



Jerry Marco
Mayor

CITY OF ELKINS

401 Davis Avenue
Elkins, West Virginia 26241

December 7, 2021

Deliver Via U.S. Postal Service

Ms. Courtney Shamblin
West Virginia Department of Revenue
West Virginia Home Rule Program
State Capitol Complex, Building 1, Room W-300
Charleston, WV 25305

Re: Municipal Home Rule Amendment to the Approved Written Plan

Ms. Shamblin:

Please find enclosed an original and seven copies of the City of Elkins Municipal Home Rule Amendment to the Approved Written Plan, as executed.

Please call me if you have any questions regarding the enclosed application. Thank you for your assistance.

Sincerely,

Jerry A. Marco
Mayor



CITY OF ELKINS

MUNICIPAL HOME RULE AMENDMENT
TO THE APPROVED WRITTEN PLAN



Municipal Home Rule Program

APPLICATION CHECKLIST

| SECTION I: APPLICANT INFORMATION | |
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| 3 | General Information |
| 3 | Municipal Classification |
| 5 - 8 | Specific Issue(s) to be Addressed |
| 4 | Issue(s) Category: Tax/Organization/Administrative/Personnel/Other |

| SECTION II: NARRATIVE | |
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| 5 - 8 | Specific state laws, policies, acts, resolutions, rules, or regulations that are preventing the municipality from carrying out duties in the most cost effective, efficient, and timely manner. |
| 5 - 8 | Specific problem(s) created by the laws, policies, acts, resolutions, rules, or regulations. |
| 5 - 8 | Proposed solution(s) to the perceived problem(s), including all proposed changes to law, policies, acts, resolutions, rules, or regulations. Categorize and include: 1) Proposed solution(s) in one of the five areas (tax/administrative/organization/personnel/other) 2) If revenue related, estimate(s) for proposed solution(s) and how the fiscal impact was determined. |

| SECTION III: AFFIDAVITS | |
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| A2 | Minutes of Public Hearing |
| A3 | Ordinance Authorizing Submission of Plan |
| A4 | Fiscal Statement (if revenue related) |
| A5 | State of West Virginia Fees Statement (none outstanding) |
| A6 | Attorney Opinion (application complies with statutory requirements) |

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Section I: Applicant Information

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

I.A. General Information

Municipality: City of Elkins
Certifying official: Mayor Jerry A Marco
Contact Person: City Clerk Jessica R. Sutton
Address: 401 Davis Avenue, Elkins, WV 26241
Telephone: (304) 636-1414, ext. 1211
Email: jsutton@cityofelkinswv.com
2020 census: 6,934

I.B. Municipal Classification

Class I Class II **Class III** Class IV

I.C. Category of Issues to be Addressed

Tax **Organization** **Administration** **Personnel**

Section II: Narrative

In 2015, pursuant to the authority provided by W. Va. State Code Section 8-1-5a, the Municipal Home Rule Board (hereinafter the “Board”) selected the City of Elkins to participate in the West Virginia Home Rule Pilot Program and approved the original Home Rule Plan of Elkins. As evidenced by the success of the Pilot Program statewide and its eventual permanency authorized by the Legislature, and specifically by the initiatives approved in Elkins’ original plan, our approved 2017 amended plan, and depicted in our Annual Reports, Elkins has successfully and responsibly exercised its authority under Home Rule and has, without challenge from either its City Council or citizenry, judiciously implemented much of its plan.

Under W.Va. State Code Section 8-1-5a(l), municipalities participating in the Municipal Home Rule Program may amend their written plans. For the reasons set forth herein, the City of Elkins is now requesting that the Board authorize the following amendments to Elkins’ previously approved plan.

The City of Elkins is the seat of Randolph County, the largest county in the state. Boasting many anchor institutions (Davis and Elkins College, a federal court and office building, the headquarters of the Monongahela National Forest, Davis Memorial Health Center, and others), the City has managed to maintain a small-town atmosphere even as it faces issues more typical of much larger cities. In crafting its home-rule application and amendments, the City has sought to identify authorities that will help it better respond to these issues.

The home-rule authorities sought by the City of Elkins in this amendment relate to the City’s ability to generate and allocate funds in support of its municipal court; more easily dispose of real estate; and hire appropriate personnel. In the sections that follow, each authority is discussed, with reference to:

- Specific state laws preventing the City of Elkins 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. Disposition of Real Estate

II.A.1 Specific Legal Barrier

W. Va. Code §8-12-18 (“Sale, lease, or disposition of other municipal property”) sets forth the authority under which municipalities may sell, lease, or dispose of any of its real or personal property. Currently under subsection (b) the sale of any publicly owned real or personal property valued \$1000 or greater must be conducted by public auction and noticed as a Class II legal advertisement in compliance with the provisions of §59-3-1. Further, subsection (c) permits the leasing of real or personal property by a municipality only for a fair and adequate consideration and only after a public hearing having been noticed by a Class I legal advertisement.

II.A.2 Specific Problem Caused by Legal Barrier

There are few reasons why a municipality owns property, e.g., for the purpose of housing employees or equipment needed in the delivery of public services; to preserve public access to facilities such as parks

or community centers; in the execution of a public works project; or because a nuisance or public safety concern precipitated the need for the municipality to take ownership to address the hazard. In many areas of our city, particularly those with a higher concentration of population, parcels of land are small. These parcels, because of their size and proximity to neighboring parcels, are not attractive to any purchasers beyond the neighboring property owners.

In 2020, the city gained ownership of three parcels of land. Each parcel had contained a dilapidated structure which the city demolished, at the expense of either the property owner or taxpayers. In each situation the city was left with a small, cleared parcel unsuitable for any municipal purpose. In two of the three situations, adjacent property owners expressed interest in purchasing the property. However, the city was obligated by law and did perform, at taxpayer expense, the necessary procedures to advertise and auction the properties. Two of the three properties were successfully sold at auction. The third was bid upon by an adjacent owner, but it was determined not to be fair and adequate compensation and so was rejected. The city continues to own and maintain this property today.

II.A.3 Proposed Solution

The City of Elkins is proposing the enactment of an ordinance to allow (1) the sale of municipal property to a private individual for fair and adequate consideration upon the determination of council that the action promotes economic development or public good, without the requirement to publish a Class II legal advertisement or hold a public auction; (2) the sale of municipal property to a registered 501(c)(3) organization for fair and adequate consideration without alone considering the commercial or market value of the property, and without the requirement to publish a Class II legal advertisement or hold a public auction; and (3) the lease of municipal property to private lessee for less than fair and adequate consideration upon the determination by council that the lease promotes economic development or provides services for the public good.

II.B. Municipal Court Technology and Maintenance Fee

II.B.1 Specific Legal Barrier

W. Va. Code § 8-11-1(2) regarding municipal powers and ordinance procedures, grants authority to the City of Elkins to prescribe reasonable penalties for violation of its ordinances, orders, bylaws, acts, resolutions, rules, and regulations, in the form of fines, forfeitures, and confinement in the county or regional jail.

Per W. Va. Code § 8-12-5(58), municipal penalties for the offenses and violations of municipal ordinances may not exceed any penalties provided for a like offense in State Court.

II.B.2 Specific Problem Caused by Legal Barrier

The City of Elkins Municipal Court exists pursuant to the authority granted in W. Va. Code § 8-10-2. As part of the operation of this court, technology and maintenance fees are incurred at a cost of over \$5,000.00 annually and are rising, while the revenues generated by the existing municipal court technology and maintenance fee have remained stagnant at less than \$275.00 annually.

Nowhere within W. Va. Code 8-10-2, 8-11-1, or 8-12-5 does it state that a municipality has the legal authority to specify court needs or create specific court fees to be paid by individual defendants appearing before it to address these needs. While the municipal court is permitted to collect fees for

violations, pursuant to state code, a sizeable portion of the monies collected are sent to various state funds, including the Crime Victim's Compensation Fund, the Police Training Fund, and the Regional Jail and Correctional Facility Development Fund. This leaves little designated money for the operation of the municipal court, which must therefore be subsidized by the general fund.

II.B.3 Proposed Solution

In 2017 the City of Elkins was granted authority by the West Virginia Municipal Home Rule Board to enact an ordinance allowing a Municipal Court Technology and Maintenance Fee to be assessed against each person convicted within its municipal court of up to \$1.00. City of Elkins Ordinance #244 was adopted on September 21, 2017 and took immediate effect.

The City of Elkins is requesting permission to enact an ordinance increasing the maximum amount of the Municipal Court Technology and Maintenance Fee assessed to \$10.00 per convicted individual. This action has the potential to increase municipal court revenues to nearly \$3,000 annually. While still well below the cost of the technology expenses, the requested increase would decrease the burden on the city's general fund.

II.C. Assignment of Court Costs for Municipal Court Proceedings

II.C.1 Specific Legal Barrier

W. Va. Code § 8-11-1(2) regarding municipal powers and ordinance procedures, grants authority to the City of Elkins to prescribe reasonable penalties for violation of its ordinances, orders, bylaws, acts, resolutions, rules, and regulations, in the form of fines, forfeitures, and confinement in the county or regional jail.

Pursuant to W. Va. Code § 8-12-5(58), municipal penalties for the offenses and violations of municipal ordinances may not exceed any penalties provided for a like offense in state court.

II.C.2 Specific Problem Caused by Legal Barrier

As described in section II.B.2, nowhere within W. Va. Code 8-10-2, 8-11-1, nor 8-12-5 does it state that a municipality has the legal authority to specify court needs or create specific court fees to be paid by individual defendants appearing before it to address needs.

Elkins Municipal Court prosecutes most of the criminal misdemeanor citations issued by the Elkins Police Department, including violations of city codes. In operating the court, the city employs one full-time court clerk and one part-time municipal judge. While the city views the court as an important asset, the actual costs of operating it far outweigh the revenues generated and retained. From July 2018 through June 2020, annual operating expenses of the Elkins Municipal Court—including personnel, office equipment and supplies, and hardware—have averaged around \$158,000. During that same period, court revenues averaged \$79,781.00 per fiscal year. As with the maintenance of court technology, excess court expenses are covered by the city's general fund.

II.C.3 Proposed Solution

The City of Elkins seeks authority to assess, by ordinance, a municipal court administrative fee to be determined by Elkins Common Council, of no more than \$65.00 for each person convicted within its municipal court. Based on an average of one-thousand four-hundred citations per year the court could

anticipate assessing \$91,000 annually in administrative court fines. However, recognizing that the city only collects about one-third of all assessed court fines, a practical projection of annual revenues is not more than \$30,000 a year, and this is only if council chooses to impose the maximum fine of \$65.00. As with the municipal court technology and maintenance fee, this additional revenue will not cover the entire operational costs of the court, but it will help to lessen the burden on the city's general fund.

II.D. Raising Minimum Age for Joining Civil Service Fire Departments

II.D.1 Specific Legal Barrier

W. Va. Code §8-15-17(d) regarding fire department application, age and residency requirements and exceptions, stipulates that, unless an applicant to a West Virginia civil service fire department is an honorably discharged veteran of any branch of the United States armed forces, reserves, or National Guard; has served upon the same paid fire department within the previous year; or is presently employed by another paid fire department, they may be "no more than 35 years of age at the date of his or her application."

II.D.2 Specific Problem Caused by Legal Barrier

The City of Elkins experienced an approximate two percent decrease in population over the last ten years, according to U.S. Census data. Fire departments all over the state are experiencing a reduction in applicants and correspondingly a reduction in the number of applicants who successfully navigate the rigorous multi-faceted hiring process. In 2020 the Elkins Firefighters Civil Service Commission conducted entry-level firefighter testing. Eleven applications were received. Of those eleven, five individuals made it to the list of eligible candidates. The department has since hired three of those applicants. None of these candidates had ever served with another department.

Of the twenty-four (24) paid or part-paid fire departments in West Virginia, fourteen are participants in the WV Municipal Police Officer and Firefighter Retirement System (MPFRS); most if not all the rest can be expected to join eventually. Having more participants in the MPFRS able to carry their retirement from one department to another will allow transfers between departments without loss of benefits. Because of this, more experienced firefighters may be expected to show interest in shifting from one department to another. The city would like to take advantage of the opportunity to hire experienced firefighters up to the age of forty (40), even if they have not served in a paid department within the previous year.

II.D.3 Proposed Solution

Elkins seeks authority to enact an ordinance raising the maximum age at the time of application for entry-level civil-service fire positions, regardless of veteran status or previous or current paid fire service, from 35 to 40 years of age. This change would increase the pool of both novice and experienced applicants.

Section III: Affidavits

City of Elkins

Municipal Home Rule Amendment to the Approved Written Plan

Affidavit of Legal Notice Of Public Hearing

I, the undersigned Clerk of the City of Elkins, do hereby certify that on November 18, 2021, at 6:30 p.m. a Public Hearing was held before a meeting of the Elkins Common Council, the subject of said hearing being the proposed City of Elkins Municipal Home Rule Amendment to the Approved Written Plan. Thirty days in advance of the public hearing, a notice of the public hearing was published as a Class II legal ad once each week for two successive weeks and a copy of the proposed City of Elkins Municipal Home Rule Amendment to the Approved Written Plan was made available for public inspection at that time. The attached are true, correct and complete copies of the minutes evidencing the Public Hearing.

Witness the signature of the undersigned Clerk of the City of Elkins, West Virginia, and the seal of this City, this 3rd day of December 2021.


Clerk

NOTICE OF PUBLIC HEARING
CITY OF ELKINS
RANDOLPH COUNTY
WEST VIRGINIA
AMENDMENT TO THE
APPROVED HOME RULE PLAN

Notice is hereby given by the City of Elkins, West Virginia, that the Council will hold a public hearing on Thursday, November 18, 2021, at 6:30 p.m. at the Elkins Council Chambers, 401 Davis Avenue, Elkins, West Virginia for the purpose of providing members of the public an opportunity to speak either in favor of, or opposition to, the proposed City of Elkins Amendment to the Approved Written Plan of the Municipal Home Rule Program. The comments provided by members of the public shall be considered by the City in the completion of the City's Amended Plan Application.

A copy of the Amended Plan Application is on file in the Office of the City Clerk of the City of Elkins and is available for review by members of the public Monday through Friday, from 9:00 a.m. to 4:00 p.m.

The first reading of the ordinance approving the City of Elkins Amendment to the Approved Written Plan of the Municipal Home Rule Program is scheduled to be held at a regular meeting of Council at 7:00 p.m. on Thursday, November 18, 2021, in the Elkins' Council Chambers, 401 Davis Avenue, Elkins, West Virginia.

Jessica R. Sutton,
City Clerk

Legal Advertisement

**NOTICE OF PUBLIC HEARING
CITY OF ELKINS
RANDOLPH COUNTY
WEST VIRGINIA
AMENDMENT TO THE
APPROVED HOME RULE PLAN**

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Jessica R. Sutton,
City Clerk

10-18, 10-25

**NOTICE OF PUBLIC HEARING
CITY OF ELKINS
RANDOLPH COUNTY
WEST VIRGINIA
AMENDMENT TO THE
APPROVED HOME RULE PLAN**

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Jessica R. Sutton,
City Clerk

10-18, 10-25

City of Elkins

Municipal Home Rule Amendment to the Approved Written Plan

Minutes of Public Hearing

**ELKINS COMMON COUNCIL
PUBLIC HEARING
MINUTES**

*401 Davis Avenue
Council Chamber, 2nd Floor
November 18, 2021
6:30 p.m.*

Elkins Common Council met in special session in the council chamber of city hall. Present were Mayor Jerry A. Marco; Councilpersons N.E. Bross-Fregonara, R.C. Chenoweth, M. D. Cuonzo, C.H. Friddle, III, J.A. Guye, G.M. Hinchman, C.C. Lowther, D.C. Parker, and L.H. Vest; City Treasurer T. Judy; Fire Chief S.D. Himes; Interim Operations Manager M. Himes; City Attorney G. S. Roberts; and City Clerk J.R. Sutton (acting as recording secretary).

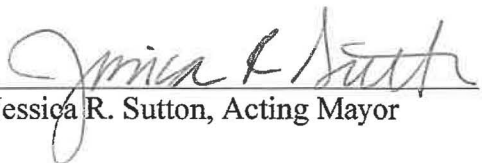
Councilor C.J. Higgins and Police Chief T. Bennett were absent.

The hearing was called to order at 6:30 p.m.

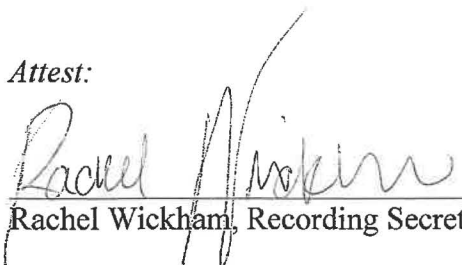
- i. Ordinance 291: An Ordinance of the City of Elkins, West Virginia Authorizing the Governing Body to Submit a Municipal Home Rule Amendment to the Approved Written Plan to the Municipal Home Rule Board*

No comments were entered.
The hearing was closed at 6:31 p.m.

*Approved by council at the meeting
of December 2, 2021*


Jessica R. Sutton, Acting Mayor

Attest:


Rachel Wickham, Recording Secretary

City of Elkins

Municipal Home Rule Amendment to
the Approved Written Plan

Ordinance Authorizing Submission

ORDINANCE 291

AN ORDINANCE OF THE CITY OF ELKINS, WEST VIRGINIA, AUTHORIZING THE GOVERNING BODY TO SUBMIT A MUNICIPAL HOME RULE AMENDMENT TO THE APPROVED WRITTEN PLAN TO THE MUNICIPAL HOME RULE BOARD PURSUANT TO THE PROVISIONS OF WEST VIRGINIA CODE § 8-1-5A, GENERALLY, AND § 8-1-5A(f), PARTICULARLY.

WHEREAS, the Common Council has determined to submit a proposed Amendment to the City of Elkins Municipal Home Rule Pilot Program Plan (the “Amendment to Home Rule Plan”); and

WHEREAS, the City Clerk caused to be published a notice of the public hearing on the Amendment to the Home Rule Plan as required by the Act; and

WHEREAS, the City Clerk caused to be published the Notice of Proposed Enactment of the Proposed Ordinance as a Class II Legal Ad on October 18, 2021, and October 25, 2021 in The Inter-Mountain, as required by law; and

WHEREAS, a copy of the Amendment to the written Plan has been available to the public and may be inspected by the public at the office of the City Clerk, 401 Davis Avenue, Elkins, West Virginia; and

WHEREAS, on November 18, 2021, at 6:30 p.m. in the Elkins City Council Chambers, 401 Davis Avenue, Elkins, 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; and

WHEREAS, this Ordinance was presented to, and passed on first reading by, Council after the public hearing on November 18, 2021; and

WHEREAS, this Ordinance was presented to, and passed on second reading by Council on December 2, 2021.

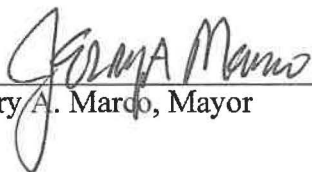
NOW THEREFORE, BE IT ORDAINED and ENACTED by the Common Council of the City of Elkins, that the Mayor, as the certifying official, is hereby directed to make submission to the Municipal Home Rule Board an application for approval for an

Amendment to the City of Elkins Home Rule Plan, 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.

BE IT FURTHER ORDAINED, that the Mayor, be and is hereby authorized to execute such Application for and on behalf of the City and to certify this Ordinance to the Municipal Home Rule Board of the State of West Virginia in accordance with the rules and regulations applicable thereto and to take any and all action necessary with respect to said Application and to execute such other documents, hearings, notices, certificates, and affidavits as are necessary or convenient to the filing of such Application.

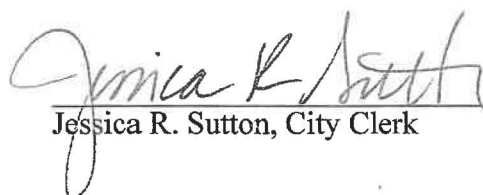
This Ordinance shall become effective upon passage.

CITY OF ELKINS, WEST VIRGINIA



Jerry A. Mardo, Mayor

Attest:



Jessica R. Sutton, City Clerk

City of Elkins

Municipal Home Rule Amendment to
the Approved Written Plan

Fiscal Statement

Municipal Court Technology and Maintenance Fee

As part of the operation of this court, technology and maintenance fees are incurred at a cost of over \$5,000 annually and are rising, while the revenues generated by the existing municipal court technology and maintenance fee have remained stagnant at less than \$275.00 annually.

| | Fees Paid | Software Expenses | Net Loss |
|------|-----------|-------------------|--------------|
| FY19 | \$25.00 | \$5,366.88 | -\$5,341.88 |
| FY20 | \$274.00 | \$9,800.78 | -\$9,526.78 |
| FY21 | \$224.00 | \$12,277.93 | -\$12,033.93 |

The City of Elkins is requesting permission to enact an ordinance increasing the maximum amount of the Municipal Court Technology and Maintenance Fee assessed to \$10.00 per convicted individual. This action has the potential to increase municipal court revenues to nearly \$3,000 annually.

| | @ \$1.00 fee | @ \$5.00 fee | @ \$10.00 fee |
|------|--------------|--------------|---------------|
| FY19 | \$25.00 | \$125.00 | \$250.00 |
| FY20 | \$274.00 | \$1,370 | \$2,740.00 |
| FY21 | \$224.00 | \$1,120.00 | \$2,240.00 |

Assignment of Court Costs for Municipal Court Proceedings

From July 2018 through June 2020, annual operating expenses of the Elkins Municipal Court—including personnel, office equipment and supplies, and hardware—have averaged around \$158,000. During that same period, court revenues averaged \$79,781.00 per fiscal year.

| | Court Revenues | Court Expenses | Net Loss |
|------|----------------|----------------|-------------|
| FY19 | \$79,749.23 | \$168,819.14 | \$89,069.91 |
| FY20 | \$94,848.49 | \$159,556.23 | \$64,707.74 |
| FY21 | \$64,745.88 | \$146,799.44 | \$82,053.56 |

The City of Elkins seeks authority to assess, by ordinance, a municipal court administrative fee to be determined by Elkins Common Council, of no more than \$65.00 for each person convicted within its municipal court. Based on an average of one-thousand four-hundred citations per year the court could anticipate assessing \$91,000 annually in administrative court fines. However, recognizing that the city only collects about one-third of all assessed court fines, a practical projection of annual revenues is not more than \$30,000 a year, and this is only if council chooses to impose the maximum fine of \$65.00.

Disposition of Real Estate

The city anticipates no fiscal impact as a result of the approval of this authority.

Raising Maximum Age for Joining Civil Service Fire Departments

The city anticipates no fiscal impact as a result of the approval of this authority.

City of Elkins

Municipal Home Rule Amendment to
the Approved Written Plan

No Delinquent State of West Virginia
Fees Statement

December 3, 2021

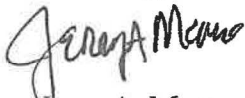
Ms. Courtney Shamblin
West Virginia Department of Revenue
West Virginia Home Rule Program
State Capitol Complex, Building 1, Room W-300
Charleston, WV 25305

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

Ms. Shamblin:

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

Sincerely,


Jerry A. Marco
Mayor

City of Elkins

Municipal Home Rule Amendment to
the Approved Written Plan

Attorney Opinion



Geraldine S. Roberts
842 S Chestnut St.
Post Office Drawer 1920
Clarksburg, WV 26302-1920
Phone: (304) 918-1003
Fax: (304) 918-1005
Email: gsroberts@wvlawyers.com

October 18, 2021

West Virginia Municipal Home Rule Board
West Virginia Home Rule Program
P.O. Box 11360
Charleston, West Virginia 25339-1360

Re: Opinion regarding the Application for
Amendment of the City of Elkins Home Rule Plan

Ladies and Gentlemen:

We have acted as counsel to the City of Elkins in connection with its amendment to its approved Home Rule Plan. For purposes of the opinions contained in this letter, we have examined West Virginia Code §8-1-5a, the Municipal Home Rule Pilot Program Phase III Application of the City of Elkins, the 2017 Application for Amendment and the proposed Application for Amendment. As to any facts relevant to our opinion which we did not independently establish, we have relied upon factual representations contained within the Application for Amendment and documentation submitted contemporaneously therewith.

We find that the Application for Amendment does not include proposals that will make changes to ordinances, acts, resolutions, rules, and regulations contrary to environmental laws, bidding on government construction and other contracts, the Freedom of Information Act, the Open Governmental Proceeding Act, wages for construction of public improvements, the provisions of West Virginia Code §8-1-5a, the provisions of West Virginia Code §8-12-5a, and the City of Elkins' written plan. Further, we find that the Application does not propose to pass any ordinance, act, resolution, rule, or regulation pertaining to the Constitution of the United States, the Constitution of the State of West Virginia, Federal or crimes and punishment, Chapters 17C,60A, 61, and 62 of the West Virginia State Code or other state crimes and punishments, pensions or retirement plans, annexation, taxation, tax increment financing, extraction of natural resources, persons or property outside the boundaries of the municipality, marriage and divorce laws, or any occupation tax, fee, or assessment payable by a nonresident of a municipality..

West Virginia Municipal Home Rule Board
October 18, 2021
Page 2

Finally, as evidenced by the documentation enclosed with the Application for Amendment, the City of Elkins made available a copy of the Application for Amendment for public viewing and published thirty days' advance notice of a public hearing on the Application for Amendment, conducted such a public hearing, and adopted an ordinance authorizing the City of Elkins to submit the Application for Amendment, the City of Elkins is current in payment of all state fees.

Bases upon the foregoing, we opine that the City of Elkins' Application for Amendment does not violate the provisions of West Virginia Code §8-1-5a. This opinion is solely for the benefit of the City of Elkins and the Municipal Home Rule Board in connection with the Application for Amendment of the City of Elkins to the WV Municipal Home Rule Program, and without our written consent, this opinion letter may not be used or relied upon by any other person for any purposes whatsoever.

Very truly yours,



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By Geraldine S. Roberts

GSR/dlc