

**City
of
New Martinsville**

**Municipal
Home Rule
Application**

MUNICIPAL SALES AND USE TAX CHECKLIST

City of New Martinsville
191 Main Street
New Martinsville, WV 26155

Kim Whiteman, City Recorder
191 Main Street
New Martinsville, WV 26155304-455-9122
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Municipal Sales and Use Tax Ordinance

1. Was a draft of the sales and use tax ordinance submitted to the Tax Commissioner for review prior to first reading?

Yes No

If the Department requested changes, were the changes made?

Yes No

If no, please explain:

2. Date the governing body read the proposed sales and use tax ordinance a first time.

July 17, 2019

3. Date of the public hearing prior to second reading required by W.Va. Code §8-11-4(a)(2).

July 17, 2019

4. Did the governing body adopt any amendments to the municipal sales and use tax ordinance.

Yes No

If yes, please briefly describe the amendments.

5. Date the municipal sales and use tax ordinance was adopted.

August 5, 2019

6. What is the effective date of the municipal sales and use tax ordinance?

July 1, 2020

7. What is the internal effective date for imposition and collection of the municipal sales and use tax?

July 1, 2020

8. Please provide a certified copy of the municipal sales and use tax ordinance adopted by the governing body of the municipality.

9. If the municipality imposes a business and occupation tax (B&O tax):

a. *Non-Home Rule Municipalities.* Was the business and occupation tax eliminated as required by W.Va. Code §8-13C-4(b) before the municipal sales and use tax ordinance was adopted?

Yes _____ No _____

b. *Home Rule Municipalities.* Was the municipal B&O tax been reduced as described in the municipal home rule plan, or plan amendment, approved by the Municipal Home Rule Board?

Yes X No _____

10. If 9, above, is answered yes, please provide a certified copy of the ordinance adopted by the governing body amending the B&O tax.

11. Has a map of the corporate boundaries of the municipality been provided to the State Tax Department?

Yes X No _____

12. Has the municipality furnished the State Tax Department with the municipality's database in an Excel file.

Yes X No _____

13. Has the municipality furnished the State Tax Department with the name of the municipal employee, and his or her contact information, to contact regarding municipal sales and use taxes.

Yes X No _____

**CITY OF NEW MARTINSVILLE
MUNICIPAL HOME RULE
APPLICATION CHECKLIST**

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Section 1: Applicant Information

The below subsections provide information about the applicant, the City of New Martinsville, W. VA.

1.A. General Information

Municipality City of New Martinsville

Certifying official: Mayor Steven Bohrer

Contact Person: City Recorder Kim Whiteman

Address: 193 Main Street, New Martinsville, WV 26155

Telephone: 304-455-9120

Email: kwhiteman@newmartinsville.com

2010 census: 5042

1.B. Municipal Classification

Class I ___ Class II ___ Class III Class IV ___

I.C. Specific Issues to be addressed

Our home rule application and plan is designed to address the following issues:

- The inability of our code enforcement officer, building inspector, and /or city police to cite property owners "on the spot" for violations of city ordinances concerning property maintenance, safety, and health hazards.
- Inability to require lenders and trustees to register and maintain foreclosed properties
- Inability to place public-nuisance liens (for unpaid fines) against a property without a court order
- Inability to employ part-time, non-civil-service police officers for longer than three months
- Inability to hire police officers older than 40 years of age
- Delinquent Fees
- Online Sale or Disposition of Other Municipal Property
- Implementing a Municipal Sales and Use Tax of 1% along with B&O Tax reduction and incentives

I.D. Category of Issues to be Addressed

Tax Organization Administration Personnel

Section II: Narrative

The City of New Martinsville, the county seat of Wetzel County, is located along the Ohio River. The city has a rich history of boat racing and will celebrate its 200th birthday in 2038. New Martinsville has the quaint, small-town atmosphere, but faces many issues more typical of larger cities. In crafting its home-rule application, the city has sought to identify ordinances that could be modified to help solve some of the issues facing New Martinsville.

The bulk of the home-rule authorities sought by the City of New Martinsville are related to the problem of dilapidated properties. The remaining authorities are miscellaneous. In the section that follow, each authority is discussed, with reference to:

- Specific state laws that prevent the City of New Martinsville from carrying out its duties in the most cost-effective, efficient, and timely manner.
- Specific problems created by those laws
- Proposed solutions to the perceived problems, including all proposed changes to law, policies, acts, resolutions, rules, or regulations.

II.A. Authorities for Addressing Dilapidated Properties

Like many other West Virginia cities and towns, the City of New Martinsville suffers the ill effects of an excessive number of dilapidated and decrepit properties. Although there are many reasons why these properties have reached their current condition, each affects the city negatively by reducing neighboring property values, undermining community morale, discouraging new residents and businesses, attracting criminal activity, posing fire and other safety risks (especially for children and first responders), as well as creating health risks through the presence of mold and vermin.

State code currently gives cities, small towns certain powers intended to address such problems. These were devised in a time when the prevalence of such properties was much lower and the need to intervene was occasional, rather than constant. The processes and tools currently available under state code are simply too inefficient and unwieldy. These place the city at a disadvantage in efforts to take effective action against unhealthy, dangerous properties.

In order to better discharge our duty to protect the health, safety, and economic interests of our citizens, businesses and property owners, we seek the following authorities:

- The authority for our code enforcement officer, building inspector, and/or city police to cite property owners "on the spot" for violations of city ordinances concerning property maintenance, safety and health hazards.
- The authority to require lenders and trustees to register and maintain foreclosed properties.

- The authority to place public-nuisance liens (for unpaid fines) against a property without a court order.
- The authority to require that someone buying a property at tax-sale auctions must satisfy the city's demolition lien before securing title to the property.
- The authority to exercise a right of first refusal to purchase any delinquent-tax property inside city limits for taxes owed before the property is listed for sheriff's auction.
- The authority to sell without auction or lease city property at fair-market value to private purchasers in a manner that promotes economic development and/or the public good.
- The authority to sell without auction or lease city property at below-market value to 501 (c) 3 corporations.

These authorities and the justifications are discussed in more detail in the following subsections.

II.A.1 "On the spot" citations

This subsection explains why the City of New Martinsville seeks the authority for its code enforcement officer, building inspector, and/or city police to cite property owners "on the spot" for violations of city ordinances concerning property maintenance, safety, and health hazards.

II.A.1.a. Specific Legal Barrier

W.Va. Code 8-12-16 allows municipalities to adopt ordinances regulating the repair, closing, demolition, etc. of dwellings or buildings unfit for human habitation. Additionally, municipalities may adopt ordinances requiring the owner of any such dwelling or building to pay for the cost of repairs, alterations, improvements, demolition, etc.

W.Va. Code 8-12-5(23) further vests municipalities with the authority to, by ordinance or resolution, provide for the elimination of hazards to public health and safety and abate or cause to be abated anything which a majority of the governing body finds to be a public nuisance, but does not provide authority for granting citation powers to code enforcement officials.

In fact, from **W.Va. Code 8-12-16**, in pertinent part, the following language restricts enforcement agents to the powers granted to civil process servers:

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

II.1.b Specific Problem Caused by Legal Barrier

The result of the above code language is that, before citing property owners for property-maintenance and related nuisance violations (e.g., sanitation issues, garbage buildup, graffiti, unmaintained lawns, unsafe or broken sidewalks), building and zoning inspectors must follow an onerous of first posting public notice 10 days prior (warnings) and then applying for and receiving approval from the city's municipal court before a citation is issued. This process is inefficient, costly, and leads to an extended delay between the identification of a public nuisance and compliance from the property owner. In fact, because the process is so time-consuming and injurious to the apparent authority of the city's enforcement agents, non-compliance by the property owner is often the outcome.

II.A.1.c. Proposed Solution

New Martinsville seeks authority to enact an ordinance providing its Building Inspector and police officers to issue "on the spot" citations for certain violations. This citation power will extend to sanitation, drainage, sidewalks in disrepair, high weeds, grass, or both, graffiti, exterior garbage accumulation, open storage in residential districts, and vehicles without proper registration.

These citations may be issued to the owner, lessee, sub-lessee, tenant, occupant, or agent or manager thereof, presently having control over the property in question. An opportunity to respond will be afforded to the cited party by contesting the citation in municipal court. The citation will be administered substantially similar to how traffic citations are administered.

II.A.2. Registration and Maintenance of Foreclosed Properties

This subsection explains why the City of New Martinsville seeks the authority to require lenders and trustees to register and maintain foreclosed properties.

II.A.2.a. Specific Legal Barrier

W.Va. Code 8-12-16c grants municipalities the power to "establish by ordinance a vacant building and property registration and maintenance program."

II.A.2.b. Specific Problem Caused by Legal Barrier

Although **W.Va. Code 8-12-16c** clarifies that banks, lenders and trustees can be considered "owners" who are required to register vacant properties and be subject to vacant property enforcement. After code violations emerge, there are continuing problems with irresponsible parties that foreclose on properties but fail to maintain them.

Some lenders and trustees fail to enter their ownership on the title of a foreclosed property until just prior to resale. They fail to maintain the properties during the period of foreclosure and vacancy and seek to avoid the payment of fees for action taken by the municipality to correct code violations.

In these situations, foreclosed and vacant houses deteriorate and cause damage to neighborhoods. Code enforcement officials often have a difficult time contacting the mortgage trustee and compelling them to maintain these properties. In effect, the lender or trustee can ignore property maintenance for long periods of time and simply extinguish city maintenance fees when they eventually enter ownership on the property title just prior to resale.

II.A.2.c. Proposed Solution

New Martinsville seeks authority to enact an ordinance, expanding current powers granted by **W.Va. Code 8-12-16c**, that would require lenders and trustees who are in the process of foreclosing on a residence to register as an owner of the property at the time that the foreclosure is initiated (e.g., such as the time that the lender sends a foreclosure letter to the homeowner, or the time that the lender registers as an alternate trustee on the property), for the purposes of code enforcement and property maintenance.

At the time that the lender or trustee registers as an owner, the proposed ordinance would require it to retain a party to conduct property maintenance, provide the contact information for that maintenance company to the city, and be responsible for ensuring that this property maintenance company keeps the property to code and maintained.

II.A.3. Public Nuisance Liens

This subsection explains why the City of New Martinsville seeks the authority to place public-nuisance liens (for unpaid nuisance fines) against a property without a court order.

II.A.3.a Specific Legal Barrier

Although, as discussed in subsection **II.A.1.a**, above **W.Va. Code 8-12-12** permits the adoption of ordinances regulating the repair, closing, demolition, etc., of dwellings or buildings unfit for human habitation and allows municipalities to file liens against real property for an amount that reflects all costs incurred by the municipality for repairing, altering, improving, closing, demolishing, etc., such liens cannot be filed in the absence of a court order.

II.A.3.b. Specific problem Caused by Legal Barrier

The city has the ability to repair, alter, or demolish property and/or mow overgrown grass, but is limited to sending a bill to the property owner to attempt to recoup the city's costs in taking such action. There is not only the financial aspect of an often unpaid bill, this action also reduces the perceived authority of the city's enforcement agents.

II.A.3.c. Proposed Solution

New Martinsville seeks the authority to enact an ordinance that would enable it to not only, after due notice, repair, alter, or demolish property, mow overgrown grass, collect unlawful accumulations of garbage and rubbish, and take other similar actions, but also, without court approval, place a lien on the property for the city's costs in taking such action.

II.A.4. Satisfaction of Demolition Liens

In this subsection the City of New Martinsville explains why we seek authority to require anyone buying a property at a tax-sale auction to satisfy our demolition lien before securing title to the property.

II.A.4.a Specific Legal Barrier

W.Va. Code 11A-3-14(a) provides that "if highest bidder present at the auction of a piece of real property for delinquent taxes bids and pays at least the amount of taxes, interest and charges for which the tax lien on any real estate is offered for sale, the sheriff shall issue to him or her a certificate of sale for the purchased money...except the sheriff shall require payment of any subsequent taxes due at the time of the sale before a Certificate of Sale is issued"

The Sheriff is required to issue a Certificate of Sale to the highest bidder who pays at least the amount of taxes, interest and charges for which the tax lien on the real estate is offered for sale. Left unaddressed is the satisfaction of any demolition liens that may have been imposed by a municipality. State code does not require the successful bidder to satisfy any such liens, which are effectively washed away as a result.

II.A.4.b. Specific Problem Caused by Legal Barrier

As per the International Property Maintenance Code (IPMC), subsection 110 , a city may order the demolition of any structure(after proper notification and rigorous attention to the due process rights of the owner)that has become "so deteriorated or dilapidated or has become so out of repair as to be dangerous, unsafe, insanitary or otherwise unfit for human habitation or occupancy such that it is unreasonable to repair the structure, to demolish and remove such structure...or where there has been a cessation of normal construction of any structure for a period of more than two years."

IPMC subsection 110. 3 further provides that if the owner of the premises fails to comply with a demolition order within the time prescribed, the Code Official shall cause the structure to be demolished and removed, and the cost of such demolition and removal shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.

All too often, however, these demolished properties end up at the county tax sale because the homeowners are delinquent on their property taxes. These properties, had they not been improved by the demolition conducted by the city, might be more likely to go unredeemed or not purchased at the county tax sale. However, due in large part to the demolition conducted by the city, this once undesirable property is now attractive and, further, may be purchased free and clear of all liens at the tax sale.

In such instances the buyer benefits from the prior use of public funds to improve the property through the demolition of a dilapidated, uninhabitable building; the city's demolition lien is effectively extinguished; and the city is unable to collect any of the monies it utilized in improving the property.

II.A.4.c. Proposed Solution

New Martinsville seeks authority to enact an ordinance requiring payment of any demolition lien due at the time of a delinquent-tax sale and before the certificate of sale is issued, in the same way that W.Va. Code 11A-3-14 currently stipulates, that, at such sales, "the sheriff shall require payment of any subsequent taxes due at the time of sale before a certificate of sale is issued." As a result, to prevail at such an auction, a bidder would have to offer the highest bid that pays not only (1) the amount of taxes, interest and charges for which the tax lien on any real estate is being offered for sale but also (2) the amount of the city's demolition lien.

II.A.5. Right to Purchase Tax-Delinquent Properties

This subsection explains why the City of New Martinsville seeks the authority to exercise a right of first refusal to purchase any delinquent-tax property (especially including properties against which the city has filed a demolition lien or other lien) inside city limits for taxes owed before the property is listed for sheriff's auction.

II.A.5.a Specific Legal Barrier

Before a county tax sale can be held, the Sheriff's Office must publish the list of delinquent tax properties and give notice prior to the sale date fixed in the notice as a Class III-0 legal advertisement in per **W.Va. Code subsection 11A-3-2**. The notice must contain a list of the properties, including the person charged with the taxes, quantity of land, local description and total amount of the taxes, interest and charges due to date of sale. Furthermore, a property listed in the publication can be redeemed if all payments for delinquent real estate taxes are received by the Sheriff's Office within fourteen business days prior to the date of the sale (**W.Va. Code subsection 11A-3-4**).

When tax-delinquent properties are sold at auction, there is currently no means of prevailing at that auction other than the stipulated in W.Va. Code 11A-3-14(a), i.e., offering the highest bid that pays at least the amount of taxes, interest and charges for which the tax lien on any real estate is being offered for sale. There is currently no other way to obtain the title to such property.

II.A.5.b. Specific Problem Caused by Legal Barrier

All too often, such properties are purchased—sometimes in large volumes—by speculators with little concern for the health of the surrounding neighborhoods and/or no particular plans to effect improvements to any structure on said properties. By contrast, it would be in the public's clear interest to the city to be able to obtain these properties so that it could, for example, sell

or otherwise transfer them to a community housing development organization (see section II.A.7, below) for renovation/reconstruction as high-quality workforce housing, among other possible neighborhood revitalization scenarios. However, it would be a losing proposition to regularly compete with private bidders for such properties, as most cities would find themselves regularly outbid.

II.A.5.c. Proposed Solution

New Martinsville seeks authority to enact an ordinance giving the city the right to purchase any delinquent-tax property (especially including properties against which the city has filed a demolition or other lien) inside city limits for taxes owed before the property is listed for sheriff's auction.

Under the proposed authority, New Martinsville would be given the first opportunity to purchase any property (especially including the properties against which the city has filed a demolition or other lien) within city limits for taxes owed. This would allow the deed, if the property is not redeemed, to be issued to the city, where, among other possibilities, and under authority sought in sections II.A.6 and II.A.7, below, the property could be sold directly to private or non-private entities proposing projects with clear public benefits. The time necessary for the city to decide whether to exercise this authority on any given for property owners to redeem property prior to its sale.

II.A.6. Transfer or Lease of City Property to Private and Non-profit Entities

This subsection explains why the City of New Martinsville seeks the authority to sell without auction or lease city property at fair-market value to private purchasers in a manner that promotes economic development and/or the public good.

II.A.6.a. Specific Legal Barrier

Under W.Va. Code subsection 8-12-18 (and except in limited circumstances involving sales to the United States, or a state or instrumentality thereof), municipalities may only sell their real and personal property for "fair and adequate" consideration at public auction (with sufficient legal advertisement). Similarly, municipalities may lease real or personal property, but only for "fair and adequate" consideration, and by resolution of the municipality's governing body.

II.A.6.b. Specific Problem Caused by Legal Barrier

The requirements imposed by W.Va. Code 8-12-18 to sell real property only at auction, and the requirement that any lease be for "fair and adequate" terms (which is generally interpreted to be equivalent to market rate), prevents cities from entering into transactions that could fill vacant buildings, attract businesses, provide revenue, and encourage the use of city properties to advance the public good.

In short, some of the authorities sought earlier in this section (such as the right of first refusal for properties being sold for delinquent taxes) will mean little in the absence of the ability to sell them at low cost to private and non-profit entities intending uses that are beneficial to the community. In fact, the requirements imposed in W.Va. Code 8-12-18 are really a disincentive against cities ever offering such properties for sale, because of the impossibility of either avoiding undesirable uses (such as a gas station next to a historic property) or ensuring strong public benefit.

II.A.6.c. Proposed Solution

New Martinsville seeks authority to enact an ordinance: 1) allowing the sale of real and personal property by the city at fair market value to private purchasers without auction in such a manner that promotes economic development or provides a service for the public good, 2) allowing the lease of real and personal property by the city to private lessees for less than fair market value if the private lessees will use the property in such a manner that promotes economic development or provides a service for the public good, 3) allowing the sale of real and personal property by the city at less than fair market value to nonprofit purchasers without an auction, and 4) allowing the lease of real and personal property by the city at less than fair market value to nonprofit lessees.

II.B. Civil Service, Party Affiliation, Administrative, and Economic Development Authorities

New Martinsville has identified several miscellaneous current requirements of state law that impose unreasonable and count-productive burdens on either city staff or prospective businesses.

Therefore, in order to reduce these burdens and more efficiently and effectively advance various public interests, the city seeks the following miscellaneous civil service, party affiliation, administrative, and economic development authorities:

- The authority to employ part-time, non-civil-service police officers
- The authority to raise the upper age limit for initial entry-level appointment to full-time civil-service officers from 40 to 45.
- The authority to eliminate requirements that political party membership be taken into account for appointments as election officials and to civil-service and building commissions.
- The authority to reduce the number of business-license categories and/or reduce the fees charged to various categories.
- The authority to eliminate current distance requirements between churches and restaurants/bars.

II.B.1. Part-Time Police Officers

This subsection explains why the City of New Martinsville seeks the authority to employ part-time, non-civil-service police officers.

II.B.1.a. Specific Legal Barrier

W.Va. Code Article 8-14 specifies how officers are to be appointed to civil-service police departments. In general, the article contemplates only the hiring of full-time officers with full civil-service status. Although 8-14-16 makes provisions for the temporary hiring of special officers other than through the competitive civil-service process, these special officers may only serve for three months at a time.

II.B.1.b. Specific Problem Caused by Legal Barrier

The City of New Martinsville Police Department is currently funded for ten sworn, civil-service positions (and one Chief). If New Martinsville were always able to field 10 officers throughout each week, this would still be a relatively light level of staffing for a city approximately 5200 people. As is the case with many other cities, New Martinsville is currently experiencing significant levels of crime.

Even when all ten civil-service positions are funded, it is often the case that New Martinsville is not able to field all 10 officers. Our salary and benefit offers are not able to compete with other law enforcement departments.

There is also a lag time between the appointment of a new officer and when they can respond to calls. They must graduate from the West Virginia Police Academy (a 16-week program) and complete a field-training period that is required of all new officers. During this time, although the positions are filled, the department does not actually have 10 independent officers.

This leaves the city dangerously understaffed. It forces the remaining officers to work extra long hours, risking mistakes caused by lack of rest, harming family relationships, and leading them to pursue other employment opportunities.

In these situations, it would be helpful if the city were able to augment its civil-service police force with part-time special police officers who could serve as needed, particularly to enforce traffic laws and/or respond to motor vehicle accidents. Another similar beneficial scenario would involve hiring or retaining officers above retirement age, who could bring their long experience to special assignments such as long-term drug investigations. But, as mentioned above, state law currently prevents municipalities from appointing special officers for longer than three months at a time.

II.B.1.c. Proposed Solution

New Martinsville seeks the authority to enact an ordinance that would expand its existing power, granted by W.Va. Code 8-14-16, to permit the non-competitive hiring of special (non-civil service) police officers to serve as needed for indefinite periods of time. This ordinance would not affect civil service status or protections for current or future full-time officers. New Martinsville would continue to fully adhere to all civil-service requirements of the West Virginia Code. The total number of part-time special officer positions would be limited to no more than 25 per cent of funded full-time civil-service positions in the police department. Special police officers would not be used to avoid the need to fill full-time civil-service vacancies and New Martinsville would continue to actively seek to fill all such vacancies. Part-time special officers would receive all training required of other officers (including successful completion of the academy's basic law enforcement course) and would be required to hold active West Virginia law enforcement certification.

II.B.2. Raising Maximum Age for Joining Civil Service Police Departments

This subsection explains why the City of New Martinsville seeks the authority to raise the upper age limit for initial entry-level appointments of full-time civil service officers from 40 to 45.

II.B.2.a. Specific Legal Barrier

W.Va. Code 8-14-12 stipulates that no applicant for initial appointment to a civil-service police department may be "more than forty years of age at the date of the individual's application."

II.B.2.b. Specific Problem Caused by Legal Barrier

As in many other West Virginia towns and cities, the New Martinsville Police Department sometimes struggles to find enough applicants to create civil service lists that are long enough not to be exhausted after filling just 1-3 positions. This problem has multiple causes. The inability of some candidates to pass the written test, the polygraph interview, or the psychological evaluation---are, of course, excellent reasons for rejection.

But the imposition of an upper age limit of forty years at the time of the initial application seems arbitrary. It excludes some otherwise excellent candidates (in particular candidates with prior law-enforcement experience, a particularly desirable category, one of which had to be rejected during our most recent civil-service hiring evolution) who are otherwise entirely capable of meeting all the other requirements and show strong potential for providing excellent service to the New Martinsville community.

The arbitrariness of this requirement is further demonstrated by the fact that it does not apply to sheriff's deputies, who are already allowed to be 45 years old at the time of the initial application (W.Va. Code 7-14-8). Because of this discrepancy, the sheriff's department often attracts veterans of city departments. The requirement is not merely arbitrary but starkly unfair.

II.B.2.c. Proposed Solution

New Martinsville seeks authority to enact an ordinance raising the maximum age at the time of the application for entry-level civil-service police positions from 40 to 45 years, i.e., the identical requirement currently in place for sheriff's deputies.

II.B.3. Business Licensing Categories and Fees

This subsection explains why the City of New Martinsville seeks the authority to reduce the number of business-license categories and/or reduce the fees charged to various categories.

II.B.3. a Specific Legal Barrier

W. Va. Code 8-13-4 permits cities to "enact an ordinance creating annual general municipal business license for anything which requires a state license that is done within the corporate limits of a municipality, the tax for which may not extend twenty dollars." However, the city may not include under this "general" business license any category of business on which West Virginia Code imposes a state license fee; cities must continue to charge that fee at the municipal level as well.

II.B.3.b. Specific Problem Caused by Legal Barrier

Although the 2011 amendment creating the "general municipal business license" was a step in the right direction, it was a half measure. Because cities are not yet truly free to consolidate all business license for all categories of business operating inside their borders, staff members charged with processing such are required to expend valuable time differentiating between categories of businesses for no clear benefit. At the same time, businesses are not treated fairly. The license amounts assigned to different categories do not seem based on rational distinctions between those categories. For example, as shown on the City of New Martinsville Application for Business License (Appendix A), private investigators are charged \$50 for their city business license, while attorneys (who arguably have higher earning potential) are charged only \$15.

II.B.3.c. Proposed Solution

New Martinsville seeks authority to enact an ordinance, expanding the authority provided under W.Va. Code 8-13-4, to allow the city to consolidate all business license categories (except for alcohol licenses), including those currently charged a state-specific fee, into one general category, for which we would establish one universal fee, not to exceed \$20. This will improve the efficiency of city staff and increase the perceived fairness of the city's business-licensing requirements.

City of New Martinsville
Home Rule Application

PROPOSED SALES AND USE TAX IMPLEMENTATION
AND
PROPOSED B&O TAX REDUCTION

With the imposition of a one percent (1%) sales and use tax, the City of New Martinsville could realize an estimated proposed revenue of approximately \$1,981,853.00.

As required by West Virginia Code 8-1-5a(i)(14), in conjunction with the City of New Martinsville's request for authority to impose said sales tax, the City is proposing to reduce the rate of its current Business and Occupation Tax in manufacturing, lime/sandstone (quarried or mined) and selling retailers. The manufacturing rate would decrease from 0.15% to 0.10% resulting in an estimated \$6,270.00 reduction. The lime/sandstone rate would decrease 0.50% to 0.45% resulting in an estimated \$894.00 reduction. The selling retailers current B&O rate would decrease from 0.25% to 0.20 % resulting in an estimated \$99,092.00 reduction in the amount collected. The estimated total amount of decreased B&O Tax collected would be approximately \$106,257.00 due to the reduced rates.



Where The Rail & River Meet

CITY OF NEW MARTINSVILLE
MUNICIPAL BUILDING
191 MAIN STREET
NEW MARTINSVILLE, WEST VIRGINIA 26155

(304) 455-9120
FAX (304) 455-9123

A1

Dale W. Steager
West Virginia Tax Commissioner
1001 Lee Street East
Charleston, WV 25301

Dear Mr. Steager,

Enclosed please find the following; Legal Ad placed in the Wetzel Chronicle, Ordinance, Estimated Proposed Sales and Use Tax, as well as, Proposed Sales and Use Tax implementation and Proposed B&O Tax Reduction.

Please do not hesitate to contact me at the number above if you should have questions or comments.

Sincerely,

Kim Whiteman
City Recorder

TO ALL RESIDENTS, FIRMS AND CORPORATIONS OF THE CITY OF NEW
MARTINSVILLE, WEST VIRGINIA

Please take notice that the City of New Martinsville, West Virginia, intends to submit an application to participate in the West Virginia Municipal Home Rule Program, pursuant to the Provisions of the W.Va. Code 8-1-5a. Said application requests permission for the City of New Martinsville to be granted authority to broadly increase its governing powers as set forth in the said W.Va. Code provisions, and for the particular areas and items set forth in the City's said application. A copy of the application is available for public inspection during open office hours at the New Martinsville City Building, 191 Main Street, New Martinsville, WV 26155.

The Home Rule application shall be subject to a public hearing on Wednesday, July 17, 2019, at 7:00 p.m. at the Council Chambers, New Martinsville City Building, 191 Main Street, New Martinsville, WV 26155, and an ordinance authorizing the said application's submission to the West Virginia Municipal Home Rule Board shall be considered by New Martinsville Council for adoption on July 22, 2019 and August 5, 2019 in the Council Chambers at New Martinsville City Building, 191 Main Street, New Martinsville, WV 26155 after said public hearing. Any interested person may appear to be heard at said public hearing.

Kim Whiteman

City Recorder

ADNo: 14166 Customer Number: L00102
 Customer Name: Company: CITY OF NEW MARTINSV
 Address: 191 MAIN STREET
 City/St/Zip: NEW MARTINSVILLE ,WV 26155
 Phone: (304) 455-9120 Solicitor: TJ
 Category: 10 Class: 1000 Rate: LE-0 Start: 6-5-2019 Stop: 6-12-2019
 Lines: 33 Inches: 3.21 Words: 227

Credit Card: Expire:
 Order Number:
 Cost: 56.45 Extra Charges: .00 Adjustments: .00
 Payments: .00 Discount: .00
 Balance: 56.45

TO ALL RESIDENTS, FIRMS AND CORPORATIONS
 OF THE CITY OF NEW MARTINSVILLE, WEST
 VIRGINIA

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Kim Whitman
 City Recorder
 WC 6/5 6/12 14166

**AN ORDINANCE OF THE CITY OF NEW MARTINSVILLE, WEST VIRGINIA,
AUTHORIZING THE GOVERNINIG BODY OF THE CITY OF NEW
MARTINSVILLE TO SUBMITITS MUNICIPAL OME RULE APPLICATION AND
PLAN O THE MUNICIPAL OME RULE BOARD PURSUANT TO THE PROVISIONS
OF WEST VIRGINIA CODE §8-1-5a, GENERALLY, AND §8-1-5a(f), PARTICULARLY.**

The Common Council of the City of New Martinsville duly adopted a resolution on June 3, 2019 scheduling a public hearing on the City of New Martinsville Municipal Home Rule Application for July 17, 2019.

The City Recorder caused to be published a notice of the public hearing on the Home Rule Application as required by the Act.

The City Recorder caused to be published the Notice of Proposed Enactment of the Proposed Ordinance as a Class II Legal Ad on June 5, 2019 and June 12, 2019 in *The Wetzel Chronicle* newspaper, as required by law.

A copy of the written plan and application has been available to the public and may be inspected by the public at the office of the City Recorder, 191 Main Street, New Martinsville, West Virginia.

On July 17, 2019 at 7:00 p.m. in the New Martinsville City Council Chambers, 191 Main Street, New Martinsville, West Virginia, the Common Council conducted a public hearing during which interested parties had the opportunity to appear and their comments be heard and considered.

The Ordinance was presented to, and passed on first reading by, Council after the public hearing on July 17, 2019.

The Ordinance was presented to, and passed on second reading, by Council on August 5, 2019.

NOW THEREFORE, BE IT ORDAINED and ENACTED by the Common Council of the City of New Martinsville, that the Mayor, as the certifying official, is hereby directed to make submission to the Municipal Home Rule Board the City of New Martinsville Home Rule Application, pursuant to the rules and regulations found in West Virginia Code § 8-1-5a, generally, and § 8-1-5a (f), particularly (collectively, the "ACT"). A copy of the Application is attached hereto and is intended to be read as a part hereof.

With the imposition of a one percent (1%) sales and use tax, the City of New Martinsville could realize an estimated proposed revenue of approximately \$1,981,853.00.

As required by West Virginia Code §8-1-5a(i)(14), in conjunction with the City of New Martinsville's request for authority to impose said sales tax the city is proposing to reduce the rate of its current Business and Occupation Tax in manufacturing, lime/sandstone (quarried or mined) and selling retailers. The manufacturing rate would decrease from 0.15% to 0.10% resulting in an estimated \$6,270.00 reduction. The lime/sandstone rate would decrease 0.50% to 0.45% resulting in an estimated \$894.00 reduction. The selling retailers current B&O rate would decrease from 0.25% to 0.20% resulting in an estimated \$99,092.00 reduction in the amount collected. The estimate total amount of decreased B&O Tax collected would be approximately \$106,257.00 due to the reduced rates.

This Ordinance shall become effective upon passage.

PASSED AND APPROVED ON FIRST READING: JULY 17, 2019.

PASSED AND APPROVED ON FINAL READING: AUGUST 5, 2019.

CITY OF NEW MARTINSVILLE, WEST VIRGINIA

Steven A. Bohrer, Mayor

Attest:

Kim Whiteman, City Recorder

|

City of New Martinsville
Home Rule Committee
1% Sales Tax Summary

B&O Category	FY 2018 Gross	Exempt	Current Rate	B&O Tax	Proposed Rate	B&O Tax	B&O Reduction	FY 2018 Retail Gross Less Exemptions	Estimated Proposed Sales & Use Tax 1%
Manufacturing	12,540,563.42	0.00	0.15%	18,810.85	0.10%	12,540.56	-6,270.28		
Lime/Sandstone, Quarried or Mined	1,789,841.25	0.00	0.50%	8,949.21	0.45%	8,054.29	-894.92	1,789,841.25	17,898.41
Selling Retailers	204,626,307.20	6,440,963.68	0.25%	495,463.36	0.20%	396,370.69	-99,092.67	198,185,343.52	1,981,853.44
Wholesalers	15,141,610.60	76,683.97	0.08%	12,051.94	0.08%	12,051.94	0.00		
Electric Light & Power Sales & Demand, Domestic &	2,303,506.52	0.00	4.00%	92,140.26	4.00%	92,140.26	0.00		
Electric Light & Power All Other Sales & Demand	1,076,027.96	0.00	3.00%	32,280.84	3.00%	32,280.84	0.00		
Natural Gas Companies	2,271,769.84	0.00	3.00%	68,153.10	3.00%	68,153.10	0.00		
Contracting	6,828,880.24	5,160.00	1.00%	68,237.20	1.00%	68,237.20	0.00		
Amusement	327,123.40	0.00	0.25%	817.81	0.25%	817.81	0.00		
Services or Calling & All Other Businesses	46,615,551.55	88,010.74	0.50%	232,637.70	0.50%	232,637.70	0.00		
Rentals, Royalties, Fees Or: Otherwise	29,184,021.15	101,529.25	0.50%	145,412.46	0.50%	145,412.46	0.00		
Banking and Other Financial Institutions	8,229,952.17	2,373,894.44	0.50%	29,280.29	0.50%	29,280.29	0.00		
Totals:	330,935,155.30	9,086,242.08		1,204,235.01		1,097,977.14	-106,257.87	Admin Fee 2.4%	1,981,853.44
									47,564.47
Total Revenue:	1,204,235.01								1,934,288.97



Where The Rail & River Meet

CITY OF NEW MARTINSVILLE
MUNICIPAL BUILDING
191 MAIN STREET
NEW MARTINSVILLE, WEST VIRGINIA 26155

(304) 455-9120
FAX (304) 455-9123

A6

June 7, 2019

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

Re: Statement as to Fess of the State of West Virginia

Ms. Browning:

The purpose of this letter is to confirm that, to the best of my knowledge and belief, after due inquiry, the City of New Martinsville is current on all fees payable by the City to the State of West Virginia. This statement is being provided to comply with the application requirements of the West Virginia Municipal Home Rule Program.

Sincerely,

Steven A. Bohrer
Mayor



Where The Rall & River Meet

CITY OF NEW MARTINSVILLE
MUNICIPAL BUILDING
191 MAIN STREET
NEW MARTINSVILLE, WEST VIRGINIA 26155

(304) 455-9120
FAX (304) 455-9123

A7

June 7, 2019

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

Re: Agreement to Provisions of Act

Ms. Browning:

The purpose of this letter is to confirm that we have reviewed the requirements set forth in W.Va. Code §8-1-5a and hereby certify that the City of New Martinsville agrees to comply with the requirements of that subsection so that it may participate in the Home Rule Program.

Sincerely,

Steven A. Bohrer
Mayor

City of New Martinsville
Municipal Home Rule Application
Resolution for a Public Hearing
Announcement of first and second reading dates
Monday, June 3, 2019

Whereas: The City of New Martinsville Common Council intends to submit a Municipal Home Rule Application, a public hearing be held, in the City Council Chambers, on Weds., July 17th at 7:00 PM.

Whereas: The first reading of the intent to submit the application be held immediately following the public hearing scheduled for Weds., July 17th at 7:00 PM and

Whereas: The second reading of the intent to submit the application be scheduled for Monday, August 5th during the Regular City Council Meeting scheduled at 7:30 PM.

Signature of motion made by/date

Signature of motion seconded by/date
