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June 13, 2016

Debbie Browning VIA EMAIL: debbie.a.browning@wv.gov
West Virginia Development Office
Building 76, Room 553
Charleston, WV 25305-0311

Re: South Charleston Home Rule Proposed Written Plan Amendment (Second)

Dear Debbie:

Please find attached a proposed second amendment to the South Charleston Home Rule Written Plan, which seeks approval for an ordinance to permit certain holders of West Virginia Alcohol Beverage Control Administration Class A licenses to serve alcohol beginning at 10 a.m. Sundays within the City Limits of South Charleston, as well as our proposed Ordinance.

As I advised you when we spoke this afternoon, the public hearing on this amendment and proposed ordinance has been advertised and is scheduled to take place prior to the City Council meeting on July 7, 2016. Immediately after the City Council meeting, we will forward you the evidence of compliance with parts 1-3 of the West Virginia Municipal Home Rule Pilot Program "Procedure to Enact/Amend an Ordinance Pursuant to an Approved Plan," an audio recording of the public hearing and a letter from South Charleston City Attorney Michael Moore certifying that the proposed ordinance and amendment comply with W. Va. Code § 8-1-5a. Additionally, Mr. Moore will bring copies of those documents to the July 11, 2016 Home Rule Board meeting.

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

Very truly yours,

A handwritten signature in cursive script that reads "Karen E. Klein".

Karen E. Klein

KEK:me

Attachments

City of South Charleston West Virginia



Municipal Home Rule Written Plan Amendment 2016



Second Proposed Amendment to the Written Plan of the City of South Charleston 2016

I. Introduction

The City of South Charleston was accepted into the Municipal Home Rule Pilot Program on October 6, 2014, pursuant to W. Va. Code § 8-1-5a. The City of South Charleston's Municipal Home Rule Written Plan and Application of 2014 included four issues: (1) Creation of a one-half percent sales tax and reduction of business and occupation (B&O) and utility taxes; (2) Expansion of the ability to issue immediate citations; (3) Authorizing the City to transfer certain property without public auction; and (4) Expanding the City's administrative authority concerning variances and special permits. In 2015, the Municipal Home Rule Board permitted the City of South Charleston to amend its Plan with regard to the creation of a sales tax and reduction of B&O and utility taxes.

Pursuant to W. Va. Code § 8-1-5a(k) (2015), a municipality participating in the Municipal Home Rule Pilot Program may amend its written plan at any time. Since participating in the program, the City of South Charleston has adopted three Home Rule ordinances, one concerning immediate citations and a second concerning property transfers, and a third regarding the tax modifications, and has continued to study the issue of variances and special permits. After such study and deliberation, the City of South Charleston now wishes to amend the first issue of its 2014 written plan related to alcohol service before 1 p.m. Sundays in order to permit the City the broadest flexibility permissible under Home Rule.

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 South Charleston is hereby seeking permission from the Municipal Home Rule Board to amend its 2014 written plan to enable restaurants and hotels 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 South Charleston certifies that it will have complied with the first five requirements for the amendment of the written plan prior to the City's presentation of this proposed amendment to the Municipal Home Rule Board for consideration.

II. Specific Laws Applicable.

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

III. Problem Created by Applicable Laws

According to the Smithsonian, Sunday brunch was popularized in the 1930s by hotels 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 hotels. 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-World 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 brunch.

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 and hotels in South Charleston 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 maximize their revenue from brunch service.

IV. 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. § 8-1-5a(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, Shepherdstown has already enacted its own rules regarding Sunday alcohol sales through Home Rule and Charleston is at this time also presenting a modification to its Home Rule Plan to permit Sunday alcohol sales.

South Charleston 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 and hotels. Further, as the City of Charleston has stated in its submission, permitting alcohol at Sunday morning brunch could result in more catered and other special events in South Charleston on Sundays.

The South Charleston Convention and Visitor's Bureau and the South Charleston 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.

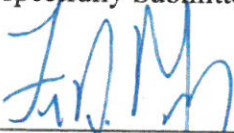
Finally, one of the City's goals and objectives is to become an entertainment and cultural destination and to promote South Charleston as a city that offers a range of lifestyle choices in order to attract new residents to the City and retain its current residents. The establishment of earlier Sunday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

V. Specific Power Requested under Proposed Amendment

As detailed above, this second proposed amendment to the Municipal Home Rule Written Plan of the City of South Charleston 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, City of South Charleston 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 South Charleston appreciates the Municipal Home Rule Board's consideration of this second plan amendment.

Respectfully Submitted,



City of South Charleston, by and through
its Mayor, Frank A. Mullens, Jr.

Date: 6/13/16