

CITY OF FOLLANSBEE
BROOKE COUNTY
WEST VIRGINIA

AMENDMENT TO
MUNICIPAL HOME RULE WRITTEN PLAN



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CITY OF
FOLLANSBEE
WEST VIRGINIA

872 Main Street, P.O. Box 606
Follansbee, WV 26037
(304) 527-1330

April 1, 2019

The Honorable David Hardy
Cabinet Secretary and Chairman Designee
West Virginia Municipal Home Rule Board
State Capitol Complex
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305

RE: Amendment to the City of Follansbee Municipal Home Rule Plan

Dear Members of the Municipal Home Rule Board:

On behalf of the citizens and elected officials of the City of Follansbee, West Virginia, I am pleased to submit ten (10) original copies of the City's proposed amendment to its Home Rule Written Plan. I respectfully request that this item be placed on the agenda for the West Virginia Municipal Home Rule Board agenda for Wednesday, April 10, 2019.

If you have any questions or require any additional information, please do not hesitate to contact me anytime. On behalf of the entire City, we thank you for your cooperation and consideration of this matter.

Very truly yours,

David A. Velegol, Jr.
Mayor

FOLLANSBEE NEVER FAILS

**Proposed Amendment to the
City of Follansbee Municipal Home Rule
Written Plan**

*To Permit Certain Alcohol Beverage Control Administration (ABCA) Class "A" License Holders
to Sell Alcoholic Beverages Beginning at 10:00 a.m. on Sundays*

General Information

Name of Municipality: City of Follansbee, West Virginia
Certifying Official: David Velegol, Jr., Mayor
Contact Person: John DeStefano, City Manager
Address: City Hall, 872 Main Street, Follansbee, WV 26037
Telephone: (304) 527-1330
Email Address: follansbeecitymgr@comcast.net or citymanager@follansbeewv.gov

Municipal Classification

With a population of approximately 2,985 residents, the City of Follansbee is classified as a Class III city.

Introduction

Follansbee is a city in Brooke County, West Virginia, located along West Virginia Route 2, which doubles as the City's Main Street, and adjacent to the east bank of the Ohio River (hereinafter, "Follansbee" or the "City"). The City is part of the Weirton–Steubenville, West Virginia-OH Metropolitan Statistical Area.

The City is located:

- 19.39 miles north of Wheeling, West Virginia
- 6.33 miles south of Weirton, West Virginia
- 45.00 miles west of Pittsburgh, Pennsylvania
- 3.91 miles east of Steubenville, Ohio

Follansbee first received its municipal charter in 1906. Today, it has an estimated population of 2,985 persons and an estimated median household income of \$46,501.00. The City is known throughout the State of West Virginia and the Ohio Valley as the home of Community Days and Christmas in the Park. Every summer and fall thousands of people from West Virginia and surrounding areas travel to the City to attend these events. The City likes to think of itself as small town USA and was recently rated as the ninth least expensive and nicest City in which to live in West Virginia. The City continues to grow and in an effort to continue this trajectory the City would like to amend its Home Rule Application Written Plan in the following manner.

The City proposes a plan to allow the sale of alcoholic beverages by certain ABCA Class "A" license holders beginning at 10:00 a.m. on Sundays.

Problem Being Addressed

The West Virginia Code currently prohibits restaurants and bars from serving alcohol before 1:00 p.m. on Sundays. Local businesses, restaurants, and hotels are turning away business because patrons are traveling to other areas in or near the Northern Panhandle to enjoy adult beverages with their Sunday brunches.

Follansbee is home to many local restaurants which have lost business and revenue as other jurisdictions adopt standards permitting alcohol sales with Sunday brunch activities. The addition of Sunday alcohol sales would present these visitors with additional local amenities and boost the local economy. Several home rule municipalities have already obtained approval to use the program to implement municipal ordinances permitting Sunday alcohol sales for on premise consumption beginning at 10:00 a.m. Follansbee wishes to join these communities in exercising local authority to expand opportunities for residents, businesses, and visitors.

Proposed Solution

Senate Bill 293, passed during the 2016 regular session, signed into law, and made effective June 10, 2016, modifies these limitations by permitting on premise alcohol sales beginning at 10:00 a.m. on Sundays only after an election. An election approving Sunday alcohol sales has not yet occurred in Brooke County. Follansbee, however, is a participating city in the West Virginia Municipal Home Rule Pilot Program and the Municipal Home Rule Board (the "Board" approved its initial written plan on July 10, 2016. Pursuant to W. Va. Code §8-1-5a(1), "[a] municipality selected to participate in the Municipal Home Rule Pilot Program may amend its written plan at any time." The Board has provided guidance for municipalities proposing plan amendments. Cities that have been approved as Home Rule cities are permitted to modify the time at which alcohol may be served on Sundays within their cities, and such a modification is the type of innovative solution that was intended by the Legislature when it enacted the Municipal Home Rule Pilot Program.

Conclusion

The City wishes to adopt an ordinance permitting alcohol sales by ABCA Class A license holders for on premise consumption beginning at 10:00 a.m. on Sundays. By allowing these sales, it will result in an overall enhancement and positive economic development for businesses within Follansbee.

AFFIDAVIT OF PUBLIC HEARING

**STATE OF WEST VIRGINIA,
COUNTY OF BROOKE, TO-WIT:**

The Affiant, after being duly sworn, swears and affirms as follows:

1. I, David P. Kurcina, am the City Clerk for the City of Follansbee.
2. A copy of the City of Follansbee's proposed amendment to its written plan to the Municipal Home Rule Board was made available for public inspection at the Follansbee City Hall, 872 Main Street, Follansbee, WV 26037, each business day during regular business hours, beginning Friday, February 15, 2019 through Monday, March 18, 2019.
3. A public hearing was properly noticed and held at the aforementioned Follansbee City Hall on Monday, March 18, 2019.

And further the affiant sayeth not.

**CITY OF FOLLANSBEE,
WEST VIRGINIA**



By: David P. Kurcina
Its: City Clerk

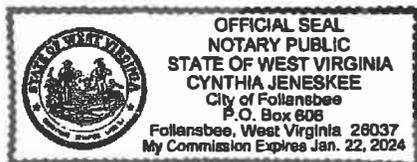
Taken, sworn to and subscribed before me the 1st day of April, 2019.

My commission expires:

January 22, 2024



Notary Public



**Public Hearing Notice
March 18, 2019
6:45 PM
Council Chambers
Called by Mayor David Velegol**

Agenda

- 1. Brunch bill amendment to Home Rule Plan**

Notified:

**Mayor David Velegol
City Clerk David Kurcina
City Attorney Michael Gaudio
City Manager John DeStefano
Councilman George Robinson
Councilman Angie Kocher
Councilwoman Kathy Santoro
Councilman Rudy Cipriani
Councilman Scott McMahon
Council-at-large John Casinelli
John Schwertfeger
Larry Rea
Press**

PUBLIC HEARING

MARCH 18, 2019

Present: Mayor David Velegol, City Manager John DeStefano and City Clerk Dave Kurcina

Council: George Robinson, Angie Kocher, Kathy Santoro,
Rudy Cipriani, Scott McMahon and John Casinelli

Also: Fire Chief Larry Rea, Police Chief John Schwertfeger and Public Works Director Steve Meca

Absent: City Attorney Mike Gaudio

Place: Council Chambers

Time: 6:45 p.m.

Subject: **Brunch Bill amendment to Home Rule**

This amendment will allow the Brunch Bill to become part of our Home Rule Program. This allows Café's or Restaurants to serve Alcohol at 10:00 am on Sundays. The Mayor opened the Meeting by asking if there are any public comments this amendment. There were no Public Comments.

**Motion by Scott McMahon/ 2nd by Rudy Cipriani to adjourn at 6:58 p.m.
Carried**



David P. Kurcina, City Clerk

Public Hearing 3/18/19

- 1) Alys Merritt
- 2) James H. Nelson
- 3) Sky Kutson
- 4)
- 5)

**CERTIFICATE
OF
PUBLICATION**
The Brooke County Review
Brooke County
Wellsburg, West Virginia

NOTICE OF PUBLIC HEARING

Notice is hereby given that a public hearing will be held at a special meeting of the Follansbee City Council on Monday, March 16, 2019 at 6:45 pm at Council Chambers in the City Building, 672 Main Street, Follansbee, West Virginia on an ordinance to authorize an amendment to the City's Home Rule Plan to allow the sale of alcoholic beverages by certain Alcohol Beverage Control Administration Class "A" License Holders beginning at 10:00am on Sundays. Immediately following the public hearing, the City Council will consider the first reading of the ordinance to authorize an amendment to the City's Home Rule Plan. Interested parties may appear at the public hearing and be heard with respect to the ordinance and the proposed amendment to the City's Home Rule Plan. A copy of the Ordinance and the proposed amendment to the City's Home Rule Plan may be inspected in the City Clerk's office in the City Building, Monday through Friday, beginning Friday, February 15, 2019, between the hours of 8:00am and 5:00pm and may also be viewed online at www.cityoffollansbee.net. Written comments concerning the proposed amendment to the City's Home Rule Plan may be addressed to John DeStafano, City Manager, City Building, Post Office Box 606, Follansbee, West Virginia 26037 or hand delivered to him at the City Building, 672 Main Street, Follansbee, West Virginia.

Dated February 12, 2019

/s/ Dave Kurcina
City Clerk

BCR 02/15 - 02/22/19

I, Jonathan M. McGoldrick, editor of the Brooke County Review, a newspaper of general circulation in Brooke County, West Virginia, published in Wellsburg, hereby Certify that the attached advertisement was duly published in said Newspaper for 2 successive week(s) in issues of

2/15 & 2/22/19

Given under my hand this 22nd day of February 2019

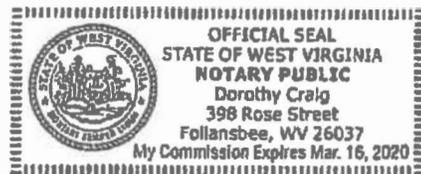
Jonathan M. McGoldrick
Editor of the Brooke County Review

Printer's Fee \$ 60.00

Invoice # 3457

Subscribed and sworn to this 22nd day of Feb, 2019

Dorothy Craig
Notary Public



Brooke County Review, LLC
 55- 7th Street
 Towne Square
 Weillsburg, WV 26070
 Phone - 304-737-0946
 Fax - 304-737-0297

INVOICE
3457

City of Follansbee
 John DeStefano Jr.
 P. O. Box 606
 Follansbee, WV 26037

Deliver To:
 John DeStefano Jr.
 P. O. Box 606
 Follansbee, WV 26037

Date: 2/2/2019
 Payment Term: Net 0 Days
 Reference

Number Invoice

Product#	Rate/Quan	Product Description / Comments	Unit Price	T	Extended Price
Lg_WD2	310.5 1.00	Notice of Public Hearing Dates: 02/15 - 02/22/19	0.202 0.00	N Y	62.72 0.00

Paid Amount: \$0.00

Total: \$62.72
 0.000% Sales Tax: \$0.00
 Grand Total: \$62.72
 Balance Due: \$62.72

Thanks for Your Patronage
 We Appreciate Your Business
 We Accept All Major Credit Cards

Total Account Balance: 77.89
 Current: 132.41

31-60: 174.22

61-90: 30

91-96: 96

**Special Meeting Notice
April 1, 2019
5:45 PM
Council Chambers
Called by Mayor David Velegol**

Agenda

- 1. Brunch bill amendment to Home Rule (second reading)**
- 2. Amendment 2 for Sewer Bonds**

Notified:

**Mayor David Velegol
City Clerk David Kurcina
City Attorney Michael Gaudio
City Manager John DeStefano
Councilman George Robinson
Councilman Angie Kocher
Councilwoman Kathy Santoro
Councilman Rudy Cipriani
Councilman Scott McMahon
Council-at-large John Casinelli
Press**

SPECIAL COUNCIL MEETING

APRIL 1, 2019

Present: Mayor David Velegol and City Clerk Dave Kurcina
Council: George Robinson, Angie Kocher, John Casinelli, Kathy Santoro,
Scott McMahon and Rudy Cipriani

Also: Police Chief John Schwertfeger

Absent: City Attorney Mike Gaudio and City Manager John DeStefano

Place: Council Chamber

Time: 5:45 pm

Subject: Brunch bill amendment to Home Rule/Amendment 2 for Sewer Bonds

Brunch bill amendment to Home Rule

Motion by John Casinelli/ 2nd by Kathy Santoro to approve the 2nd reading of the Brunch bill amendment to Home Rule. Motion Carried

5 in favor

1 against (Angie Kocher)

Amendment 2 for Sewer Bonds

Motion by John Casinelli/ 2nd by Kathy Santoro to approve the Amendment 2 for Sewer Bonds. Motion Carried Unanimous

Motion by Scott McMahon/ 2nd by John Casinelli to adjourn at 5:47 p.m. Motion Carried Unanimous



David P. Kurcina, City Clerk

CERTIFICATION

The undersigned City Clerk of the City of Follansbee, West Virginia, does hereby certify that the attached is a true, accurate and sealed copy of the Ordinance enacted by the City Council of the City of Follansbee on April 1, 2019, authorizing submission to the West Virginia Municipal Home Rule Board of an amendment to the City's Home Rule Written Plan. This submission is in accordance with the provisions of West Virginia Code §8-15-5A.

Given under my hand and seal on this 1st day of April, 2019.

**CITY OF FOLLANSBEE,
WEST VIRGINIA**

A handwritten signature in black ink, appearing to read 'D. Kurcina', with a large, stylized flourish extending from the end of the signature.

By: David P. Kurcina
Its: City Clerk

ORDINANCE

An **Ordinance**, authorizing the City of Follansbee to submit an amendment to the City's written plan to the Municipal Home Rule Board which will allow the sale of alcoholic beverages by certain alcohol beverage control administration Class "A" License holders beginning at 10:00 am on Sundays.

WHEREAS, the West Virginia Municipal home Rule Board approved the Municipal Home Rule written plan of the City of Follansbee, Class III municipality, on July 11, 2016;

WHEREAS, the owners of restaurants and hotels in the City have indicated that there is a market for brunch services on Sunday and the current restrictions on the hours of Sunday alcohol sales imposed by state Law are not conducive to practical and successful Sunday morning brunch attendance;

WHEREASE, the City's hospitality and tourism industry fully supports the City's use of Home Rule to allow earlier Sunday alcohol service in Follansbee thereby enabling restaurants and hotels in the City to be fully operational on Sunday to enhance the City's image in the eyes of business and leisure travels as well as to enrich the overall experiences that visitors have in Follansbee; and ,

WHEREAS, the City has determined that allowing alcohol sales at Sunday morning brunch within the city will produce more tax revenue and strengthen the businesses in the City, while also increasing the earnings for servers and other hospitality employees working in the City,

NOW, THEREFORE, BE IT ORDAINED BY THE COUCIL OF THE CITY OF FOLLANSBEE, WEST VIRGINIA, THAT;

SECTION 1: The Mayor is hereby authorized and directed to submit to the Municipal Home Rule Board a proposed amendment, attached hereto as exhibit A, to the City of Follansbee's Municipal Home Rule Plan in accordance with the requirements of W.Va. Code §8-1-5a, requesting approval to allow the sale of alcoholic beverages by certain Alcohol Beverage Control Administration Class "A" license holders beginning at 10:00 a.m. on Sundays. The Mayor and the City Administration are further authorized to do all things reasonable necessary to obtain approval by the Municipal Home Rule Board of the City's amendment to the written plan.

SECTION 2: This Ordinance shall be effective immediately upon adoption.

CITY OF FOLLANSBEE

BY:



DAVID A. VREUGOL, JR., MAYOR

ATTESTED:



DAVID KURCINA, CITY CLERK

APPROVED:

ORDINANCE NO.: 19-01

PASSED : 04/01/19

FIRST READING
03/18/19

SECOND READING
04/01/19

APPROVED BY CITY ATTORNEY AND CORRECT TO FORM:



MICHAEL E. GAUDIO, ESQ.

April 1, 2019

The Honorable David Hardy
Cabinet Secretary and Chairman Designee
West Virginia Municipal Home Rule Board
State Capitol Complex, Room W-300
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305

RE: Amendment to the City of Follansbee, West Virginia
Municipal Home Rule Plan Amendment

Mr. Chairman Designee and Members of the Board:

We have acted as counsel to the City of Follansbee in connection with the amendment to its approved Home Rule Application. For the 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 Follansbee (the "City") and the corresponding 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, the Amendment, and any 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 Proceedings 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, or the City's Written Plan. Further, we find that the Application for Amendment does not propose to pass any ordinance, act, resolution, rule, or regulation pertaining to the Constitution of the United States of America, the Constitution of the State of West Virginia, federal law or crimes and punishment, Chapters 60A, 61, and 62 of the West Virginia Code or other state crimes and punishment, 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 an occupation tax, fee, or assessment payable by a nonresident of the municipality.

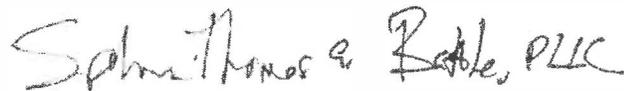
Finally, as evidenced by the documentation enclosed with the Amendment, the City made available a copy of the Amendment to its Home Rule Written Plan for public viewing and published thirty days advance notice of a public hearing on the Amendment, conducted such a public hearing, and adopted an ordinance authorizing the City to submit this Amendment.

The Honorable David Hardy
April 1, 2019
Page 2

Moreover, the City Manager has certified herewith that the City is current in payment of all state taxes and fees.

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

Sincerely,



SPILMAN THOMAS & BATTLE, PLLC

AFFIDAVIT

**STATE OF WEST VIRGINIA,
COUNTY OF BROOKE, TO-WIT:**

The Affiant, after being duly sworn, swears and affirms as follows:

1. I, John A. DeStefano, am the City Manager for the City of Follansbee.
2. As the City Manager I am familiar with all of the financial affairs for the City of Follansbee.
3. I certify that the City of Follansbee is not delinquent nor has any outstanding payments due to the State of West Virginia.

And further the affiant sayeth not.

**CITY OF FOLLANSBEE,
WEST VIRGINIA**


By: John A. DeStefano
Its: City Manager

Taken, sworn to and subscribed before me the 1st day of April, 2019.

My commission expires:

January 22, 2024


Notary Public

