

**City of St. Albans**

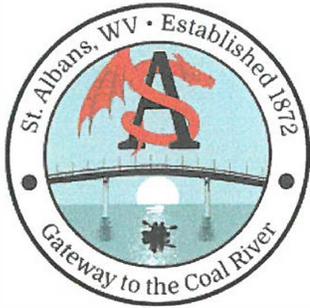
**West Virginia**

**Municipal Home Rule**

**Written Plan Amendment**

**2018**





# City of St. Albans

P.O. BOX 1488 • ST. ALBANS, WEST VIRGINIA 25177  
www.stalbanswv.com

## Telephone Numbers

Mayor's Office .... (304) 727-2971  
City Hall ..... 722-3391  
Police & Fire Depts. .... 727-2251  
Building Department .... 727-2962  
Parks & Recreation ..... 722-4625  
Public Works ..... 722-4259

## Mayor

Scott James  
1499 MacCorkle Avenue  
St. Albans, WV 25177

June 6, 2018

Municipal Home Rule Board  
West Virginia Development Office  
State Capitol complex, Bldg. 6, Room 553  
Charleston, WV 25305-0311

Re: Second Proposed Written Plan Amendment by the City of St. Albans

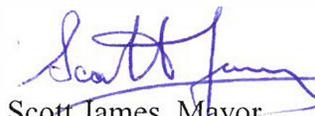
Dear Board Members:

Enclosed please find the following documents for the Board's immediate consideration:

- The proposed plan amendment to the City of St. Albans' Municipal Home Rule Written Plan and Application of 2015. This second proposed amendment seeks permission to enable restaurants with a Class "A" license from the West Virginia Alcohol Beverage Control Administration, under Home Rule as permitted by the West Virginia Legislature.
- A copy of the Ordinance authorizing submission of this proposed amendment to the written plan to the Municipal Home Rule Board.
- The legal advertising invoice with affidavit of publication concerning publication of the public hearing related to the proposed amendment to the written plan.
- An affidavit certifying that a copy of proposed amendment was available for public inspection at my office at City Hall at least thirty days prior to the public hearing.
- A letter from the City Attorney certifying that the proposed amendment complies with W. Va. Code §8-1-5a.

Thank you for your time and consideration of the proposed plan amendment to the City of St. Albans' Municipal Home Rule Written Plan and Application. If I may be of additional assistance, please do not hesitate to contact me.

Sincerely,

  
Scott James, Mayor  
City of St. Albans

# **CITY OF ST. ALBANS**

## **HOME RULE PLAN SECOND PROPOSED AMENDMENT**

### **INTRODUCTION**

The City of St. Albans was accepted into the Municipal Home Rule Pilot Program on September 14, 2015 pursuant to W. Va. Code §8-1-5a (2014). The City of St. Albans Municipal Home Rule Written Plan and Application of 2015 included administrative category issues.

Pursuant to W. Va. Code §8-1-5a (k), a municipality participating in the Municipal Home Rule Pilot Program may amend their written plans. Since participating in the program, the City of St. Albans has adopted four home Rule ordinances, and one home rule amendment ordinance to include a municipal sales tax which was approved in 2016. For the reasons set forth herein, St. Albans is now requesting that the Board authorize the following amendment to St. Albans' approved plan.

The Municipal Home Rule Board has provided guidance for municipalities proposing a plan amendment. Such guidance states the following procedures for an amendment of a written plan:

1. At least 30 days' notice of a public hearing related to the proposed amendment to the written plan by a class II legal advertisement;
2. Availability of a copy of the proposed amendment to the written plan for public inspection at least 30 days prior to holding the public hearing related to the proposed amendment to the written plan;
3. A public hearing related to the proposed amendment to the written plan;
4. Adoption of an ordinance authorizing the submission of the proposed amendment to the written plan to the Municipal Home Rule Board after the public hearing;
5. Submission of the proposed amendment to the written plan to the Municipal Home Rule Board, including a copy of the proposed amendment to the written plan, the adopted ordinance authorizing the submission of the proposed amendment, evidence of compliance with the notice and public hearing requirements, any audio or written comments offered during the public hearing and a letter from an attorney licensed to practice law in West Virginia certifying that the proposed amendment of the written plan complies with W. Va. Code §8-1-5a; and
6. Approval or rejection of the proposed amendment by the Municipal Home Rule Board.

The City of St. Albans is hereby seeking permission from the Municipal Home Rule Board to amend its written plan to enable restaurants with Class "A" licenses from the West Virginia Alcohol Beverage Control Administration to sell drinks containing alcohol beginning at 10 a.m. Sundays. The City of St. Albans certifies that it has complied with the first five

requirements for the amendment of the written plan prior to the City's submittal of this amendment request to the Municipal Home Rule Board for consideration.

### **Specific Laws Applicable.**

West Virginia Code § 60-7-12(a)(5), §60-8-34, and §11-16-18(a)(1)

### **Problem Created by Applicable Laws**

According to the Smithsonian, Sunday brunch was popularized in the 1930's as a dining option for travelers on a day when many restaurants were closed. Combining the two services (breakfast and lunch) into one provided staffing and kitchen economies for the restaurants soon also began offering brunch service and began popularizing the inclusion of morning cocktails such as Bloody Marys, Bellinis or Mimosas. The popularity of brunch extended as women entered the post-War II workforce and began looking for an option to preserve the tradition of a Sunday meal with families and friends, but without the time spent in the kitchen preparing that meal.

More and more, weekend mornings became the preferred time for groups of friends with career and family obligations to get together. Brunch also offered a form of celebration on holidays such as Mother's Day and Easter, and in the last decade has given rise to new traditions such as the bridal lunch.

Since the repeal of prohibition, West Virginia has maintained various laws regulating the sale of alcohol, including the current prohibition on the sale of alcohol before 1 p.m. Sundays. As the popularity of brunch grew, some restaurants in St. Albans and other West Virginia municipalities began offering brunch service, but have indicated that the inability to serve the traditional brunch cocktails until the afternoon has stifled attendance and resulted in limited revenue. On behalf of its membership, the West Virginia Hospitality and Travel Association has advocated for a relaxation of the state's liquor laws to allow alcohol to be served before 1 p.m. Sundays so establishments can capitalize on the popularity of brunch and maximum their revenue from brunch service.

### **Proposed Solution**

Municipalities that have been approved as Home Rule cities are permitted to modify the time by which alcohol may be served on Sundays within their city limits. This type of modification is an example of the innovative solution that was intended by the Legislature when it enacted the home Rule Statute. See W. Va. §8-1-5(a) (legislative findings); see also W. Va. Code §8-1-5a(i) (modification of the time for sale of alcohol within a Home Rule City is not contrary to the provisions of the Home Rule Statute).

The Legislature has acknowledged the value of the Municipal Home Rule Program as an incubator for municipalities to try new ideas and solutions to overcome administrative and economic restraints and has enacted several state laws that began as one Municipality's idea in

the Home Rule Program. On this particular issue, approximately 14 cities have already enacted their own rules regarding Sunday alcohol sales through Home Rule.

St. Albans believes that permitting its restaurants and hotels with certain ABCA licenses to offer alcohol sales beginning at 10 a.m. Sundays would help make them more competitive and more profitable, resulting in increased business and occupation taxes to the city, increased sales tax revenue for the city and the state, and likely increased tips for servers at these restaurants. Further, permitting alcohol at Sunday morning brunch could result in more catered and other special events in St. Albans on Sundays.

The St. Albans Convention and Visitor's Bureau and the St. Albans Chamber of Commerce and their respective Boards of Directors, which represent many of the business entities who would benefit from this action, are aware of the City's application and intentions and strongly support these efforts.

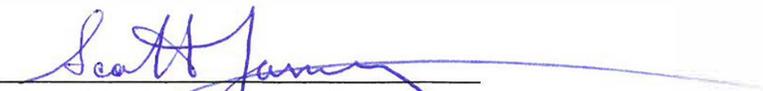
Finally, one of the City's goals and objectives is to become an entertainment and cultural destination and to promote St. Albans as a city that offers a range of lifestyle choices in order to attract new residents to the City and retain its current residents. The establishment of earlier Sunday alcohol service is another way for the City to meet these goals and strengthen its social vitality.

### **Specific Power Requested under Proposed Amendment**

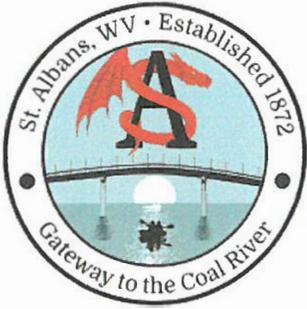
As detailed above, this second proposed amendment to the Municipal Home Rule Written Plan of the City of St. Albans seeks permission to take full advantage of the flexibility under Home Rule as permitted by the West Virginia Legislature to offer additional service to its residents and visitors and to increase revenue to its businesses, the City and the State. Therefore, the City of St. Albans respectfully requests that it be granted the power under W. Va. Code §8-1-5a to amend its approved Home Rule Plan to permit the City to allow certain West Virginia Alcohol Beverage Control Administration Class "A" license holders to begin serving alcohol at 10 a.m. Sundays.

The City of St. Albans appreciates the Municipal Home Rule board's consideration of this second plan amendment.

Respectfully Submitted,

  
\_\_\_\_\_  
City of St. Albans, by and through  
Its Mayor, Scott James

Date: 6/6/18



# City of St. Albans

P.O. BOX 1488 • ST. ALBANS, WEST VIRGINIA 25177  
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### Mayor

Scott James  
1499 MacCorkle Avenue  
St. Albans, WV 25177

STATE OF WEST VIRGINIA  
COUNTY OF KANAWHA  
CITY OF ST. ALBANS

I, Veronica A. Westfall, City Recorder of the City of St. Albans, do hereby certify

That the foregoing is a true and correct copy of **Ordinance No. 2018-09 as well as a copy of the May 21, 2018 Public Hearing and City Council minutes.**

WITNESS MY HAND AND THE SEAL OF THE CITY OF ST. ALBANS,

WEST VIRGINIA, this the 11<sup>th</sup> day of June, 2018.

  
Veronica A. Westfall  
City Recorder



**AN ORDINANCE AUTHORIZING THE CITY OF ST. ALBANS TO SUBMIT TO THE MUNICIPAL HOME RULE BOARD A PROPOSED AMENDMENT TO ITS HOME RULE PLAN CONSISTENT WITH W. VA. CODE 8-1-5a REQUESTING APPROVAL TO ALLOW THE SALE OF ALCOHOLIC BEVERAGES BY CERTAIN WEST VIRGINIA ALCOHOL BEVERAGE CONTROL ADMINISTRATION CLASS "A" LICENSE HOLDERS BEGINNING AT 10:00 A.M. ON SUNDAYS**

Ordinance No. 2018-09

**WHEREAS**, the owners of restaurants in the City of St. Albans have indicated that there is a market for brunch service on Sundays, and that current restrictions on the hours of Sunday alcohol service imposed by state law stifle Sunday morning brunch attendance; and

**WHEREAS**, the St. Albans Convention and Visitor's Bureau and its Board of Directors, which is comprised of civic leaders and people involved in the City's hospitality and tourism industries, fully support the City's use of Home Rule to allow earlier Sunday alcohol service in St. Albans thereby enabling restaurants in the City to be fully operational on Sundays to enhance the City's image in the eyes of business and leisure travelers and enrich the experiences of visitors to St. Albans; and

**WHEREAS**, the City has determined that allowing alcohol sales at Sunday morning brunch service within the City will produce more revenue and strengthen City businesses, increase City business and occupational tax revenues and City/state sales tax revenues, and increase earnings for servers and other employees working in the restaurants in the City; and

**WHEREAS**, one of the City's goals and objectives is to become an entertainment and cultural destination and the active promotion of St. Albans as a city that offers a range of lifestyle choices in order to attract new residents to the City and retain its current residents; the establishment of an earlier Sunday alcohol service is another way for the City to meet these goals and strengthen its social vitality;

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ST. ALBANS, WEST VIRGINIA, THAT the Mayor, City Attorney and City Administration are hereby authorized and requested to submit to the Municipal Home Rule Board a proposed amendment, attached hereto as Exhibit A, to the City of St. Albans Home Rule Plan consistent with W. Va. Code § 8-1-5a, requesting approval to allow the sale of alcoholic beverages by certain West Virginia Alcohol Beverage Control Administration Class "A" license holders beginning at 10:00 a.m. on Sundays.**

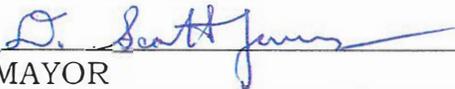
This Ordinance shall be advertised in accordance with the applicable provisions of the Codified Ordinances of the City of St. Albans, West Virginia.

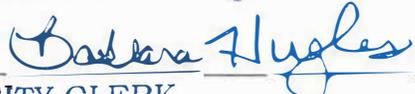
This Ordinance was introduced and read for the first time at a regular meeting of City Council held on the 21 day of May, 2018 and will come up for second reading and adoption at the regular meeting to be held on the 4 day of June, 2018

Adopted this 4 day of June, 2018.

Approved by:

Timothy J. LaFon, Esq.  
City Attorney

  
\_\_\_\_\_  
MAYOR

  
\_\_\_\_\_  
CITY CLERK

The City Council of the City of St. Albans, West Virginia, held a Public Hearing regarding the Home Rule ordinance amendment regarding the "Brunch Bill" was held in Council Chambers, 51 Sixth Avenue, on Monday, May 21, 2018. Mayor James called the public hearing to order at 7:15 p.m.

**PRESENT:**

Mayor Scott James  
 Councilman/Vice-Mayor Walter Hall  
 Councilman Lee Roberts  
 Councilman John Caudill  
 Councilman Jason Philabaun  
 Councilman Dale Withrow  
 Councilman David Rucker  
 Councilman Andrew Eads  
 Councilman Ron Colby  
 Councilwoman Cheryl Thomas  
 Councilman Patrick Quinlan  
 Councilman Mike Mamone

Tim LaFon, City Attorney  
 Barbara Hughes, City Clerk/Treasurer  
 Veronica Westfall, City Recorder  
 Lance Carney, Fire Chief  
 Kevin Pennington, Parks Superintendent  
 Joe Crawford, Police Chief  
 Kathy Barnett, Senior Services Director  
 Orville Browning, Public Works Director

**ABSENT:**

Councilman Robert Keiffer  
 Tracy Dillon, Zoning Official

**PUBLIC HEARING TO HEAR PUBLIC COMMENT ON THE ORDINANCE REGARDING THE HOME RULE AMENDMENT:**

Mayor James gave an explanation of the proposed ordinance and opened the floor to hearing any comments or questions from the public.

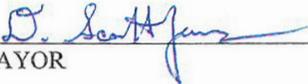
Fred Wheeler, owner of Drummies Bar & Grill, stated he was in favor of the brunch bill. Mr. Wheeler stated the ability to serve alcohol prior to 1:00 p.m. on Sundays would be a boost to his clientele and business.

Councilman Colby stated due to his personal beliefs, he could not support this amendment.

Councilman Withrow stated that their VFW post was a dry post, and he believed that with passage of this amendment, it would be an economic benefit to the City.

**ADJOURNMENT:**

Being no comments, Mayor James declared the public hearing adjourned at 7:20 p.m.

  
 \_\_\_\_\_  
 MAYOR

  
 \_\_\_\_\_  
 CITY CLERK

The regular meeting of the City Council of the City of St. Albans, West Virginia, was held in Council Chambers, 51 Sixth Avenue, Monday, May 21, 2018. Mayor Scott James called the meeting to order at 7:30 p.m.

**PRESENT:**

Mayor Scott James  
 Councilman/Vice-Mayor Walter Hall  
 Councilman Lee Roberts  
 Councilman John Caudill  
 Councilman Jason Philabaun  
 Councilman Dale Withrow  
 Councilman David Rucker  
 Councilman Andrew Eads  
 Councilman Ron Colby  
 Councilwoman Cheryl Thomas  
 Councilman Patrick Quinlan  
 Councilman Mike Mamone  
 Councilman Robert Keiffer

Mike Del Giudice, City Attorney  
 Barbara Hughes, City Clerk/Treasurer  
 Veronica Westfall, City Recorder  
 Lance Carney, Fire Chief  
 Kevin Pennington, Parks Superintendent  
 Joe Crawford, Police Chief  
 Kathy Barnett, Senior Services Director  
 Orville Browning, Public Works Director

**ABSENT:**

Tracy Dillon, Zoning Official

**INVOCATION & PLEDGE OF ALLEGIANCE:**

Fire Fighter Luke Adkins gave the invocation, and Chief Crawford led the Pledge of Allegiance.

**PRAISE AND RECOGNITION:**

**Dr. John Casto:**

John Finlayson, representing the St. Albans Chamber of Commerce, recognized the family of the late Dr. John Casto. Mr. Finlayson stated that the Chamber recognized Dr. John Casto with a Lifetime Achievement Award, and presented his family with the plaque. A round of applause followed.

**Employee of the Month:**

Mayor James recognized Scott Brightwell as the April employee of the month. A round of applause followed.

**APPROVAL OF MINUTES:**

Mayor James asked if there were any additions or corrections to the minutes of the May 7, 2018 City Council meeting. Being none, Councilman Roberts moved; Councilman Hall seconded. Motion carried.

**APPROVAL OF MUC 2018-2019 BUDGET:**

Michael Griffith, City/MUC CPA, stated that this budget included purchase of a large piece of equipment for storm water, no rate increase, look into getting a lower interest rate, and work on infrastructure water improvement projects. Councilman Roberts moved for approval; Councilman Caudill seconded. Motion carried. The budget is attached.

**RESOLUTION APPROVING THE PARKS AND RECREATION RULES AND REGULATIONS:**

Councilman Philabaun moved for approval of the Parks & Recreation Department Rules and Regulations; Councilman Rucker seconded. Upon question posed by Councilman Rucker, Councilman Philabaun stated the fee schedule will be separate from the rules and regulations. The new fee schedule will be presented to City Council for their approval. Upon question posed by both Councilman Rucker and Councilman

May 21, 2018

**ORDINANCE AMENDING HOME RULE TO ALLOW THE SALE OF ALCOHOLIC BEVERAGES BY CERTAIN CLASS "A" LICENSE HOLDERS BEGINNING AT 10:00 A.M. ON SUNDAYS:**

Mayor James presented the ordinance for first reading. Councilman Withrow moved for approval; Councilman Rucker seconded. Councilman Roberts called for a roll call vote. All members of Council with the exception of Councilman Colby voted in favor of passage of the ordinance. Motion carried. The ordinance is as follows:

AN ORDINANCE AUTHORIZING THE CITY OF ST. ALBANS TO SUBMIT TO THE MUNICIPAL HOME RULE BOARD A PROPOSED AMENDMENT TO ITS HOME RULE PLAN CONSISTENT WITH W. VA. CODE 8-1-5a REQUESTING APPROVAL TO ALLOW THE SALE OF ALCOHOLIC BEVERAGES BY CERTAIN WEST VIRGINIA ALCOHOL BEVERAGE CONTROL ADMINISTRATION CLASS "A" LICENSE HOLDERS BEGINNING AT 10:00 A.M. ON SUNDAYS

Ordinance No. \_\_\_\_\_

WHEREAS, the owners of restaurants in the City of St. Albans have indicated that there is a market for brunch service on Sundays, and that current restrictions on the hours of Sunday alcohol service imposed by state law stifle Sunday morning brunch attendance; and

WHEREAS, the St. Albans Convention and Visitor's Bureau and its Board of Directors, which is comprised of civic leaders and people involved in the City's hospitality and tourism industries, fully support the City's use of Home Rule to allow earlier Sunday alcohol service in St. Albans thereby enabling restaurants in the City to be fully operational on Sundays to enhance the City's image in the eyes of business and leisure travelers and enrich the experiences of visitors to St. Albans; and

WHEREAS, the City has determined that allowing alcohol sales at Sunday morning brunch service within the City will produce more revenue and strengthen City businesses, increase City business and occupational tax revenues and City/state sales tax revenues, and increase earnings for servers and other employees working in the restaurants in the City; and

WHEREAS, one of the City's goals and objectives is to become an entertainment and cultural destination and the active promotion of St. Albans as a city that offers a range of lifestyle choices in order to attract new residents to the City and retain its current residents; the establishment of an earlier Sunday alcohol service is another way for the City to meet these goals and strengthen its social vitality;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ST. ALBANS, WEST VIRGINIA, THAT the Mayor, City Attorney and City Administration are hereby authorized and requested to submit to the Municipal Home Rule Board a proposed amendment, attached hereto as Exhibit A, to the City of St. Albans Home Rule Plan consistent with W. Va. Code § 8-1-5a, requesting approval to allow the sale of alcoholic beverages by certain West Virginia Alcohol Beverage Control Administration Class "A" license holders beginning at 10:00 a.m. on Sundays.

This Ordinance shall be advertised in accordance with the applicable provisions of the Codified Ordinances of the City of St. Albans, West Virginia.

This Ordinance was introduced and read for the first time at a regular meeting of City Council held on the \_\_\_ day of \_\_\_\_\_, 20\_\_ and will come up for second reading and adoption at the regular meeting to be held on the \_\_\_ day of \_\_\_\_\_, 20\_\_.

Adopted this \_\_\_ day of \_\_\_\_\_, 20\_\_.

May 21, 2018

Approved by:

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 MAYOR
 

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 Timothy J. LaFon, Esq.  
 City Attorney

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 CITY CLERK
 

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**FINANCE COMMITTEE REPORT AND RECOMMENDATIONS:****Payment of current invoices:**

Councilman Philabaun moved for approval of payment of current invoices in the amount of \$23,701.36; Councilman Hall seconded. Motion carried.

**Payment for snow removal salt:**

Councilman Philabaun moved for approval of payment to Compass Minerals in the amount of \$10,199.64 for snow removal salt to be paid from line item 566-341-17; Councilman Caudill seconded. Motion carried.

**Payment for a pump for the City pool:**

Councilman Philabaun moved for approval of payment to Precision Pump in the amount of \$4,989 for a pump for City pool to be paid from line item 904-216; Councilman Caudill seconded. Motion carried.

**LETTERS & REPORTS:****Approval of employee pool passes:**

Councilman Philabaun moved for approval for all full-time/part time and retirees to receive a free pool pass with the option of exchanging it to a family pass in the amount of \$25 + tax (family passes are to be issued to only persons living within the home of the employee); Councilman Rucker seconded. Motion carried.

**Jackie Smith concert in City Park:**

Councilman Philabaun moved for approval to reserve the amphitheater in City Park for Jackie Smith for a concert on June 1<sup>st</sup>; Councilman Quinlan seconded. Motion carried.

**Trail Run in City Park:**

Councilman Philabaun moved for approval of the Almost Heaven Scholarship Fund/ Trail Run to be held July 21st, 2018 from 7am-11am; Councilman Rucker seconded. Motion carried.

**Ordinance Committee:**

Councilman Withrow stated the committee discussed the ordinances that were passed on first reading as well as zoning code changes.

**Parks Committee:**

Councilman Philabaun reported there will be a pool party for students on Friday as well as a family movie night at Roadside Park on June 9<sup>th</sup>.

**ANNOUNCEMENTS:**

Mayor James made the following announcements:

- Memorial Day—Holiday—Monday, May 28<sup>th</sup>—City/MUC Offices will be closed.
- Finance Cmte., Tuesday, May 29<sup>th</sup> at 4:30 p.m. in the MUC Conference Room.
- Public Safety (Police & Fire) Cmte., Monday, June 4<sup>th</sup> at 6:30 p.m. in Council Chambers (*Pending agenda items to discuss*)
- City Council, Monday, June 4<sup>th</sup> at 7:30 p.m. in the Council Chambers.

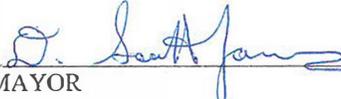
May 21, 2018

**PUBLIC FORUM:**Darrell Brightwell:

Upon question posed about the upcoming Carnival, Councilman Hall stated it was being sponsored by the SAHS Football Boosters.

**ADJOURNMENT:**

Being no further business, Councilman Keiffer moved, seconded by Councilman Colby, the meeting be adjourned at 8:05 p.m.

  
MAYOR

  
CITY CLERK

The regular meeting of the City Council of the City of St. Albans, West Virginia, was held in Council Chambers, 51 Sixth Avenue, Monday, June 4, 2018. Mayor Scott James called the meeting to order at 7:30 p.m.

**PRESENT:**

Mayor Scott James	Mike Del Giudice, City Attorney
Councilman/Vice-Mayor Walter Hall	
Councilman Lee Roberts	Veronica Westfall, City Recorder
Councilman John Caudill	Lance Carney, Fire Chief
Councilman Jason Philabaun	Kevin Pennington, Parks Superintendent
Councilman Dale Withrow	Joe Crawford, Police Chief
Councilman David Rucker	Kathy Barnett, Senior Services Director
Councilman Andrew Eads	Orville Browning, Public Works Director
Councilman Ron Colby	Tracy Dillon, Zoning Official
Councilman Patrick Quinlan	
Councilman Mike Mamone	
Councilman Robert Keiffer	

**ABSENT:**

Barbara Hughes, City Clerk/Treasurer (Out of town)  
Councilwoman Cheryl Thomas (Family illness)

**INVOCATION & PLEDGE OF ALLEGIANCE:**

Chief Crawford gave the invocation, and Councilman Philabaun led the Pledge of Allegiance.

**PRAISE AND RECOGNITION:**

**Swear in new probationary police officer:**

Mayor James and Chief Crawford recognized and swore in probationary police officer Cody Becker. A round of applause followed.

**APPROVAL OF MINUTES:**

Mayor James asked if there were any additions or corrections to the minutes of the May 21, 2018 Public Hearing and City Council meeting. Being none, Councilman Caudill moved; Councilman Rucker seconded. Motion carried.

**ORDINANCE REGARDING ADOPTING ARTICLE 1781 WIRELESS TELECOMMUNICATIONS FACILITIES:**

Mayor James presented the ordinance regarding adopting Article 1781 Wireless Telecommunications Facilities. Councilman Withrow moved for approval; Councilman Keiffer seconded.

Mayor James opened the floor for discussion. Councilman Withrow stated this ordinance was to replace the outdated technology wise ordinance. Councilman Withrow stated this would allow for 5G technology to be in the City limits and make St. Albans more business friendly. Mayor James stated this new ordinance will still have the necessary standards and regulations required through the Building/Zoning Official's office prior to installation of any cell towers. Councilman Colby stated his Ward was excited for the 5G technology. Councilman Colby requested a roll call vote. Councilman Caudill stated he would like to see the ordinance amended to have final approval be kept with City Council and wanted to have restrictions in place for not allowing cell towers in residential neighborhoods. Mayor James stated this ordinance was comparable to that passed in the City of Charleston. Councilman Caudill stated that in Charleston, most of the cell towers were located on already existing tall buildings. Councilman Keiffer stated he agreed that City Council should have the last say on placement of cell towers. Mayor James recognized Dusty Phalen, 820 Skinner Drive. Mr. Phalen stated that it was his understanding that this ordinance would allow for easier approval of permits to install cell towers. Mr. Phalen stated that he was against this cell tower being in his back yard and would be more in favor of it being placed up on the hill on City property away from the residential neighborhood. Mr. Phalen stated this new ordinance removed any public input and notification as to location and installation of cell towers. Discussion continued regarding size, location and regulations of cell towers. Several residents spoke out

DRAFT

June 4, 2018

against putting cell towers in residential areas and requested that members of Council defeat this ordinance. Mayor James recognized Chris Harris representing Shentel. Mr. Harris stated they researched the City for about 18 months before finding this location for the 5G cell tower. Mr. Harris stated that City was saturated with cell phone use, and it was becoming difficult to keep up with the current towers and technology. Mr. Harris stated that cell calls could begin to be blocked or unavailable if more towers in lower areas are not put in place. More and more residents are dropping their land lines for cell phones, and in order to offer services, additional cell towers will be required. A lengthy discussion followed with more residents and members of Council stating their opposition of having cell towers in residential areas regardless if they would be required to "blend in" to the surroundings. Councilman Withrow moved to amend his motion to table the ordinance until further review; Councilman Keiffer accepted the amendment. Upon vote, Mayor James declared the motion carried and the ordinance tabled.

**ORDINANCE AMENDING HOME RULE TO ALLOW THE SALE OF ALCOHOLIC BEVERAGES BY CERTAIN CLASS "A" LICENSE HOLDERS BEGINNING AT 10:00 A.M. ON SUNDAYS:**

Mayor James presented the ordinance for second reading and adoption. Councilman Philabaun moved for adoption; Councilman Caudill seconded. Upon vote, Councilman Colby voted "Nay". Motion carried. Mayor James stated this ordinance will be presented to the Home Rule Board in July for final approval. The ordinance caption is as follows:

AN ORDINANCE AUTHORIZING THE CITY OF ST. ALBANS TO SUBMIT TO THE MUNICIPAL HOME RULE BOARD A PROPOSED AMENDMENT TO ITS HOME RULE PLAN CONSISTENT WITH W. VA. CODE 8-1-5a REQUESTING APPROVAL TO ALLOW THE SALE OF ALCOHOLIC BEVERAGES BY CERTAIN WEST VIRGINIA ALCOHOL BEVERAGE CONTROL ADMINISTRATION CLASS "A" LICENSE HOLDERS BEGINNING AT 10:00 A.M. ON SUNDAYS

**FINANCE COMMITTEE REPORT AND RECOMMENDATIONS:**

Payment of current invoices:

Councilman Philabaun moved for approval of payment of current invoices in the amount of \$11,998.07; Councilman Hall seconded. Motion carried.

Award bid for zero turn mower for Parks Department:

Councilman Philabaun moved to award bid for zero turn mower for Parks Department to Crede Power Equipment in the amount of \$8,924; Councilman Rucker seconded. Motion carried.

Approval of end of the year budget revisions:

Councilman Philabaun moved for approval of end of the year budget revisions; Councilman Caudill seconded. Motion carried. (See attached)

Purchase of Dodge Truck for Parks Department:

Councilman Philabaun moved for approval of purchase of a 2018 RAM 1500 Crew truck in the amount of \$27,085 (state bid) from Stephens Auto Center for Parks Department to be paid from line item 979-459; Councilman Keiffer seconded. Upon vote, Councilman Eads voted "Nay". Motion carried.

Approval of Precision Safe Sidewalks proposal for sidewalk repairs:

Councilman Philabaun moved for approval of Precision Safe Sidewalks proposal for sidewalk repairs in the amount of \$10,317; Councilman Keiffer seconded. Councilman Rucker stated that all the sidewalk improvements were in the business end of the City and he would like to see repairs spread out in all the Wards. Mayor James stated that they were looking at repairing the more heavily traveled sidewalks in the downtown area to attract more business. If this project is successful, they will look into other areas throughout the City. A lengthy discussion was held regarding having residential areas improved over the business areas. Upon vote, Councilman Eads voted "Nay". Motion carried.

**DRAFT**

June 4, 2018

**LETTERS & REPORTS:****Discuss moving City Council meeting time, eliminating Police & Fire & Ordinance Committees, and adding proposed ordinance items to the Council agenda:**

Mayor James stated in his effort to streamline the process, he was proposing to eliminate the Police & Fire and Ordinance Committees; these committees are not set in Code and eliminating them does not require any form of action. Mayor James stated the Council meeting time could be pushed up to 7:00 p.m. and any proposed ordinances could be placed under Councilman Withrow's name on the agenda for discussion and possible direction to the City Attorney for preparation of an ordinance. Councilman Rucker stated he would rather consolidate the two committees and continue meeting prior to Council. Mayor James stated this would still have committees meeting twice a month, when it would better serve the residents and all members of Council to have open discussion during the Council meetings. This would place the items in one permanent record and eliminate any confusion as to if an item was in committee or if it was brought before Council. Mayor James stated he polled other cities and other than Dunbar, St. Albans was the only one to have multiple committees. Councilman Keiffer stated he agreed to have less committee meetings and more action taken at the full City Council level. Councilman Quinlan and Councilman Roberts stated they also agreed with eliminating the multiple committees.

Members of Council discussed the change of Council meeting time, and agreed upon 6:30 p.m. starting time. Mayor James stated this would require an ordinance, since the City Council meeting time was set in the Code. Councilman Roberts moved to direct the City Attorney to prepare an ordinance to begin holding City Council meetings at 6:30 p.m.; Councilman Keiffer seconded. Motion carried.

**ANNOUNCEMENTS:**

Mayor James made the following announcements:

- Finance Cmte., Monday, June 11<sup>th</sup> at 4:30 p.m. in the MUC Conference Room.
- Public Works Cmte., Wednesday, June 13<sup>th</sup> at 8:00 a.m. at the City Garage.
- Parks Cmte., Wednesday, June 13<sup>th</sup> at 7:00 p.m. at the Hansford Center.
- City Council, Monday, June 18<sup>th</sup> at 7:30 p.m. in the Council Chambers.
- SACVB, Thursday, June 21<sup>st</sup> at 5:00 p.m. in the MUC Conference Room.

**PUBLIC FORUM:****Rhonda Pauley, 221 Bowie Street:**

Ms. Pauley addressed the Council regarding a homeless problem and an abandoned house in her neighborhood.

**Patty Withrow, 812 So. Washington Street:**

Mrs. Withrow stated her concerns regarding people parking on the sidewalks.

**ADJOURNMENT:**

Being no further business, Councilman Keiffer moved, seconded by Councilman Eads, the meeting be adjourned at 9:30 p.m.

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 MAYOR

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 CITY CLERK


 A red rectangular stamp with the word "DRAFT" written vertically in white capital letters.



# CHARLESTON NEWSPAPERS

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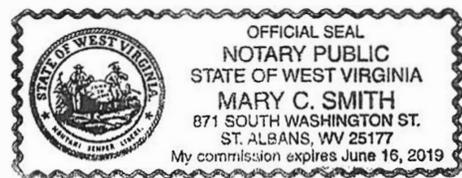
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State of West Virginia,

## AFFIDAVIT OF PUBLICATION

I, [Signature]

of



CHARLESTON GAZETTE MAIL,  
 do solemnly swear that the legal notice of:  
 NOTICESTALBANSCITYCOUNCI

was duly published in said newspaper(s) at the stated price for the respective newspaper(s) and during the dates listed below:

04/17/18-04/24/18

Subscribed and sworn to before me this 26 day of April 2018

[Signature]  
 Notary Public of Kanawha County, West Virginia

**April 24, 2018**

**LEGAL ADVERTISEMENT NOTICE**

St. Albans City Council will hold a public hearing on Monday, May 21, 2018 at 7:15 p.m. in Council Chambers located at 51 Sixth Avenue, St. Albans, WV, regarding a proposed ordinance for amendment to the existing Home Rule Plan. Said amendment would permit restaurants with Class "A" licenses from the WV Alcohol Beverage Control Administration to sell drinks containing alcohol beginning at 10 a.m. on Sundays in the City of St. Albans. Interested parties may appear at the public hearing and be heard with respect to the proposed ordinance. A copy of the proposed amendment may be inspected in the City Clerk's Office, 1499 MacCorkle Avenue.

Barbara Hughes  
 City Clerk  
 (679655)

**AFFIDAVIT OF BARBARA L. HUGHES**

STATE OF WEST VIRGINIA  
COUNTY OF KANAWHA, TO-WIT:

Barbara L. Hughes, who being duly sworn, deposes and says as follows:

1. My name is Barbara L. Hughes, and I am over the age of 18 years old and have personal knowledge of the facts stated herein.
2. I have served at all times relevant herein as the City Clerk/Treasurer for the City of St. Albans, West Virginia.
3. The City of St. Albans' second proposed amendment to its Municipal Home Rule Written Plan was available for public inspection at St. Albans City Hall during regular business hours from April 20, 2018 through May 21, 2018.

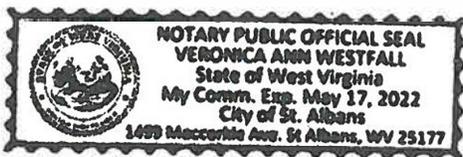
Further the affiant sayeth naught.

  
Barbara L. Hughes

STATE OF WEST VIRGINIA,  
COUNTY OF KANAWHA:

The foregoing was subscribed and sworn to before me on  
My Commission expires:

  
Notary Public



# CICCARELLO, DEL GIUDICE & LAFON

ATTORNEYS AT LAW

SUITE 100

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ARTHUR T. CICCARELLO  
(1930-2004)

TELEPHONE  
304-343-4440

FACSIMILE  
304-343-4464

June 7, 2018

Scott James, Mayor  
P.O. Box 1488  
St. Albans, WV 25177

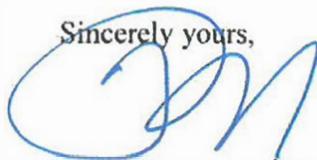
Re: Legal Opinion – Home Rule Proposed Written Plan Amendment (Second)

Dear Mayor James:

As the City Attorney for the City of St. Albans, I have reviewed the second proposed amendment to the City of St. Albans' Municipal Home Rule Written Plan which would permit restaurants with Class "A" licenses from the WV Alcohol Beverage Control Administration to sell drinks containing alcohol beginning at 10 a.m. on Sundays in the City of St. Albans, which was the subject of a public hearing on May 21, 2018. Upon my review of the proposed amendment, it is my legal opinion as the attorney licensed to practice in West Virginia that it and the entire written plan do not violate the provisions of W. Va. Code §8-1-5a.

Please let me know if I can be of further assistance in this matter.

Sincerely yours,



Tim LaFon, City Attorney

