.	Mother Marjorie Bevans	1115 Smithfield Parkersburg, WV 26101	<b>Rector</b> <i>Good Shepherd Church</i> 903 Charles Street, Parkersburg, WV 26101	
3.	Cam Huffman	28 Westwood Pointe, Parkersburg, WV 26101	<b>President &amp; CEO</b> <i>The Area Roundtable</i> 409 1/2 Market Street Parkersburg WV 26101	Area Roundtable, a 501(c)(4) organization
4.	Joe Campbell	54 South Lake Drive Parkersburg, WV 26101	<b>Market President</b> – <b>Parkersburg Region</b> <i>Wesbanco</i> 415 Market Street Parkersburg, WV 26101	Area Roundtable, a 501(c)(4) organization
5.	Linda McLean	2612 29th Street, Parkersburg, 26101	<b>Co-owner/ Office Manager</b> <i>Berkshire Hathaway Home Services Real Estate Center</i> 3700 Poplar Street, Suite 100 Parkersburg, WV 26101	

EXHIBIT "A"

6.	Shelly Plauche	1611 Park St Parkersburg, WV 26101	<b>Regional Director</b> <i>Children's Home Society of WV</i> 1717 St Mary's Avenue P.O. Box 763 Parkersburg, WV
7.	Chip Pickering (requests 1 year term)	12 Faith Meadows, Williamstown, WV 26187	<b>President</b> <i>Pickering Associates</i> 11283 Emerson Ave. Parkersburg, WV 26104
8.	Gerard ElChaar	1209 Greenmont Hills Dr, Vienna, WV 26105	
9.	Breck Martin	5604 13 <sup>th</sup> Avenue Vienna, WV 26105	<b>Attorney</b> <i>Bowles Rice</i> United Square, 5 <sup>th</sup> Floor, 501 Avery Street, Parkersburg, WV 26101

**AN ORDINANCE AMENDING AND RE-ENACTING  
THE CITY OF PARKERSBURG  
PERSONNEL POLICY AND PROCEDURE MANUAL**



BE IT ORDAINED BY THE COUNCIL OF THE CITY OF PARKERSBURG that effective January 1, 2015, Table I of the Compensation Plan contained in Section VII of the City of Parkersburg Personnel Policy and Procedure Manual be, and hereby is, amended and re-enacted to reflect the following pay rate changes:

Seasonal Part-Time School Crossing Guards	\$8.00/hour
Temporary Employees	\$8.00/hour

SPONSORED BY THE PERSONNEL COMMITTEE OF CITY COUNCIL

**AN ORDINANCE TO REZONE  
A PORTION OF PARKERSBURG CORPORATION TAX MAP 150  
PARCEL 9 AND PARKERSBURG CORPORATION TAX MAP 146  
PARCEL 76.1 FROM EXISTING R-4 TO A B-2 ZONE**

**BE IT ORDAINED BY THE COUNCIL OF THE CITY OF PARKERSBURG** that the following parcels of real estate situated in the City of Parkersburg, Wood County, West Virginia, be designated as a Business (B-2) Zone:

**Being** situated in the City of Parkersburg, County of Wood, State of West Virginia, and being more particularly described as follows:

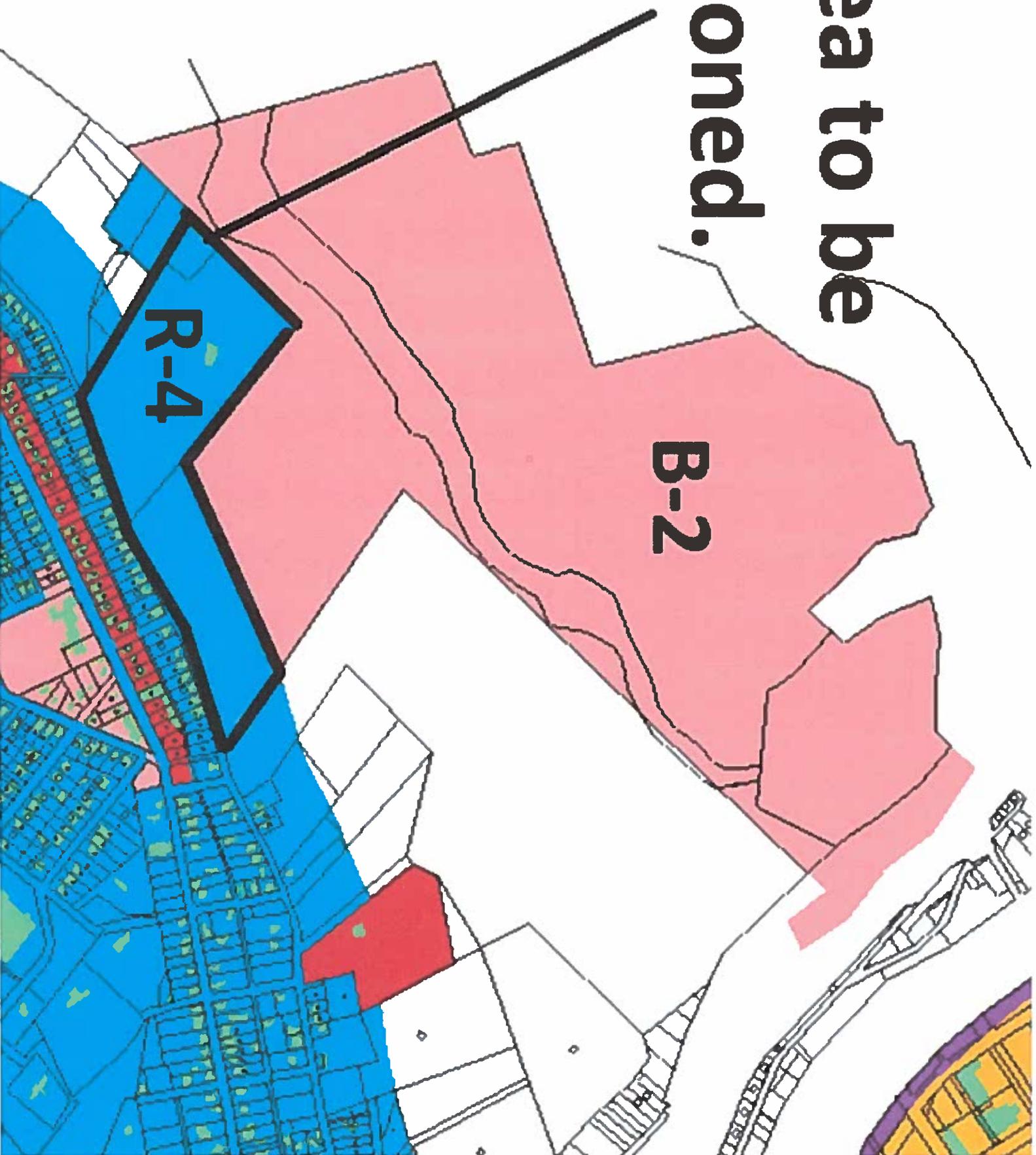
Beginning at the westerly corner of the 0.71 acre parcel of land conveyed to PKPJ Land Development LLC. (Deed Book 1220, Page 438); Thence with the existing B-2 zone line in a northeasterly direction to the northerly corner of the 10.3 acre parcel (Deed Book 1069, Page 677); Thence with the easterly line of the said 10.3 acre parcel and the existing B-2 zone line, in a southeasterly direction to a point 300 feet perpendicular to the north line of Fourth Avenue; Thence with the existing B-2 zone line, in a northeasterly direction to a point on the westerly line of a 49.11 acre parcel of land (Deed Book 884, Page 512); Thence with the westerly line of the said 49.11 acre parcel, in a southeasterly direction to the northerly line of Fourth Avenue; Thence with the northerly line of said Fourth Avenue, in a southwesterly direction to the westerly line of said 10.3 acre parcel; Thence with the westerly lines of the aforementioned 10.3 and 0.71 acre parcels, in a northwesterly direction to the place of beginning. The above described property is currently zoned R-4 and is to be re-zoned to a B-2 zone.

This description was prepared by Randy A. Sheppard, Professional Surveyor No. 860, and is based on instruments of record. Reference is being made to a plat attached hereto and made part of this description.

**BE IT FURTHER ORDAINED BY THE COUNCIL OF THE CITY OF PARKERSBURG** that in accordance with the provisions of Article 1345 of the Codified Ordinances of the City of Parkersburg, the zoning of said parcels shall be designated as C-208 and shall be set forth verbatim as adopted and approved by the Ordinance in the bound book entitled, "Official Zoning Map Changes" kept by the City Clerk.

**Sponsored by: Municipal Planning Commission  
(November 21, 2014)**

**Area to be rezoned.**



**AN ORDINANCE AMENDING AND REINACTING PORTIONS OF  
ARTICLE 779: BUSINESS AND OCCUPATION TAXES IN THE  
CITY OF PARKERSBURG**

WHEREAS, the WV Municipal Home Rule Board approved the City's Home Rule Plan to enact a consumers sales and service tax and a use tax pursuant to W.Va. Code 8-1-5a without the limiting restrictions in W.VA. Code 8-13C-1 et seq on October 6, 2014, and

WHEREAS, the City of Parkersburg may assess up to a one percent sales tax, if it eliminates or reduces its Business and Occupation Taxes, and

WHEREAS, the WV Municipal Home Rule Board has approved the plan set forth by the City of Parkersburg to reduce the Business and Occupation Taxes described herein, and

WHEREAS, the proposed reductions in Business and Occupations Taxes will make Parkersburg a more attractive place for commercial enterprises to locate and do business in, and

WHEREAS, proposed reductions in Business and Occupations Taxes will also reduce the amount of taxes paid by Parkersburg residents to their utility providers, thereby providing a direct benefit to our residents; and

NOW, THEREFORE, BE IT ENACTED AND ORDAINED BY THE CITY COUNCIL OF THE CITY OF PARKERSBURG THAT the Business and Occupation Tax rates, per \$100 of taxable income for the following business classifications be amended and the new rates described herein shall take effect following one full cycle of collections from the State of West Virginia Tax Department of the City's 1% sales tax on certain goods and services:

<b>Business Classification</b>	<b>Current Rate (per \$100)</b>	<b>Proposed Rate (per \$100)</b>
<b>Manufacturing</b>	0.20	0.00
<b>Retailers/Restaurants</b>	0.40	0.28
<b>Electric, Light and Power (on sales and demand charges for domestic purposes and commercial lighting)</b>	3.60	0.00
<b>Electric, Light and Power (sales and demand charges for all other purposes)</b>	2.80	0.00
<b>Public Utilities - Natural Gas</b>	2.35	0.00

See attached Sections 779.04 (Manufacturing); Section 779.05 (Retailers/Restaurants); and Section 779.06 (Public Utilities), and which are made a part thereof.

Sponsored by Councilmen:

**779.04 MANUFACTURING, COMPOUNDING OR PREPARING PRODUCTS;  
PROCESSING OF FOOD EXCEPTED.**

There shall be levied upon every person engaging or continuing within the City in the business of manufacturing, compounding or preparing for sale, profit or commercial use, either directly or through the activity of others in whole or in part, any article or articles, substance or substances, commodity or commodities, newspaper publishing (including all gross income or proceeds of sale from circulation and advertising), except electric power produced by public utilities or others, the amount of the tax to be equal to the value of the article, substance, commodity or newspaper, manufactured, compounded or prepared for sale, as shown by the gross proceeds derived from the sale thereof by the manufacturer or person compounding or preparing the same, except as otherwise provided, multiplied by a rate of ~~twenty-one hundredths of one zero~~ (0%) percent. The measure of this tax is the value of the entire product manufactured, compounded or prepared in the City for sale, profit or commercial use, regardless of the place of sale or the fact that deliveries may be made to points outside the City. The value of electricity generated by persons taxed under the provisions of this section, which electricity is directly used by such persons in the business of manufacturing and not sold or otherwise transferred or transmitted to others, shall be exempt from the imposition of any tax under this article. With respect to the manufacturing, compounding or preparing for sale of timber or timber products, the measure of this tax is the value of the entire timber product manufactured, compounded or prepared in the City for sale, profit or commercial use, regardless of the place of sale or the fact that deliveries may be made to points outside the City but such value shall not include the value of any timber or timber products used as ingredients, components or elements of such timber products. The dressing and processing of food by a person, firm, or corporation, which food is to be sold on a wholesale basis by such person, firm or corporation shall not be considered as manufacturing or compounding, but the sale of these products on a wholesale basis shall be subject to the same tax as is imposed on the business of selling at wholesale as provided in Section 779.05.

It is further provided, however, that in those instances in which the same person partially manufactures, compounds or prepares products within this City and partially manufactures, compounds or prepares such products outside of this City, the measure of his tax under this section shall be that proportion of the sale price of the product that the payroll cost of manufacturing within this City bears to the entire payroll cost of manufacturing the product; or, at the option of the taxpayer, the measure of his tax under this section shall be the proportion of the sales value of the articles that the cost of operations in this City bears to the full cost of manufacturing of the articles.

(Ord. 0-604. Passed 8-28-90.)

**779.05 BUSINESS OF SELLING TANGIBLE PROPERTY; SALES EXEMPT.**

(a) General Rule. Upon every person engaging or continuing within the City in the business of selling any tangible property whatsoever, real or personal, including the sale of food, and the services incident to the sale of food in hotels, restaurants, cafeterias, confectioneries and other public eating houses, except sales by any person engaging or continuing in the business of horticulture, agriculture or grazing, or of selling stocks, bonds or other evidence of indebtedness, there is likewise hereby levied and shall be collected, a tax equivalent to ~~forty-one hundredths of~~

~~onetwenty eight-hundredths of~~ one percent of the gross income of the business, except that in the business of selling at wholesale, the tax shall be equal to fifteen one-hundredths of one percent of the gross income of the business.

(b) Finding and Treatment of Sales of Motor Vehicles to Nonresidents of West Virginia. Council finds that motor vehicles, by their nature, have acquired a unique and integral role in the functioning of our society so that, for purposes of this article, the situs of the use and ownership of a motor vehicle, immediately upon its transfer, shall be conclusively deemed to be either the residence or principal place of business of its owners. Accordingly, notwithstanding anything contained in this Article 779 to the contrary, "gross income" shall not mean or include the gross receipts derived from the sale of any motor vehicle, where the purchaser of such motor vehicle is not a resident of the State of West Virginia, and such motor vehicle will, upon its transfer, be immediately moved by the purchaser to its situs outside of the State of West Virginia. Provided, however, that the foregoing shall not be construed to exclude, from the definition of such term, the sale of any motor vehicle to a resident of the State of West Virginia. (Ord. 0-709. Passed 9-28-93.)

#### **779.06 PUBLIC SERVICE OR UTILITY BUSINESS.**

(a) Upon any person engaging or continuing within the City in any public service or utility business, except railroad, railroad care, express, pipeline, telephone and telegraph companies, water carriers or steamboat or steamship and motor carriers, there is likewise hereby levied and shall be collected, taxes on account of the business engaged in equal to the gross income of the business multiplied by the respective rates as follows: electric light and power companies, ~~three and sixty one hundredths zero~~ percent (~~3.600~~%) on sales and demand charges for domestic purposes and commercial lighting, and ~~two and eighty one hundredths zero~~ percent (~~2.800~~%) on sales and demand charges for all other purposes; toll bridge companies, three percent (3%); natural gas companies, ~~two and thirty five hundredths zero~~ percent (~~2.350~~); and upon all other public service or utility businesses, two percent (2%). The measure of this tax shall not include gross income derived from commerce between this State and other states of the United States or between this State and foreign countries. The measure of this tax under this section shall include only gross income received from the supplying of public services. The gross income of the taxpayer from any other activity shall be included in the measure of the tax imposed upon the appropriate section or sections of this article.

(b) There shall be exempt from the imposition of such tax all sales and demand charges for electric power and natural gas sold by a public service or utility business to a new manufacturing company locating, after the effective date of this section, within the corporate limits of the City and which manufacturing company employs a minimum of fifty on-site, full-time (40 hours per week) or full-time equivalent employees.

(c) It is the legislative intent of this section that such exemption be granted for the purpose of providing an incentive for new manufacturing companies to locate within the City and to create and maintain employment within the City.  
(Ord. O-1285. Passed 11-13-07.)

AN ORDINANCE TO AMEND THE ORDINANCES FOR THE  
CITY OF PARKERSBURG, WEST VIRGINIA, BY ENACTING A  
NEW CHAPTER, "ARTICLE 778: CONSUMERS SALES AND USE TAX,"  
TO IMPOSE A ONE PERCENT CONSUMERS SALES AND USE TAX



WHEREAS, the City of Parkersburg ("City") has determined that it is appropriate to impose a consumers sales and use tax to enhance City services, ensure civil service pensions remain solvent and promote economic development and growth; and

WHEREAS, the WV Municipal Home Rule Board approved the City's home Rule Plan to enact a consumers sales and use tax;

NOW, THEREFORE, BE IT ENACTED AND ORDAINED BY THE CITY COUNCIL OF THE CITY OF PARKERSBURG that Article 778: Consumers Sales and Use Tax of the Codified Ordinances of the City of Parkersburg is hereby enacted to read as attached hereto.

Sponsored by Councilmen

**Article 778**  
**Consumers Sales and Use Tax**

**778.01 COUNCIL FINDINGS.**

The Municipal Home Rule Board approved the City's Home Rule Plan to enact a consumers sales and use tax pursuant to W. Va. Code§ 8-1-5a without the limiting restrictions in W.Va. Code § 8-13C-1 et seq. In accordance with the Home Rule Plan, City Council hereby finds and declares that the adoption by the City for its consumers sales and service tax and use tax provisions of the Code of West Virginia, 1931, as amended relating to imposition, administration, collection and enforcement of the state consumers sales and service tax codified in W.Va. Code§ 11-15-1 et seq., the state use tax codified in W. Va. Code § 11-15A-1 et seq., and the streamlined sales and use tax act codified in W. Va. Code § 11-15B-1 et seq. will:

- (a) Simplify collection of the taxes,
- (b) Simplify preparation of consumers sales and use tax returns by taxpayers, and
- (c) Improve enforcement of the City's sales and use taxes.

The Council does, therefore, declare that this article be construed so as to accomplish the foregoing purposes.

**778.02 DEFINITIONS.**

(a) Terms used in this article or in the administration, collection and enforcement of the taxes imposed by this article and not otherwise defined in this article shall have the meanings ascribed to them in Articles nine, ten, fifteen, fifteen-a and fifteen-b, Chapter eleven of the Code of West Virginia, 1931, as amended. In the event of any conflict between the definitions set forth herein and those definitions set forth in Articles nine, ten, fifteen, fifteen-a and fifteen-b, Chapter eleven of the Code of West Virginia, 1931, as amended, the definitions set forth in articles nine, ten, fifteen, fifteen-a and fifteen-b, Chapter eleven of the Code of West Virginia, 1931, as amended shall supersede those set forth herein.

(b) As used in this section:

(1) "Business" includes all activities engaged in or caused to be engaged in with the object of gain or economic benefit, direct or indirect, and all activities of the State and its political subdivisions which involve sales of tangible personal property or the rendering of services when those service activities compete with or may compete with the activities of other persons.

(2) "City" or "this City" means the City of Parkersburg, West Virginia.

(3) "Code of West Virginia" means the Code of West Virginia, 1931, as amended.

(4) "Person" means an individual, trust, estate, fiduciary, partnership, limited liability company, limited liability partnership, corporation or any other legal entity.

(5) "Purchase" means any transfer, exchange or barter, conditional or otherwise, in any manner or by any means whatsoever, for a consideration;

(6) "Purchase price" means the measure subject to the tax imposed by this article and has the same meaning as sales price;

(7) "Purchaser" means a person to whom a sale of personal property is made or to whom a service is furnished.

(8) "Sale," "sales" or "selling" have the meaning ascribed to those terms in article fifteen, chapter eleven of the Code of West Virginia.

(9) "Sales price" has the meaning ascribed to that term in Article fifteen-b, Chapter eleven of the Code of West Virginia.

(10) "Sales tax" means the tax levied under Section 796.03 of this article.

(11) "Service" or "selected service" have the meaning ascribed to those terms in Article fifteen-b, Chapter eleven of the Code of West Virginia.

(12) "State sales tax" means the tax levied by Article fifteen, Chapter eleven of the Code of West Virginia.

(13) "State use tax" means the tax levied by Article fifteen-a, Chapter eleven of the Code of West Virginia.

(14) "Tax" means the taxes imposed by this article and includes additions to tax, interest and penalties levied under Article ten, Chapter eleven of the Code of West Virginia, 1931, as amended.

(15) "Tax Commissioner" means the chief executive officer of the Tax Division of the Department of Revenue of this State, as provided in W.Va. Code § 11-1-1.

(16) "Ultimate consumer" or "consumer" means a person who uses or consumes services or personal property.

(17) "Use" for purposes of the tax imposed by Section 778.04 of this article means and includes:

A. The exercise by any person of any right or power over tangible personal property or custom software incident to the ownership, possession or enjoyment of the property, or by any transaction in which possession of or the exercise of any right or power over tangible personal property, custom software or the result of a taxable service is acquired for a consideration, including any lease, rental or conditional sale of tangible personal property or custom software; or

B. The use or enjoyment in this State of the result of a taxable service. As used in this definition, "enjoyment" includes a purchaser's right to direct the disposition of the property or the use of the taxable service, whether or not the purchaser has possession of the property.

The term "use" does not include the keeping, retaining or exercising any right or power over tangible personal property, custom software or the result of a taxable service for the purpose of subsequently transporting it outside the City state for use thereafter solely outside this City.

(18) "Use tax" means the tax imposed by Section 778.04 of this article.

(19) "Vendor" means any person engaged in this City in furnishing services taxed by this article or making sales of tangible personal property or custom software. "Vendor" and "seller" are used interchangeably in this article.

### **778.03 IMPOSITION OF CONSUMERS SALES AND SERVICE TAX.**

For the privilege of selling tangible personal property or customer software and for the privilege of furnishing certain selected services, a vendor doing business in this City shall collect from the purchaser the taxes imposed by this section and pay the amount of taxes collected to the Tax Commissioner at the same time and in the same manner as the consumers sales and service tax imposed by Article fifteen, Chapter eleven of the Code of West Virginia, 1931, as amended, in accordance with procedures and processes prescribed by the Tax Commissioner. The rate of tax shall be one percent of the sales price, as defined in Section two, Article fifteen b, Chapter eleven of the Code of West Virginia, 1931, as amended, of the tangible personal property, custom software or taxable service purchased.

**778.04 IMPOSITION OF USE TAX.**

An excise tax is hereby levied and imposed on the use in this City of tangible personal property, custom software and the results of taxable services, to be collected and paid to the Tax Commissioner as agent for the City in the same manner that state use tax is collected under Article fifteen-a and Article fifteen-b, Chapter eleven of the Code of West Virginia, 1931, as amended. The rate of tax shall be one percent of the purchase price, as defined in Article fifteen-b, Chapter eleven of the Code of West Virginia, of the tangible personal property, custom software or taxable service used within the City.

**778.05 CALCULATION OF TAX ON FRACTIONAL PARTS OF A DOLLAR.**

The tax computation under Section 778.03 and Section 778.04 shall be carried to the third decimal place and the tax rounded up to the next whole cent whenever the third decimal place is greater than four and rounded down to the lower whole cent whenever the third decimal place is four or less. The vendor may elect to compute the tax due on a transaction on a per item basis or on an invoice basis provided the method used is consistently used during the reporting period but the method used shall be the same as that used for purposes of computing the state sale or use tax.

**778.06 STATE AND LOCAL SALES AND USE TAX BASES.**

The taxable base of the taxes imposed by Section 778.03 and 778.04 of this Article shall be identical to the sales and use tax base of this State except as provided in Section 796.07 of this Article unless otherwise prohibited by federal law as required by W.Va. Code§ 11-15B-34.

**778.07 EXCEPTIONS.**

The taxes imposed by this article do not apply to:

(a) The sale or use of motor fuel, as defined in Article fourteen-c, Chapter eleven of the Code of West Virginia, 1931, as amended, upon which the tax imposed by that article is collected.

(b) The sale or use of motor vehicles upon which the tax imposed by Section three-c, Article fifteen, Chapter eleven of the Code of West Virginia, 1931, as amended, is paid.

(c) The purchase or use of any tangible personal property, custom software or service that the City is prohibited from taxing under the laws of this State.

(d) The tax imposed by Section 778.03 does not apply to any transaction that is exempt from the tax imposed by Article fifteen, Chapter eleven of the Code of West Virginia.

(e) The tax imposed by Section 778.04 does not apply to any purchase upon which the tax imposed by Section 778.03 has been paid, nor to any transaction that is exempt from the tax imposed by Article fifteen-a, Chapter eleven of the Code of West Virginia.

#### **778.08 CREDIT FOR LOCAL SALES TAX LAWFULLY PAID TO ANOTHER MUNICIPALITY.**

(a) A person is entitled to a credit against the use tax imposed by Section 778.04 of this article on the use of a particular item of tangible personal property, custom software or results of a taxable service equal to the amount, if any, of sales tax lawfully paid to another municipality for the acquisition of that property, custom software or service: Provided, That the amount of credit allowed may not exceed the amount of use tax imposed by Section 778.04 on the use of the tangible personal property, custom software or results of the taxable service in this City.

(b) For purposes of this section:

(1) "Sales tax" includes a sales tax or compensating use tax imposed on the sale or use of tangible personal property, custom software or the results of a taxable service by the municipality in which the sale occurred; and

(2) "Municipality" includes municipalities of this state or of any other state of the United States.

(c) No credit is allowed under this section for payment of any sales or use taxes imposed by this state or any other state. For purposes of this paragraph, "state" includes the fifty states of the United States and the District of Columbia but does not include any of the several territories organized by Congress.

#### **778.09 LOCAL RATE AND BOUNDARY CHANGES.**

(a) The Tax Commissioner is required by W.Va. Code§ 11-15B-35 to maintain a database for all jurisdictions levying a sales or use tax in this State. The City shall furnish the Tax Commissioner with information the Tax Commissioner requires for that database that will allow the Tax Commissioner to maintain a database that assigns each five-digit and nine-digit zip code within the City to the proper rate of tax. If any nine-digit zip code area includes area outside this City, the single state and local rate assigned to that area in the Tax Commissioner's database will be the lowest rate applicable to that area: Provided, That, when sales occur at and are sourced to a physical location of the seller located in the City in that nine digit zip code area, the seller shall collect the tax imposed by Section 778.03 of this article.

(b) Whenever boundaries of the City change, whether by annexation or de-annexation, the City Finance Director shall promptly notify the Tax Commissioner in writing of the change in boundaries and provide the Tax Commissioner with the nine-digit zip code or codes for the area annexed or de-annexed or any other information the Tax Commissioner may require to maintain the database.

#### **778.10 STATE LEVEL ADMINISTRATION.**

(a) The Tax Commissioner is responsible for administering, collecting and enforcing the taxes imposed by this article as provided in W. Va. Code § 8-1-5a, § 8-13C-6 and§ 11-15B-33. The City may enter into an agreement with the Tax Commissioner that will allow employees of

the City auditing a vendor with a physical location in the City for compliance with the City's business and occupation tax to also audit that location for compliance with the sales and use tax laws of this State and this City and to share that information with the Tax Commissioner.

(b) The Tax Commissioner may retain from collections of the taxes imposed by this article a fee of up to one percent of the amount of the taxes collected by the Tax Commissioner prior to the effective date of the legislative rule setting the fee pursuant to W. Va. Code § 11-10-11c. The fee retained from taxes collected on and after that date shall be the fee allowed by W.Va. Code§ 11-10-11c or by any other state law or legislative rule.

(c) The Tax Commissioner shall deposit all the proceeds from collection of the taxes imposed by this article, minus any fee for collecting, enforcing and administering taxes retained under this Section, in the sub-account for this City established in Municipal Sales and Service Tax and Use Tax Fund, an interest bearing account created in the State Treasury pursuant to W. Va. Code § 8-13C-7. All moneys collected and deposited in the sub-account for the City shall be remitted at least quarterly by the State Treasurer to the City Finance Director, as provided W. Va. Code § 8-13C-7.

#### **778.11 ADMINISTRATIVE PROCEDURES.**

Each and every provision of the West Virginia Tax Procedure and Administration Act set forth in Article ten, Chapter eleven of the Code of West Virginia applies to the administration, collection and enforcement of the sales and use taxes imposed pursuant to this Article, except as otherwise expressly provided in Article thirteen-c, Chapter eight of the Code of West Virginia, with like effect as if that act were applicable only to the taxes imposed by this article and were set forth in extenso in this Article, as provided in W.Va. Code§ 8-13C-6.

#### **778.12 CRIMINAL PENALTIES.**

Each and every provision of the West Virginia Tax Crimes and Penalties Act set forth in Article nine, Chapter eleven of the Code of West Virginia applies to the administration, collection and enforcement of the sales and use taxes imposed pursuant to this Article with like effect as if that act were applicable only to the taxes imposed pursuant to this Article and were set forth in extenso in this Article, as provided in W.Va. Code§ 8-13C-6: Provided, That the criminal penalties imposed upon conviction for a criminal violation of this Article may not exceed the maximum penalties allowed by law for that violation.

#### **778.13 AUTOMATIC UPDATING.**

Any amendments to Articles nine, ten, fifteen, fifteen-a and fifteen-b, Chapter eleven of the Code of West Virginia shall automatically apply to a sales or use tax imposed pursuant to this Article, to the extent applicable, as provided in W. Va. Code § 8-13C-6.

**778.14 EFFECTIVE DATE.**

The ordinance from which this Article derives shall take effect from its adoption by City Council as provided in Section 2.201 of the Charter of this City. Upon its adoption, the City Finance Director shall forthwith provide the Tax Commissioner with a certified copy of this ordinance along with a description of the boundaries of the City, the nine-digit zip codes for addresses located within the boundaries of the City and such other information as the Tax Commissioner may need to administer, collect and enforce the taxes imposed by this Article, notwithstanding the fact that the ordinance from which this Article derives is effective upon its adoption, collection by vendors of the taxes imposed by this Article and payment of those taxes by purchasers is initially suspended and shall begin and first apply to sales and purchases made on and after the first day of the calendar quarter that begins at least 60 days after the Tax Commissioner first notified vendors, as provided in W. Va. Code §11-15B-35, of the adoption of this ordinance and their obligation to collect and remit the taxes imposed by this Article, except that both collection and payment of the tax on sales made by catalogue is initially suspended and shall first apply to sales and purchases made by catalogue on and after the first day of the calendar quarter that begins 120 days after vendors making catalogue sales are first notified, as provided in W. Va. Code §11-15B-35, of the adoption the ordinance from which this Article derives and their obligation to collect and remit the taxes imposed by this Article. All businesses selling tangible personal property or furnishing services subject to the tax imposed by this Article on and after the first day of the calendar quarter on which collection begins shall, on and after that day, collect and remit the taxes imposed by this Article whether or not they received notice from the Tax Commissioner under W. Va. Code §11-15B-35.