



# City of Charleston

## Office of the City Collector

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### City Collector Opinion

#### City Service Fee ("User Fee") and Covid-19 Work Related Relocation

While the City of Charleston certainly understands the financial difficulties produced by this unprecedented crisis, at this time the City has not waived nor suspended the imposition of the City Service Fee ("User Fee"). Pursuant to W. Va. Code § 8-13-13, every municipality has the plenary power and authority to provide by ordinance for the installation, continuance, maintenance or improvement of certain services, to make reasonable regulations with respect thereto, and to impose by ordinance upon the users of such services reasonable rates, fees and charges to be collected in the manner prescribed in the ordinance. Charleston's user fee is received by the employer location. The language of Municipal Code § 2-735 states that "*Employee shall mean any individual who is employed at or physically reports to one or more locations within the city and is on the payroll of an employer, on a full-time or part-time basis, in exchange for salary, wages or other compensation.*" To be employed refers to employees working for an employer so as to be subject to any federal or state employment or wage withholding requirement and self-employed individuals working as a sole proprietor or member of a firm so as to be subject to self-employment tax. An employee shall be considered employed so long as the employee remains on the current payroll of an employer deriving compensation and the employee has not been permanently assigned to an office or place of business outside the city. Employees who are working from home or on paid leave are still employed by a location within the City and have not been permanently assigned to an outside location. Further, the location of the employer continues to receive the benefits of city services. Therefore, employers should continue the withholding and remitting of the user fee.

Conversely, Charleston residents who are temporarily working from home who are employed by employers located outside the City should **NOT** have the User Fee withheld. These employees are not employed by a location within the City. These employees are only temporarily and involuntarily conducting business from their homes within the City for an employer who is located outside the City.