

ARTICLE 757
Intoxicating Liquor

757.01 Levy.

CROSS REFERENCES

Authority to levy - see W.Va. Code 8-13-7; 60-7-7
Liquor control - see GEN. OFF. Art. 521

757.01 LEVY.

There is hereby imposed a tax of five percent (5%) of the retail purchase price of any and all intoxicating liquors purchased from the Alcohol Beverage Control Commission or from any person licensed to sell wine at retail to the public under the provision of West Virginia Code Article **60-8**, within the corporate boundaries of the Municipality. Such tax shall be levied upon the purchaser of such intoxicating liquor or wine, and shall be added to any collected with the retail purchase price of such intoxicating liquor or wine. Such tax shall be received by the Municipality from the State Treasury pursuant to the rules and regulations adopted by the Alcohol Beverage Control Commissioner. Provided, however, that such tax shall not be collected on intoxicating liquors, other than wine sold by or purchased from holders of a license issued under the provisions of West Virginia Code Article 60-7. Provided **further**, such tax shall be collected upon all sales of wine to holders of a license issued under the provisions of West Virginia Code Article **60-7** from a wine distributor licensed pursuant to the provisions of West Virginia Code Article 60-3.

(Ord. 83-7-18. Passed 7-18-83.)

ARTICLE 761
Nonintoxicating Beer

761.01	Definitions.	761.06	Issuance of license.
761.02	License required.	761.07	State license required.
761.03	License fees.	761.08	Prohibited sales.
761.04	Permitted sales.		
761.05	Duration of license; proration of fee.		

CROSS REFERENCES

Nonintoxicating beer - see **W.Va. Code Art. 11-16**

Municipal license tax - see **W.Va. Code 11-16-17**

Liquor control - see **GEN. OFF. Art. 521**

761.01 DEFINITIONS.

For the purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section:

- (a) "Brewer" means any person manufacturing, bottling or **otherwise** producing nonintoxicating beer for sale at wholesale.
- (b) "**Distributor**" means any person whose chief place of business is within the City, jobbing or distributing nonintoxicating beer to retailers at wholesale.
- (c) "Nonintoxicating beer" means all cereal malt **beverages** or products of the brewing industry commonly referred to as beer, lager beer, ale and all other mixtures and preparations produced by the brewing industry, and containing not more than three and two-tenths percent of alcohol by weight, which are hereby declared to be nonintoxicating and the word "liquor," as used in West Virginia Code Chapter **60**, shall not be construed to include or embrace any cereal malt beverage or product of the brewing industry, or any mixture or preparation of like nature containing not more than three and two-tenths percent of alcohol by weight.
- (d) "Original container" means the container used by the brewer at the place of manufacturing, bottling, or otherwise producing nonintoxicating beer for sale at wholesale.
- (e) "Retailer" means any person selling, **servng**, delivering or otherwise dispensing nonintoxicating beer at his established and licensed place of business.

761.02 LICENSE REQUIRED.

No person in the City shall manufacture, sell or distribute, either at retail or wholesale, nonintoxicating beer without a City license therefor.

761.03 LICENSE FEES.

The following license fees are hereby imposed on persons selling or manufacturing nonintoxicating beer:

- (a) Class A Retail.
 - (1) For a Class A retail dealer, one hundred fifty dollars (\$150.00) per year for each place of business. (Passed 6-20-94)
 - (2) For social, fraternal or private clubs not operating for profit, and having been in continuous operation for two years or more immediately preceding the date of application, one hundred dollars (\$100.00) per year.
- (b) Class B Retail. For a Class B retailer, seventy-five dollars (\$75.00) per year.
- (c) Distributor. For a distributor, two hundred fifty dollars (\$250.00) per year for each place of business.
- (d) Brewer. For a brewer with its principal place of business located in the City, five hundred dollars (\$500.00) per year for each place of manufacture.

761.04 PERMITTED SALES.

(a) Class A licenses issued for social, fraternal or private clubs shall authorize the licensee to sell nonintoxicating beer at retail for consumption only on the licensed premises where sold. ~~All~~ other Class A licenses shall authorize the licensee to sell nonintoxicating beer at retail for consumption on or off the licensed premises.

(b) A Class B license shall authorize the licensee to sell nonintoxicating beer at retail in bottles, cans or other sealed containers only, and only for consumption off the licensed premises. Sales under this license to any person at any one time shall be in quantities of less than five gallons. Such license may be issued only to the proprietor or owner of a grocery store. For the purpose of this article, the term "grocery store" means and includes any retail establishment commonly known as a grocery store or delicatessen, where food or food products are sold for consumption off the premises.

761.05 DURATION OF LICENSE; PRORATION OF FEE.

Licenses required by this article shall be for the term of one year, commencing on July 1, of each year and ending on June 30, of the following year. If granted for a less period than one year, the license shall be computed quarterly from the annual fee in proportion to such time as the license has to run.

761.06 ISSUANCE OF LICENSE.

All licenses required by this article shall be issued by the City Treasurer.

761.07 STATE LICENSE REQUIRED.

No person shall be eligible to apply for a City license to manufacture, sell or distribute nonintoxicating beer under the provisions of this article unless such person shall have first applied for and received a State license to manufacture, sell or distribute nonintoxicating beer in the same manner and in the same proportions as his application for a City license requires.

761.08 PROHIBITED SALES.

(a) The sale of nonintoxicating beer to minors under the age of twenty-one years is prohibited.

(b) The sale, offering or distributing of nonintoxicating beer to persons already intoxicated is hereby prohibited.

ARTICLE 765
Private Clubs

765.01 License required, fee.

765.03 Revocation of license.

765.02 Issuance of license.

CROSS REFERENCES

Authority to license - see W. Va. Code ~~8-13-7~~; ~~60-7-7~~

Private clubs - see W. Va. Code Art. ~~60-7~~

Liquor control - see GEN. OFF. Art. 521

765.01 LICENSE REQUIRED; FEE.

There hereby is, imposed and levied upon every fraternal or veterans organization or other private or social, non-profit club, engaged in the sale of intoxicating or alcoholic beverages, exclusive of beer, an annual license fee in an amount of one-half of the license fee imposed or levied by the State of West Virginia for the same activity. Any fraternal or veterans organization or other private or social, non-profit club, engaged in the sale of intoxicating or alcoholic beverages within the City of Charles Town, for which a license is required by the State of West Virginia, shall, within sixty days of receiving such State license, secure a license from the City of Charles Town for the same activity, which license shall be issued by the City upon payment by the licensee of the license tax hereinbefore levied and imposed.

(Passed 7-19-72)

765.02 ISSUANCE OF LICENSE.

All fees required by Section 765.01 shall be paid in the office of the City Treasurer on or before June 30, for the ensuing fiscal year, whereupon a license shall be issued by the City Treasurer. Such license shall be on such form as prescribed by the City Treasurer.

765.03 REVOCATION OF LICENSE.

In the event that any license provided by the State or any agency thereof, pursuant to the provisions of West Virginia Code Article ~~60-7~~, as amended, is revoked, then in such event, any license provided by reason of Sections 765.01 and 765.02 will be likewise revoked by the City Treasurer without the necessity of further proceedings hereunder.

ARTICLE 769
Wine Distributors and Retailers

769.01 License required.
769.02 Fee.

769.03 Term of license.
769.04 Separate license required.

CROSS REFERENCES

Authority to levy - see W. Va. Code 8-13-4
Liquor control - see GEN. OFF. Art. 521

769.01 LICENSE REQUIRED.

No person may engage in business in the capacity of distributor or retailer of wine as provided by West Virginia Code Article 60-8, within the corporate limits of the City, without first obtaining a license from the City, nor shall a person continue to engage in any such activity after his license has expired, been suspended or revoked. No person may be licensed in more than one of such capacities at the same time.

(Passed 7-6-81)

769.02 FEE.

The City shall collect an annual fee for license issued under this article as follows:

- (a) Twenty-five hundred dollars (\$2,500) per year for a distributor's license.
- (b) One hundred fifty dollars (\$150.00) per year for a retailer's license.

(Passed 7-6-81)

769.03 TERM OF LICENSE.

The license period shall begin on the first day of July of each year commencing with July 1, 1981, and ending on the thirtieth day of June of the following year, and if the initial license is granted for less than a year, the fee shall be computed in proportion to the number of quarters remaining in the fiscal year, including the quarter in which application is made.

(Passed 7-6-81)

769.04 SEPARATE LICENSE REQUIRED.

A retailer who has more than one place of retail business shall obtain a license for each separate retail establishment. A retailer's license may be issued only to the proprietor or owner of a bona fide grocery store or wine specialty shop.

(Passed 7-6-81)

ARTICLE 770
Municipal Service Fee For Street Improvements

770.01 Purpose.

770.02 User defined.

770.03 Fees.

770.04 Appeal.

770.05 Collection of fees and penalties.

770.06 Use of funds.

CROSS REFERENCES

Street - see S.U. & P.S. An. 905. 906

770.01 PURPOSE.

There shall be established by and through this article, a municipal service fee for the purpose of providing street improvements. (Ord. 99-006. Passed 3-19-99.)

770.02 USER DEFINED.

The users of said street improvements are hereby declared to be the occupants, whether tenants or owners of all residential premises (which term includes houses, townhomes, apartments and duplexes) manufacturing plants and all business premises, (which term includes all businesses involving the sale of tangible personal property or the rendering of a service with the object of economic benefit) within the City of Charles Town. (Ord. 99-006. Passed 3-19-99.)

770.03 FEES.

(a) For the purpose of providing street improvements by the City of Charles Town there is hereby imposed upon the users thereof, that is to say, collectively upon the occupants of each residential premise, each manufacturing plant and each business premise from and after July 1, 1999, an **annual** fee or charge of forty-eight dollars per year. This fee shall be payable in installments consistent with the charges for utility services provided by the City, and for each period thereafter so long as this article remains in effect.

(b) The owners of all businesses and the head of the house of each residence shall be responsible for the payment of the charges. Consistent with the charges for utility services provided by the City, monthly or bi-monthly bills shall be rendered to the persons, firms and corporations.

(c) The Treasurer shall be responsible for preparing and mailing the bills and may include the charges on the monthly or **bi-monthly** utility bills rendered by the City to all persons, firms and corporations who are defined as users of the municipal service.

(d) The record owner of the property upon which a single family residence is situated shall be presumed to be the user of the municipal service rendered for the benefit of said property and the record owner shall be liable to the City of Charles Town for said charges. However, where a tenant or occupant of a single family residence shall receive utility service, the tenant or occupant shall be presumed to be the user of said municipal service.

(e) The tenants or occupants of the residential unit of a multi-family dwelling or apartment house shall be presumed to be the users of such municipal service and shall be liable to the City of Charles Town for said charges. In the event the record owner of a multi-family dwelling is responsible for charges for utility services provided by the City, said owner shall be charged with the responsibility of collecting charges imposed by the Ordinance from tenants or occupants of such dwelling units or apartments and properly remitting same to the City and shall be liable to the City in the amount of said charges for failure to do so.

(f) In the event that a residential unit or of a multi-family dwelling or apartment house is temporarily unoccupied then and in that event the record owner of the property upon which said multi-family dwelling or apartment is situated shall be presumed to be the user of the municipal service provided to each such unoccupied unit and shall be liable to the City of Charles Town for said charges.

(g) The owner or owners of a business establishment or a corporation owning or occupying a business establishment within the City of Charles Town shall be presumed to be the users of such municipal service and shall be liable to the City for said charges. Persons doing business as partners in a business establishment within the City of Charles Town shall be jointly and severally liable for said charges. (Ord. 99-006. Passed 3-19-99.)

770.04 APPEAL.

Any person feeling aggrieved by the imposition of a specific charge hereunder may protest the same in writing filed with the City Clerk, and has the right to be heard thereon in person or by agent or attorney before Council. If Council finds the charges to be erroneous or improper, Council shall correct or annul the same as the circumstances may require. (Ord. 99-006. Passed 3-19-99.)

770.05 COLLECTION OF FEES AND PENALTIES.

(a) The fees or charges shall be paid or remitted to the City of Charles Town. The failure of any such user to receive a bill or statement of the fee or charge shall in no manner impact or affect validity of the charge or the City's right to collect the same.

(b) The City, acting by and through its proper officials, may proceed by action, suit, or attachment or any other appropriate remedy provided by law, to collect the charges and fees herein provided in the event of delinquency in the payment thereof by the user. (Ord. 99-006. Passed 3-19-99.)

770.06 USE OF FUNDS.

All funds and income derived under and by virtue of this article shall be segregated and used exclusively for the purpose of street improvements within the City of Charles Town. (Ord. 99-006. Passed 3-19-99.)

ARTICLE 771
Municipal Service Fee for Yard Waste Pickup

771.01	Purpose.	771.05	Appeal.
771.02	Definitions.	771.06	Collection of fees and penalties.
771.03	Fees.	771.07	Use of funds.
771.04	Placement.		

771.01 PURPOSE.

There shall be established by and through this article, a Municipal service fee for the purpose of providing **curbside** yard waste service. The fee shall be established to assist the City of Charles Town with associated Yard Waste Recycling program costs.
(Ord. 2000-10. Passed 5-1-00.)

771.02 DEFINITIONS.

(a) **User.** The users of said service are hereby declared to be the occupants, whether tenants or owners of all residential premises (which term includes houses, townhomes, apartments and duplexes) and **all** business premises, (which term includes all businesses involving the sale of tangible personal property or the rendering of a service with the object of economic benefit) within the City of Charles Town.

(b) **Yard Waste.** Yard waste, for the purpose of this article shall be defined as follows: All yard waste including grass clippings, weeds and garden trimmings. In addition, leaves during the months of March through August shall be defined as yard waste for the purpose of pick-up in brown paper yard waste bags. (Ord. 2000-10. Passed 5-1-00.)

(c) **Curbside Service.**

(1) All yard waste, grass clippings, weeds, and garden trimmings plus leaves during the months of March through August, are to be placed in brown paper yard waste bags. Each bag will require a sticker that may be purchased at City Hall for one dollar (\$1.00) each in unlimited quantities (no dirt, no plastic bags). (Ord. 03-8. Passed 4-7-03.)

(2) **Small brush-sticks and small branches - picked up by hand by City employees.** There will be a charge for large quantities of small brush.
Note: No building material or soil clumps.

- (3) Laree brush - large branches and tree limbs - curbside chipping on the first and third Tuesdays of the month. Large quantities (more than a pick-up truck) require scheduling and will be assessed an additional charge. Christmas trees will be picked up **curbside** during the month of January. Note: NO building material or soil clumps.
- (4) During the months of September through **February** leaves may be raked to the curb and will be picked up by the leaf machine at no charge. No sticks, branches or other yard waste may be mixed in with the leaves.

(d) Pick-UDSchedule.

Monday - Belvedere Heights north to Hunter Street.

Wednesday - Hunter Street north to Washington Street,

Friday - Washington Street north to 1st Avenue.

(Ord. 2000-10. Passed 5-1-00.)

771.03 FEES.

(a) For the purpose of providing **curbside** yard waste pickup services within the City of Charles Town there is hereby imposed upon the users thereof, that is to say, collectively upon the occupants of each residential premise, and each business premise from and after May 1, 2003, a fee or charge of one dollar (\$1.00) per bag. This fee shall be prepaid in exchange for individual stickers to be placed on each bag. All bags shall be paper in nature and not exceed seventy gallons. (Ord. 03-8. Passed 4-7-03.)

(b) The Treasurer shall be responsible for **making** available the stickers to be purchased either at City Hall or by prepaid mailing.

(c) The user of said Municipal service may be the owner of record or the tenant of a residential unit, the owner or tenants or occupants of the residential unit of a multi-family dwelling or apartment house, or the owner or owners of a business establishment or a corporation owning or occupying a business establishment, or their tenants within the City of Charles Town, and shall be liable to the City for said charges. (Ord. 2000-10. Passed 5-1-00.)

771.04 PLACEMENT.

All yard waste pickup shall be placed in a spot accessible to the City not more than **twenty-four** hours previous to 6:00 a.m. on the scheduled day of collection. No yard waste shall be allowed to stand on any of the sidewalks or alleys of the City for more than twenty hours after such collection has been made, but shall, if deposited after such collection, be immediately removed at the expense of the person responsible for depositing same, who shall also be subject to the penalty provided for the violation of this article. (Ord. 2000-10. Passed 5-1-00.)

771.05 APPEAL.

Any person feeling aggrieved by the imposition of a specific charge hereunder may protest the same in writing filed with the City Clerk, and has the right to be heard thereon in person or by agent or attorney before Council. If Council finds the charge to be erroneous or improper, Council shall correct or **annul** the same as the circumstance may require. (Ord. 2000-10. Passed 5-1-00.)

771.06 COLLECTION OF FEES AND PENALTIES.

(a) The fees or charges shall be prepaid and remitted to the City of Charles Town. The failure of any such user to pay and remit said fee shall not receive the municipal service of yard waste pickup and shall be solely responsible for the removal of any and all yard waste not having the appropriate sticker.

(b) The City, acting by and through its proper officials, may proceed by action, suit, or any other appropriate remedy provided by law, to cause the yard waste to be removed if placed at curbside without the appropriate sticker.

(c) Anyone who violates this article shall be guilty of a misdemeanor and upon conviction thereof, shall be fined not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00). Each and every day that person violates any part of this article shall constitute a separate offense. (Ord. 2000-10. Passed 5-1-00.)

771.07 USE OF FUNDS.

All funds and income derived under and by virtue of this Article shall be segregated and used exclusively for the purpose of the City of Charles Town's Yard Waste Recycling program. (Ord. 2000-10. Passed 5-1-00.)

ARTICLE 772
Parks and Recreational Facilities

772.01	Purpose.	772.04	Appeal.
772.02	Definitions.	772.05	Collection of fees and penalties.
772.03	Fees.	772.06	Use of funds.

772.01 PURPOSE.

The purpose of this article is to establish a Special Tax for Municipal Services: Parks and Recreation Facilities in the City of Charles Town, West Virginia in accordance with West Virginia State Code §8-13-13. Notwithstanding any charter provisions to the contrary, every municipality furnishes essential or special municipal services, including, but not limited to, police and fire protection, parking facilities on the streets or otherwise, parks and recreational facilities, street cleaning, street lighting, street maintenance and improvement, sewerage and sewage disposal, and the collection and disposal of garbage, refuse, waste, ashes, trash and any other similar matter, shall have plenary power and authority to provide by Ordinance for the installations, continuance, maintenance or improvement of such service, to make reasonable regulations with respect thereto, and to impose by Ordinance upon the users of such service reasonable rates, fees and charges to be collected in the manner specified in the Article.

(Passed 2-7-05.)

772.02 DEFINITIONS.

(a) "Park" is a park, playground, recreation center, or any other area **in the** City owned by the City, and devoted to active or passive recreation, including all planted expressways, parkways and triangles maintained by the City, except the parkway strips between curb or gutter and sidewalks, or, if none, the front property line along the several streets and highways of the City.

(b) "Recreational Facility" is a public facility for recreation.

(c) "User" shall be the owner of record, the tenant of a residential unit, the owner or tenants or occupants of the residential unit of a multi-family dwelling or apartment house, the owner or owners of a business establishment, a corporation, L.L.C., or partnership, owning or occupying a business establishment, and their tenants within the City of Charles Town.

(Passed 2-7-05.)

772.03 FEES.

(a) For the purpose of constructing, improving, extending, developing, maintaining, and operating a City public park and recreation system as provided for in Article 138, and as further provided for by the Board of Park and Recreation Commissioners, there is hereby imposed upon the users thereof, that is to say each residential premise, and each business premise from and after March 1, 2005, a tax or fee of five cents (\$0.05) per month.

(b) The user of said municipal service as defined herein shall be liable to the City for said tax or fee. Consistent with the charges for utility services provided by the City, monthly or bi-monthly bills shall be rendered to the persons, firms and corporations.

(c) The Treasurer shall be responsible for preparing and mailing the bills and may include this tax on the monthly or bi-monthly utility bills rendered by the City to all persons, firms and corporations who are defined as users of the municipal service.

(d) The record owner of the property upon which a single family residence is situate shall be presumed to be the user of the municipal service rendered for the benefit of said property and the record owner shall be liable to the City of Charles Town for said charges. However, where a tenant or occupant of a single-family residence shall receive utility service, the tenant or occupant shall be presumed to be the user of said municipal service.

(e) The tenants or occupants of the residential unit of a multi-family dwelling or apartment house shall be presumed to be the users of such municipal service and shall be liable to the City of Charles Town for said tax. In the event the record owner of a multi-family dwelling is responsible for charges for utility services provided by the City, said owner shall be charged with the responsibility of collecting this tax as imposed by the Ordinance from tenants or occupants of such dwelling units or apartments and properly remitting same to the City and shall be liable to the City in the amount of said tax for failure to do so.

(f) In the event that a residential unit or of a multi-family dwelling or apartment house is temporarily unoccupied then and in that event the record owner of the property upon which said multi-family dwelling or apartment is situate shall be presumed to be the user of the municipal service provided to each such unoccupied unit and shall be liable to the City of Charles Town for said tax.

(g) The owner or owners of a business establishment or a corporation owning or occupying a business establishment within the City of Charles Town shall be presumed to be the users of such municipal service and shall be liable to the City for said tax. Persons doing business as partners in a business establishment within the City of Charles Town shall be jointly and severally liable for said charges. (Passed 2-7-05.)

772.04 APPEAL.

Any person feeling aggrieved by the imposition of the specific tax hereunder may protest the same in writing filed with the City Clerk, and has the right to be heard thereon in person or by agent or attorney before Council. If Council finds the charges to be erroneous or improper, Council shall correct or annul the same as the circumstance may require. (Passed 2-7-05.)

772.05 COLLECTION OF FEES AND PENALTIES.

(a) The fees or charges shall be paid or remitted to the City of Charles Town. The failure of any such user to receive a bill or statement of the tax shall in no manner impact or affect the validity of the fee or the City's right to collect the same.

(b) The City, acting by and through its proper officials, may proceed by action, suit, or attachment or any other appropriate remedy provided by law, to collect the tax herein provided in the event of delinquency in the payment thereof by the user.

(Passed 2-7-05.)

772.06 USE OF FUNDS.

All funds and income derived under and by virtue of this Article shall be segregated and used exclusively for the purpose of constructing, improving, extending, developing, maintaining, and operating a City public park and recreation system as provided for in Article 138, and as further provided for by the **Board** of Park and Recreation Commissioners within the City of Charles Town. (Passed 2-7-05.)

ARTICLE 773
Tax Information Disclosure

773.01 Secrecy of return.

CROSS REFERENCES
Reciprocal exchange of information - see W.Va. Code 11-10-5

773.01 **SECRECY OF RETURN.**

All information provided concerning a taxpayer for the purposes of collection of any tax imposed by the ordinances of this City shall be treated as confidential in nature and shall not be made available to any unauthorized person or persons and shall not be made available to the general public. Only persons authorized by the City shall have access to the information provided concerning taxpayers, and any unauthorized dissemination of the taxpayer information may result in dismissal of any employee of the City who shall disseminate such information to any unauthorized person.

(Passed 2-7-83)

