

**West Va Municipal League Home Rule Program  
Initial Application  
City of Mannington**



**MAY 2022**

**West Virginia Municipal League Rule Program  
2022 Application of the City of Mannington**

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CITY OF MANNINGTON

**Section I: Applicant Information**

**A. General Information**

Name of Municipality: City of Mannington  
 Certifying Official: Mayor Lora Michael  
 Contact Person: Michele Fluharty, City Clerk  
 Address: 206 Main St  
 City, State, Zip: Mannington, WV 26582  
 Telephone: 304.986-2700  
 Fax: 304.986-2125  
 Email Address: cityclerk@cityofmannington.com  
 2010 Census Pop.: 2136

**Mannington City Council**

Kris Bates	John Crow	Roger Russell
Ken Fletcher	Tim Fluharty	

**B. Municipal Classification**

Class III

**C. Categories of Issues to Be Addressed**

Tax    Organization    Administrative    Personnel    Other

## CITY OF MANNINGTON

## Section II: Narrative

### Introduction and Executive Summary

Chartered by the state of Virginia in 1856, reincorporated as a town by the State of West Virginia in 1872 then incorporated by the State of West Virginia in as a city in 1921, the City of Mannington is a Class III city in Marion County in Northcentral West Virginia. Mannington is the third largest city in Marion County and is fortunate, compared to many communities, in that many of the key elements necessary for revitalization are already in place. The City has a strong infrastructure evidenced by an updated sewage treatment system and water distribution system. Our state representatives have seen to it that our local bridges are given priority in Charleston and a flood control project has seen seven flood control dams constructed and a creek dredging project that has help us to resolve the flooding problems along Buffalo Creek. The City is blessed to have one of the most beautiful public parks in West Virginia and it is the site of continual activity in the spring and summer months. Many of our neighborhoods have historic homes that have been beautifully maintained and are a source of great pride. Tours of these homes are annual events.

Our downtown is alive and well with several new restaurants scheduled to open this year. A new city park was recently constructed on the site of the old Wintergarden Hotel and Restaurant which was heavily damaged in a fire several years ago and has been an eyesore since that time. It includes an amphitheater that will house numerous activities during the year including concerts, Octoberfest, visits by the Easter Bunny and Santa Claus, etc.

As a town, Mannington has had a pro-active government. For decades, the City has experienced strong volunteer support with a park board, planning commission and board of zoning appeals, sanitary board and a progressive town government that has worked to prepare for and keep pace with change in the area.

By becoming a part of the West Virginia Home Rule Program, Mannington will be able to do greater things for our town. The three issues detailed in the applications will increase our annual revenue and help us to adequately fund our police, provide for the demolition of abandoned properties and the paving of our roads; encourage new businesses to come to town and make it easier for them to do business here;and simplify our licensing process.

We want to be ready for new opportunities coming our way while at the same time, protecting the best parts of our traditional community as we embrace newcomers and encourage good growth.



## CITY OF MANNINGTON

The City of Mannington seeks Home Rule authority in four areas. All four of these have been approved for other Home Rule municipalities. They are:

1. Impose a 1% sales tax and eliminate selected business and occupation tax categories;
2. Standardize business license categories and fees; and
3. Provide relief from requirements of the sale of the City's real property
4. Eliminate partisan requirements for our building commission, ballot commission and poll workers for our municipal non-partisan elections

## CITY OF MANNINGTON

**1. Impose a 1% Sales Tax and Reduce or Eliminate Selected Business and Occupation Tax Categories***Issue Category: Tax*

Mannington seeks to restructure its business tax structure, reducing and eliminating some classes of the Business and Occupation Tax and instituting a 1% sales tax in order to increase revenues for public safety operations, paving our roads, razing dilapidated structures and supporting grant applications. This new business tax structure will be fairer and more standardized, and similar to those in adjacent communities in neighboring states.

**Specific Legal Barrier**

§8-13C-4

**Problem Caused by Legal Barrier**

Mannington has a very small residential tax base and yet, being a remote town on a busy highway, provides service to a much larger population. Presently, the Town is only able to generate revenue via taxation by imposing a municipal business and occupation (“B&O”) tax or by imposing a sales tax; W.Va. state code requires that the two taxes be mutually exclusive. W.Va. Code §8-13C-1 et seq. contemplates the imposition of a sales tax by municipalities either for pension relief or as an “alternative municipal sales tax” at a rate not to exceed one percent.

The City currently imposes a B&O tax on businesses, but the B&O tax is neither a wholly fair tax on some categories nor does it provide adequate revenue to support community needs.

Under W.Va. Code §8-1-5a(i)(14), municipalities participating in the Municipal Home Rule Program do not have the authority to pass an ordinance under Home Rule pertaining to taxation, except that a participating municipality may enact a municipal sales tax up to one percent if it reduces or eliminates its municipal B&O tax. But a sales tax alone without the B&O tax would exempt certain critical town businesses (banks, insurance, real estate agents) from paying a municipal tax.

**Proposed Solution**

The City proposes to impose a municipal sales tax of up to 1% on all taxable sales under the West Virginia Code within the city. At the same time, it will reduce the B&O tax on selected categories—primarily manufacturers and wholesalers—that would be subject to the sales tax. In this way, most business classes would pay some form of municipal tax. The increase in annual revenue based on this plan would be approximately \$ 125,159.

## CITY OF MANNINGTON

Increased revenues would go to provide key municipal services, including (but not limited to):

- adequately funding our departments to provide them the necessary equipment/vehicles to operate efficiently and the wages to compete with other entities/businesses;
- support for grant programs that require partial local match, which the City cannot afford out of current operational funds; and
- paving of our deteriorating roads in all of our neighborhoods;
- razing of abandoned or condemned structures, in our neighborhoods, that discourage people moving to Mannington and provide for properties suitable for new housing.

The vast majority of W.Va. municipalities accepted into the Home Rule Program have proposed this business tax restructuring in one form or another, and it appears to be meeting with widespread acceptance and success.

<b>2. Standardize Business License Categories and Fees</b>
--

*Issue Category: Administrative*

Mannington seeks the authority to consolidate and reduce the number of business-license categories (currently at 50) and/or reduce the fees charged to various categories in order create a simple, flat business license for the City. This would result in a less confusing array of red tape for businesses to surmount, reduce administrative time and costs, and permit an overall reduction in paperwork in what is essentially a registration activity that is not intended to generate high revenue.

**Specific Legal Barrier**

§8-13-4

**Problem Caused by Legal Barrier**

W. Va. Code §8-13-4 permits cities to “enact an ordinance creating an annual general municipal business license for anything which requires a state license that is done within the corporate limits of a municipality, the tax for which may not exceed twenty dollars.” However, the city may not include under this “general” business license any category of business on which W.Va. Code imposes a state license fee; cities must continue to charge that fee at the municipal level as well.

## CITY OF MANNINGTON

Although the 2011 amendment creating the “general municipal business license” was a step in the right direction, it was a half-measure. Because cities are not yet truly free to consolidate all business licenses for all categories of business operating inside their borders, staff charged with processing such licenses are required to expend valuable time differentiating between categories of businesses for no clear public benefit.

At the same time, businesses are not treated fairly, as the license amounts assigned to different categories vary widely and do not seem based on rational distinctions between those categories. For example, as shown on the current City of Mannington Business License Fee Schedule (**Appendix A**), funeral homes are charged \$35 for their town business licenses, while attorneys are charged only \$5.

Finally, the current list of license rates is confusing to both businesses and administrative staff.

**Proposed Solution**

Mannington seeks authority to enact an ordinance expanding the authority provided under W.Va. Code §8-13-4 to allow the town to consolidate all business license categories (except for alcohol licenses), including those currently charged a state-specified fee, into one general category, for which we would establish a single universal fee of \$25. This will make licensing easier for new and existing businesses, improve the efficiency of staff and increase the perceived fairness of the town's business-licensing requirements. While the gross proceeds from business licensing will decrease slightly (see excel sheet), the resulting simplification, reduced workload and implementation of a fair standard across the board will be worth the cost.

Furthermore, the substantial increase in revenue resulting from the proposed business tax restructuring will more than make up the small loss in business license revenues.

Other cities in the Home Rule Program that have enacted similar measures include Bridgeport, Elkins and Wheeling, and it has been received positively by the business community.

See **Appendix B** for the single-page Municipal License Application of the City of Elkins for an example of a successful implementation of this solution.



**3. Provide relief from requirements of the sale of the City's real property***Issue Category: Organization*

Mannington seeks to get relief from the notice and public auction requirements of West Virginia Code 8-12-18(b) relative to the sale of real property belonging to the City of Mannington when the value of the parcel to be sold is less than \$15,000.

**Specific Legal Barrier**

§8-12-18(b)

**Problem Caused by Legal Barrier**

The City of Mannington has been plagued by abandoned properties and/or out of state landlords who fail to maintain their properties. These properties present a blight to otherwise well-maintained neighborhoods. The City has undertaken to remove and provide for the removal of blight and dilapidated structures in Mannington, through a series of efforts, including acquisition and demolition by the City in some instances; however, these efforts have increased the properties that now must be maintained by the City. Whereas, the notice and public auction requirements of West Virginia Code 8-12-18(b) stand as an impediment to the City's ability to dispose of these lots inasmuch as the auction process is a time consuming one that involves legal fees and creates extra work on departments that are understaffed. Also, since the market for such properties is limited, there is also the risk of losing potential revenue from property that undersells at an auction.

**Proposed Solution**

The City of Mannington desires to sell real property valued at less than \$15,000 by negotiation and transfer without the requirement for public auction provided the sale of any property is deemed to be for a public purpose by municipal resolution, adequate notice is provided to the public, and the sale is for adequate consideration, which may consider fair market value.

#### 4. Relief from Party Affiliation Requirement for Municipal Non-Partisan Elections & Building Commission Appointments.

*Issue Category: Organization*

The current state law provides that no team of poll clerks or team of election commissioners may consist of two persons with the same registered political party affiliation or two persons registered with no party affiliation. The state code also mandates that not more than two-thirds of the total number of members of the Building Commission shall be from the same political party

##### **Specific Legal Barrier**

West Virginia Code 3-1-29(4), 8-33-3.

##### **Problem Caused by Legal Barrier**

Per state law, election officials must be of differing/opposing party affiliations regardless if the election is non-partisan. The term “team of poll clerks” or “team of election commissioners” means two (2) persons appointed to perform the specific functions of the office: *Provided*, that no team of poll clerks or team of election commissioners may consist of two (2) persons with the same registered political party affiliation or two (2) persons registered with no political party affiliation.

The City proposes to be exempted from the requirements of WV Code 3-1-29(4). A change to this law as it pertains to non-partisan elections would make it less difficult to obtain workers to serve as election officials. Furthermore, neither the election officials, nor the voters, are apprised as to the party affiliation of the candidates on the respective ballot. This requirement is unduly burdensome for municipalities that conduct non-partisan elections.

In a small city, it is often difficult to find a willing and qualified person who also has the correct political affiliation to serve as a poll worker or as a Building Commissioner.

##### **Proposed Solution**

The City proposes to be exempted from the requirements of WV Code 3-1-29 (4) and 3-33-3. These changes would eliminate the burden of finding an adequate number of poll workers for the City’s non-partisan elections which has frequently required getting workers from outside the City limits. Since party affiliation has no part in the City’s elections and the party affiliation of no candidate is on the ballots, this would aid the City in its goal of a well-run election.

The same applies to the requirement of WV Code 3-33-3. Exempting the City from the two-thirds requirement would ensure that the best qualified individuals are appointed as commissioners.



### **Section III: Affidavits**

- A. Hearing Mandate Verification**  
Includes Affidavit, Minutes of Council Meetings of May 2, 2022. Transcript of Public Hearing of May 2, 2022
- B. Publication Mandate Verification**
- C. Ordinance Authorizing Submission of Plan**
- D. Fiscal Impact Worksheets and Formulas**
  - 1. New Sales Tax and Business and Occupation Tax Restructuring**
  - 2. Business License Standardization**
- E. Attorney Opinion**
- F. State of West Virginia Fees Statement and Affidavit**

## **PUBLIC HEARING NOTICE**

Notice is hereby given by the City of Mannington, West Virginia, that it will hold a public hearing on May 2, 2022 in the Council Chambers at Mannington City Hall, 206 Main Street, Mannington, West Virginia. The purpose of this public hearing is to discuss the City of Mannington's proposed Home Rule written plan application. Information from this hearing will be utilized by the City of Mannington in its application to the West Virginia Home Rule Program. The City of Mannington's proposed Home Rule plan application is available for public inspection in the City Clerk's office at Mannington City Hall, Mannington, West Virginia, beginning on Friday, April 1, 2022, Monday through Friday, between the hours of 8:00 a.m. and 4:00 p.m.

All interested citizens are invited to attend the public hearing scheduled on Monday, May 2, 2022 at 6:00 p.m., and to present oral or written comments concerning Mannington's proposed Home Rule plan and application. Written comments may be addressed to Mayor Lora Michael, City of Mannington, 206 Main Street, Mannington, WV 26582.

Mannington City Council will consider all public comments in preparing the final draft of the plan application and in deciding to proceed with an ordinance authorizing the City to submit the plan to the West Virginia Home Rule Board for its consideration and approval.

The first reading of an ordinance approving the submission of the City of Mannington's Home Rule plan application may take place May 2, 2022, during the Mannington City Council meeting beginning at 7:00 p.m., in the Council Chambers at Mannington City Hall, 206 Main Street, Mannington, West Virginia.

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Times: March 31, April 7, 2022

**AFFIDAVIT OF PUBLICATION**

State of West Virginia

County of Marion

To-wit:

I, Beverly Miller of the Times West Virginian, a daily newspaper published in the City of Fairmont, Marion County, West Virginia, do certify that the notice attached hereto under the caption; PUBLIC NOTICE was published in the said Times West Virginian Newspaper 2 (TWO) TIME(S) on the following day (s), namely, MAY 31, APRIL 7, in the year 2022

Publication Fee: \$66.04

Signature: \_\_\_\_\_

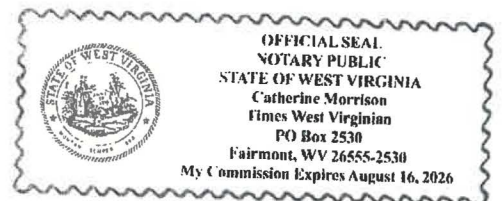


Taken, subscribed and sworn to before me in said county this 7th day of APRIL, 2022.

My commission expires AUGUST 16, 2026.



Notary Public of Marion County, West Virginia



## HOME RULE PUBLIC HEARING ON MAY 2, 2022


Mayor Lora Michael called to order the public hearing on the City's Home Rule application at 6:00 p.m. at city hall. Those in attendance were Mayor Michael, Councilmembers Kris Bates, John Crow, Ken Fletcher, Tim Fluharty, Roger Russell. Others attending were City Clerk Michele Fluharty, Street/Water Superintendent Ted Nice, City Employee Heather Fluharty, Visitors Bill Michael and Doug Hayes.

Mayor Michael began the meeting by explaining Home Rule and the city's reasons for applying. She said most of the surrounding towns and cities have the 1% sales tax.


The meeting was then opened for public comments or questions.

The only speaker was Doug Hayes who lives outside the city limits but wanted to know if there would be any impact on him and others who live outside the city. Michael explained that the 1% sales tax is based on the 26582 and as a part of the application, a list of the applicable zip codes must be submitted. Hayes asked how they differentiate the zip code and Michael said it is based on the zip+4 numbers. Hayes thanked the mayor and council for answering his questions.

There were no other comments. The hearing adjourned at 6:20 p.m.

  
\_\_\_\_\_  
Mayor

Attest:

  
\_\_\_\_\_  
City Clerk & Recorder



HOME RULE PUBLIC HEARING ATTENDEES  
MAY 2, 2022

Doug Hayes 68 Polecat Hollow Rd Mannington

Heather Fluharty 305 Beatty Ave, Mannington

Ted Nice City of Mannington 20 Lotter ST Grafton WV

Bill Michael 217 Augusta Ave MANNINGTON WV 26582

Tim Fluharty 305 Beatty Ave MANNINGTON WV 26582

John Crow 108 Marshall St Mannington WV 26582

Michelle Fluharty 500 Terrace Dr, Mannington, WV 26582  
CITY CLERK

Lora Michael 217 Augusta Ave Mannington WV 26582

Ken Fletcher 709 Burt St. Mannington WV 26582

Kristen Bates 404 High St Mannington WV 26582

Roger Russell 511 Vine St. Mannington WV 26582


AFFIDAVIT

STATE OF WEST VIRGINIA,  
COUNTY OF MARION,  
CITY OF MANNINGTON,

I, Lora Michael, having been duly sworn, do hereby state and affirm the following:

1. I am the elected Mayor of the City of Mannington, WV from July 01, 2021 to present; and
2. A copy of the City of Mannington's proposed Home Rule plan, contained within its application to the WV Municipal League Home Rule Program, was made available for public inspection at Mannington City Hall, 206 Main Street, Mannington, WV each business day during the regular hours from April 1, 2022, up and including May 2, 2022, and
3. A public hearing was properly noticed and held in the Council Chambers at Mannington City Hall on the City of Mannington's proposed Home Rule Plan on May 2, 2022.

This affidavit was sworn by me and submitted this 19th day of May 2022.

  
\_\_\_\_\_  
Lora Michael, Mayor  
CITY OF MANNINGTON  
206 Main Street  
Mannington, WV 26582

STATE OF WEST VIRGINIA  
COUNTY OF MARION,  
CITY OF MANNINGTON, to-wit:

I, Michele Fluharty, a notary Public in and for the State of WV, do hereby certify that Lora Michael, known and known to me, did swear to and subscribe before me the above affidavit.

Given under my hand this 19th day of May, 2022.

My commission expires May 7, 2024.

  
\_\_\_\_\_  
Notary Public





ORDINANCE # 468

AN ORDINANCE OF THE COUNCIL OF THE CITY OF MANNINGTON ADOPTED PURSUANT TO THE PROVISIONS OF WEST VIRGINIA CODE 8-1-5A AUTHORIZING THE CITY OF MANNINGTON TO SUBMIT A WRITTEN HOME RULE PLAN TO THE MUNICIPAL HOME RULE BOARD IN ORDER TO PERMIT THE CITY OF MANNINGTON'S PARTICIPATION IN THE MUNICIPAL HOME RULE PROGRAM.

WHEREAS, in 2019, the West Virginia Legislature has made the Municipal Home Rule Pilot Program a Permanent Program created pursuant to the provisions of West Virginia Code 8-1-5a to allow participation by all municipalities; and


WHEREAS, the City of Mannington desires to participate in said program and has prepared a written home rule plan, which plan complies with the provisions of the aforementioned code section; and

WHEREAS, a public hearing on the said plan was scheduled for May 2, 2022 at 6:00 p.m., or as soon thereafter as the matter could be heard at 206 Main Street, Mannington, WV 26582 a notice of said public hearing was published as a Class II legal advertisement in the Times West Virginian, the only newspaper of general circulation in Marion County, West Virginia on March 31, 2022 and April 7, 2022, all as required by the aforementioned code section; and

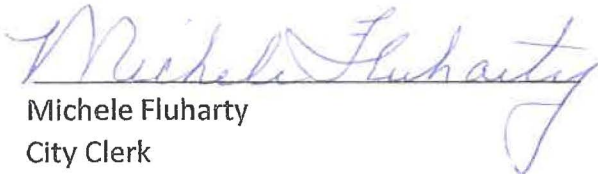
WHEREAS, all other general notice requirements relating to said public hearing were satisfied; and

NOW THEREFORE BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MANNINGTON, WEST VIRGINIA, that the Mayor is hereby authorized and directed to submit a home rule proposal to the Municipal Home Rule Board in accordance with West Virginia Code 8-1-5a in order for the City of Mannington to be included in this program. A copy of said proposal application is attached hereto.

EFFECTIVE DATE: This Ordinance shall take effect immediately after adoption.

  
Lora Michael, Mayor

ATTEST:

  
Michele Fluharty  
City Clerk

Publications:

Public Hearing:

First Reading:

Second Reading:

Adopted:

**D. (1) Fiscal Impact Worksheets and Formulas**  
**Issue 1: New Sales Tax and Business and Occupation Tax Restructuring**

**Business Taxes Collected by Business, FY 2021 and  
Estimates Under Home Rule Proposal**

In the proposed Home Rule Plan for the City of Mannington, Business and Occupation (B&O) Taxes would be eliminated in two categories currently required by state code and reduced in two other categories. An additional 1% Sales and Use Tax would be implemented on those categories currently affected by the 6% W.V. State Sales and Use Tax. NOTE: Estimates below are based on FY 2020-21 gross business sales reported.

Current B&O Tax Revenue	
Business Category	Actual B&O FY21
Amusements	\$55
Manufactured Products	3,131
Rents, Royalties, etc.	2,504
Wholesalers	855
<b>Total for Year</b>	<b>6,545</b>

Proposed B&O+Sales Tax Revenue			
Business Category	Status	B&O Est.	Sales Tax Est.
Amusements	2	\$28	
Manufactured Products	1		
Rents, Royalties, etc.	2	2,086	4,173
Wholesalers	1		
<b>Total for Year</b>		<b>2,114</b>	<b>4,173</b>

Status Codes
1 Category to be removed from code.
2 Category to be a reduced rate.

**D. (2) Fiscal Impact Worksheets and Formulas**  
**Issue 2: Restructured Business Licenses**

FY 2021 License Income	\$6,557
Projected Income with standardize rates	6,425

The reduction in revenue would be minimal but the reduction in administrative time will be much more beneficial. As a small municipality, we have a limited office staff and anytime we can save time and reduce paperwork, it helps improve our efficiency.



**City of Mannington - Business and Occupation Privilege (Gross Sales) Tax - Quarterly, (Estimated) Return**

- (1) For Quarter Ended \_\_\_\_\_ or (2) From \_\_\_\_\_ To \_\_\_\_\_  
 (3) \_\_\_\_\_  
 (4) Books of Account Are Kept at (Post Office) \_\_\_\_\_  
 (5) Principal Place of Business \_\_\_\_\_  
 (6) Kind of Business Engaged In \_\_\_\_\_

(DO NOT USE THIS SPACE)	
Check	
Bank	
Draft	
Money Order	
Certified Check	
Cash	

*ELIMINATE "B" & WHOLESALE'S UNDER "C"*  
*REDUCE "G" & "I" BY .10*  
*ELIMINATE THE EXEMPTION*

- Individual \_\_\_\_\_  
 Corporation \_\_\_\_\_  
 Partnership \_\_\_\_\_  
 Association \_\_\_\_\_  
 Trust \_\_\_\_\_
- (7) When business begun? \_\_\_\_\_  
 (8) Did you sell or otherwise dispose of your property, or quit business, during period covered by this return? \_\_\_\_\_  
 (9) If so when? \_\_\_\_\_  
 (10) If Business sold, to whom? \_\_\_\_\_

**THIS RETURN WITH CHECK TO COVER TAXES DUE MUST BE RECEIVED WITHIN 30 DAYS FROM END OF PERIOD COVERED THEREBY**

**COMPUTATION OF TAX (ESTIMATED)**

ITEM	Gross Amount	Exemptions	Taxable Amount	Rate Per \$ 100	Amount
A. Gross sales value production:					
Coal.....1	\$	\$	\$	\$1.00	\$
Sand, gravel or other mineral product not quarried or mined; oil, blast furnace slag.....2				2.20	
Natural gas in excess of \$1,250.00 (Quarterly Exemption).....3				4.30	
Limestone or sandstone quarried or mined, and timber.....4				1.50	
Other natural resource products.....5				1.40	
B. Gross sales value manufactured products.....				.05	
C. { Gross Income of retailers and others.....1				.30	
{ No deduction allowed a/c cost of purchases					
{ Gross Income of Wholesalers.....2				.14	
D. Gross Income:					
Street, Interurban and Electric Railways, and Bus Companies.....1				.70	
Electric Light and Power Companies (sales and demand charges domestic purposes and commercial lighting).....2				2.90	
Water Companies.....2a				2.40	
Electric Light and Power Companies (all other sales and demand charges).....3				2.40	
Natural Gas Companies; Toll Bridges.....3a				2.10	
All other Public Utilities.....4				1.40	
E. Contracting Business - Gross Income.....				1.20	
F. Banking - Gross Income.....				1.00	
G. Amusement Businesses - Gross Income.....				.40	
H. All Other Business - Gross Income.....				.60	
I. Rents, Royalties, Fees, Interest, Etc.....				.60	
J. TOTAL AMOUNT OF TAXES DUE.....					\$
Less Exemption at rate of \$12.50 per Quarter or at the rate of \$4.16 per month for the period actually engaged in business in Mannington.....					\$
PENALTIES.....					\$
K. TAXES DUE LESS EXEMPTIONS.....					\$

**PERSONS REQUIRED TO FILE QUARTERLY (ESTIMATED) RETURNS** - All persons whose taxes exceed \$5.00 annually are required to file Quarterly (Estimated) Returns.  
**DATES FOR THE FILING OF QUARTERLY (ESTIMATED) RETURNS** - Quarterly (Estimated) Returns are to be filed within 30 days from the end of March, June and September, to cover the first, second and third quarters, respectively.

**OATH**

I, \_\_\_\_\_, do solemnly swear that the above estimate of tax due was made from the records of the taxpayer, and is believed to be a close approximation of the actual tax due.

(Name of Taxpayer)

(Official title, if return is made on behalf of a corporation, President Vice-President, Secretary or Treasurer, as the case may be.)

**Appendix A: Municipal License Application, City of Elkins**



**MUNICIPAL LICENSE APPLICATION**

**CITY OF ELKINS**

401 Davis Avenue, Elkins WV 26241  
Phone (304) 636-1414 FAX (304) 635-7135

OFFICIAL USE ONLY

Fiscal Year \_\_\_\_\_  
License No. \_\_\_\_\_  
New \_\_\_\_\_ Renewal \_\_\_\_\_  
License Fee \$ \_\_\_\_\_  
Date Issued \_\_\_\_\_

Please Print or Type

FULL NAME OF BUSINESS: \_\_\_\_\_  
CORPORATION NAME: (if applicable) \_\_\_\_\_  
BUSINESS PHYSICAL ADDRESS: (Do not use PO Box) \_\_\_\_\_  
MAILING ADDRESS: \_\_\_\_\_  
BUSINESS PH # \_\_\_\_\_ CELL PH # \_\_\_\_\_ OWNER'S HOME OR CORPORATE HEADQUARTERS PH # \_\_\_\_\_

**TYPE OF BUSINESS ENTITY:**  Individual  Partnership  Corporation  LLC  Other \_\_\_\_\_

**BUSINESS CLASSIFICATIONS:** (Check all that apply)

MANUFACTURING  RETAIL  WHOLESALE  SERVICE  UTILITY  BANKING OR OTHER FINANCIAL INSTITUTION  AMUSEMENT  
 RENTAL (Residential Property)  RENTAL (Commercial Property)  RENTAL (Other Type - Specify) \_\_\_\_\_ OTHER (Describe) \_\_\_\_\_

**MUNICIPAL LICENSE REGISTRATION FEE: \$20.00**  NOT FOR PROFIT (provide IRS determination letter)

**BEER, WINE, LIQUOR (must provide copy of West Virginia license from ABCC (license fees, as follows))**

<input type="checkbox"/> BEER (Distributor)	\$ 250.00	PRIVATE CLUB (Non-Profit Fraternal)	\$375.00
<input type="checkbox"/> BEER (Dispenser)	\$ 100.00	PRIVATE CLUB (less than 1000 members)	\$500.00
<input type="checkbox"/> BEER (Private Club)	\$ 50.00	PRIVATE CLUB - RESTAURANT	\$300.00
<input type="checkbox"/> BEER (Retailer/Package)	\$ 5.00	RETAIL LIQUOR SALES - CLASS A	\$1,500.00
<input type="checkbox"/> WINE (Retail)	\$ 150.00	RETAIL LIQUOR SALES - CLASS B	\$500.00
<input type="checkbox"/> WINE (Distributor)	\$ 500.00		

**TOTAL FEE FOR ALL CATEGORIES CHECKED \$** \_\_\_\_\_

**NOTICE: Your license will expire June 30<sup>th</sup>. Failure to secure new license on or before July 1 may result in a \$50.00 penalty for each month delinquent, or fraction thereof.**

List Names of all Owners, Partners, or Corporate Officers: (Use separate sheet of paper if necessary)

	Name	Title	Home Address	Social Security # (last 4 digits only)	Home / Cell Phone #
1.	_____	_____	_____	_____	_____
2.	_____	_____	_____	_____	_____
3.	_____	_____	_____	_____	_____

Date Business Began or Will Begin in Elkins: \_\_\_\_\_ (Must Attach Copy of WV Business Certificate/WV Contractor's License)

Do you or will you own the structure where your business is conducted?  Yes  No

If no, give name, address and telephone number of owner \_\_\_\_\_

DESCRIBE THE BUSINESS ACTIVITY, THE TYPE OF PRODUCT SOLD OR SERVICE OFFERED, AND THE SPECIFIC LOCATION OR AREA/S WITHIN THE CITY LIMITS WHERE BUSINESS ACTIVITY WILL BE CONDUCTED (if applicable). MUST BE COMPLETED IN DETAIL LISTING ALL ASPECTS OF YOUR BUSINESS.

\_\_\_\_\_

Complete the section below if the business activity for which you are requesting a license involves property that you rent to others. (Use separate sheet of paper if necessary)

	Address of Rented Property	Commercial or Residential	Current Tenant's Name	Estimated Annual Rental Income	Date Rented
1.	_____	_____	_____	_____	_____
2.	_____	_____	_____	_____	_____
3.	_____	_____	_____	_____	_____

\_\_\_\_\_  
SIGNATURE OF APPLICANT PRINT NAME TITLE DATE

**CITY OF MANNINGTON  
BUSINESS LICENSE SCHEDULE**

<u>ACTIVITY</u>	<u>RATE</u>	<u>CODE SECTION</u>
Architects	\$15.00	30-12-8
Attorney	5.00	30-1-7
Barbers, Beauticians or Manicurists	15.00	30-27-4
Barbers and Beauticians School	200.00	30-27-8
Chiropractors	15.00	30-16-7
Dental Corporation	50.00	30-4-4c
Dentists (Independent)	15.00	30-4-17b
Embalmers & Funeral Directors (Independent)	15.00	30-6-6
Engineers	15.00	30-13-7
Foresters	5.00	30-19-7
Funeral Establishment	35.00	30-6-13
Hearing Aid Fitters & Dealers	15.00	30-26-9
Hospitals - 5-49 Beds	20.00	16-5b-4
50-99 Beds	30.00	
100-199 Beds	40.00	
200 or more Beds	50.00	
Insurance Broker	10.00	33-12-6
Insurance Agent	5.00	33-12-6
Insurance Company	50.00	33-3-13
Landscape Architects	15.00	30-22-7
Land Surveyor	15.00	30-12A-6
Medical Corporation	100.00	30-3-15
Midwives	10.00	30-15-5
Nursing Home Administrators	50.00	30-25-5
Nursing Homes	4.00/bed	16-5C-6
Occupational Therapist	5.00	30-28-15



Osteopathic Physicians & Surgeons	10.00	30-14-10
Personal Care Homes	2.00/bed	16-5C-6
Physical Therapists	15.00	30-20-8
Physicians, Surgeons & Podiatrists	15.00	30-2-12
Private Detectives & Investigators	15.00	30-18-4
Psychologists	15.00	30-21-8
Radiologic Technologist	10.00	30-23-7
Real Estate Broker	30.00	47-12-9
Real Estate Salesperson	15.00	47-12-9
Social Worker	5.00	30-30-10
Veterinarians	5.00	30-10-10

MUNICIPAL LICENSE TAX

Reference - West Virginia Code §§ 8-13-4 and 11-12-4

Maximum Rates

Annual License Tax - "..... any municipality may impose a license tax or penalty pursuant to the provisions of section four (8-13-4), article thirteen, chapter eight of this Code up to but not in excess of the amount of the state license tax in effect on such business activity, trade or employment on January one, one thousand nine hundred seventy ....." - West Virginia Code § 11-12-4.

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GENERAL STORES:

The term "General Store" shall be construed to mean and include any store or stores or any mercantile establishment or establishments, in which goods, wares, or merchandise of any kind are purchased, ordered, sold or offered for sale either at retail or wholesale.

1 to 5 stores	\$ 15.00 each
6 to 10 stores	40.00 each additional store
11 to 15 stores	80.00 each additional store
16 to 20 stores	120.00 each additional store
21 to 30 stores	160.00 each additional store
31 to 50 stores	400.00 each additional store
51 to 75 stores	800.00 each additional store
Over 75 stores	1,000.00 each additional store

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SPECIAL STORES:

The term "Special Store" shall be construed to mean and include any store or stores or any mercantile establishment or establishments, in which goods, wares, or merchandise of any kind except cigarettes, tobacco products, and soft drinks are purchased, ordered, sold or offered for sale, either at retail or wholesale, and which contains no coin operated device, or devices, owned or operated by the store proprietor.

1 to 5 stores	\$ 5.00 each
6 to 10 stores	20.00 each additional store
11 to 15 stores	40.00 each additional store
16 to 20 stores	60.00 each additional store
21 to 30 stores	80.00 each additional store
31 to 50 stores	200.00 each additional store
50 to 75 stores	400.00 each additional store
Over 75 stores	500.00 each additional store

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CONTINUED:

<u>ACTIVITY</u>	<u>RATE</u>	<u>CODE SECTION</u>
OTHER LICENSES (By Classification):		
Baggage or parcel checking devices, vibrator machines and toilet lockers, sanitary napkins	\$ .50	
Billiard or pool, first table	25.00	
Each Additional Table	15.00	
Bagatella table, first	25.00	
Each Additional Table	15.00	
Bowling Alley, first alley	25.00	
Each Additional Alley	15.00	
Collection Agency	100.00	
Employment Agency	200.00	
Fortune Telling	200.00	
Hawker and Peddler:		
On Foot	10.00	
Vehicle not exceeding 1/2 ton	15.00	
Vehicle not exceeding 1 ton	50.00	
Vehicle not exceeding 2 tons	100.00	
More than 2 tons, \$150.00 plus \$100.00 for each additional ton or fraction thereof.		
Resident Junk Dealer within City Limits	25.00	
Resident Junk Dealer (No yard for storing)	25.00	
Resident Junk Dealer's Agent	10.00	
Itinerant Junk Collector	2.00	
Non-resident Junk Dealer	150.00	
Non-resident Junk Dealer's Agent	150.00	

(CONTINUED):

MUNICIPAL LICENSE TAX

<u>ACTIVITY</u>	<u>RATE</u>	<u>CODE SECTION</u>
OTHER LICENSES (By Classification - Continued):		
Pawnbroker	\$100.00	
Trading Stamps (Each County)	175.00	

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Theatres and Public Shows:

Over 30,000 population	\$160.00
Over 20,000 but less than 30,000	125.00
Over 10,000 but less than 20,000	100.00
Over 5,000 but less than 10,000	40.00
Over 2,000 but less than 5,000	20.00
Less than 2,000	10.00

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Merchandise or Service Devices:

Laundromats - Car Wash:

1-5 Devices	\$ 15.00
6-9 Devices	3.00 Each
10 or more Devices	30.00

OTHER (LESS THAN 20):

.01 Device	2.00 Each Device
.05 Device	5.00 Each Device
.10 Device	10.00 Each Device
.10 Plus Device	12.50 Each Device

OTHER (MORE THAN 20):

.01 Device	50.00
.05 Device	100.00
.10 Device	150.00
.10 Plus Device	250.00

AMUSEMENT OR MUSIC DEVICES (LESS THAN 20):

.01 Device	2.00 Each Device
.05 Device	5.00 Each Device
.10 Device	10.00 Each Device
.10 Plus Device	12.50 Each Device

(CONTINUED):

MUNICIPAL LICENSE TAX

<u>ACTIVITY</u>	<u>RATE</u>	<u>CODE SECTION</u>
OTHER LICENSES (By Classification - Continued):		
AMUSEMENT OR MUSIC DEVICES (MORE THAN 20):		
.01 Device	\$ 50.00	
.05 Device	150.00	
.10 Device	225.00	
.10 Plus Device	300.00	

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Gasoline Retailers	\$ 1.00
Gasoline Wholesalers	5.00

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CIRCUSES AND OTHER SHOWS:

For each railroad car used to transport property or equipment \$ 4.00 per day for each day a performance is given

For each truck used to transport property or equipment 5.00 per day for each day a performance is given

FESTIVALS OR OTHER CARNIVALS:

\*For each performance, exhibit or entertainment 5.00 per week

Riding Devices 10.00 per week

Concessions selling services, goods, wares, merchandise, and food 5.00 per week per concession

Games of Skill 10.00 per week per concession

Candy or merchandise wheels 25.00 per day

\*NOTE: Each performance shall or may be required to have a separate license.

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Itinerant Vendors (11-12-10)	\$500.00
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NONINTOXICATING BEER LICENSES (11-16-4) (11-16-17) (SEE NOTE - PAGE 5):

Retail Dealer - Class A (Restaurants, bars, and fraternal organizations) \$100.00

Class B (Grocery Stores) (Chilled and Unchilled) 100.00

(CONTINUED):

MUNICIPAL LICENSE TAX

<u>ACTIVITY</u>	<u>RATE</u>	<u>CODE SECTION</u>
C ER LICENSES (By Classification - Continued):		
Class B (Grocery Stores) (Unchilled Only)	\$ 15.00	
Distributor	250.00	
Brewer	500.00	
Wine Retailers (Grocer)	150.00	
Wine Distributors (Wholesale)	2,500.00	

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NOTE: If the license granted is for a period less than the fiscal year, the fee shall be computed quarterly in proportion to the remainder of the fiscal year.



# Flaherty<sup>SM</sup>

FLAHERTY | SENSABAUGH | BONASSO PLLC

CHARLESTON, WV  
CLARKSBURG, WV  
LEXINGTON, KY  
MORGANTOWN, WV  
WHEELING, WV

Michael A. Secret  
msecret@flahertylegal.com  
(304) 598-0788

April 27, 2022

West Virginia Home Rule Board  
West Virginia Development Office  
West Virginia Department of Commerce  
Capitol Complex, Building 6, Room 525  
Charleston, West Virginia 25305-0311

**Re:** *Application of the City of Mannington, West Virginia, to participate in the Municipal Home Rule Program*

To Whom It May Concern:

Please be advised that I, along with Peter T. DeMasters and the law firm of Flaherty Sensabaugh Bonasso, PLLC, are legal counsel for the City of Mannington, West Virginia. We have reviewed West Virginia Code § 8-1-5a, the Application Guidelines for Participation in the Municipal Home Rule Pilot Program, and the Application of the Municipality to participate in the Pilot Program, including all attachments thereto.

Based upon my examination of the Application and applicable provisions and requirements set forth in the West Virginia State Code, it is my opinion that the Application complies with said provisions and requirements of West Virginia Code § 8-1-5a.

The application does not provide for any proposed changes to resolutions, acts, ordinances, rules or regulations that are contrary to the provisions of West Virginia Code §§ 8-1-5a(i)(1) through (24) or attempts to do any act prohibited by §§ 8-1-5a(j)(1-3) and that this application is fully compliant with West Virginia Code §§ 8-1-6.

Should you require further information or documentation from my office, please do not hesitate to contact me.

Best Regards,



Michael A. Secret



STATE OF WEST VIRGINIA  
State Tax Department, Taxpayer Services Division  
P.O. Box 885  
Charleston, WV 25323-0885



Matthew R. Irby, State Tax Commissioner

MANNINGTON CITY OF  
206 E MAIN ST  
MANNINGTON WV 26582-1162

Letter Id: L0308594976  
Issued: 03/14/2022

00053401010000



## West Virginia State Tax Department

### Statement of Good Standing

EFFECTIVE DATE: March 14, 2022

A review of tax accounts indicates that MANNINGTON CITY OF is in good standing as of the effective date of this document. Please note, this Statement of Good Standing expires on **June 12, 2022**.

The issuance of this Statement of Good Standing shall not bar any audits, investigations, assessments, refund or credits with respect to the taxpayer named above and is based only on a review of the tax returns and not on a physical audit of records.

Sincerely,

Nicole Grant, Tax Unit Supervisor  
Taxpayer Services Division

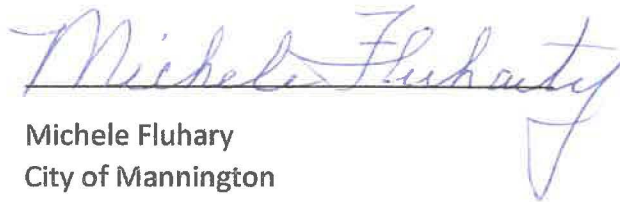
AFFIDAVIT

STATE OF WEST VIRGINIA  
COUNTY OF MARION, to wit:

I, Michele Fluharty, having been duly sworn, do hereby state and affirm the following:

1. That I am the City Clerk & Recorder of the City of Mannington, having served from January 8, 1979 to present; and
2. That as City Clerk, I am familiar with all of the financial affairs for the City of Mannington; and
3. That I hereby certify that the City of Mannington is not delinquent in, nor does it have outstanding payments due to the State of West Virginia.

This affidavit is sworn by me and submitted this 16<sup>th</sup> day of MAY, 2022.



Michele Fluharty  
City of Mannington  
206 Main Street  
Mannington, WV 26582  
[cityclerk@cityofmannington.com](mailto:cityclerk@cityofmannington.com)

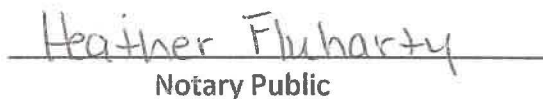
STATE OF WEST VIRGINIA  
COUNTY OF MARION, to wit:

I, Heather D. Fluharty, a Notary Public in and for the County and State aforesaid, do hereby certify that Michele Fluharty, known and known to me, did swear to and subscribe before me the above affidavit.

Given under my hand and this 20<sup>th</sup> day of May, 2022.  
My commission expires March 12, 2026.



  
Signature

  
Notary Public

## HOME RULE APPLICATION, PLAN AND AMENDMENT CHECKLIST

- Class II legal advertisement of Public Hearing  
Dates March 31st & April 7th, 2022
- Notice of Public Hearing to Municipal Home Rule Board (MHRB) and Cabinet Secretary of every State department
- Plan available for public inspection 30 days prior to Public Hearing
- Hearing  
Date May 2, 2022
- Ordinance authorizing plan or amendment  
1<sup>st</sup> reading date May 2, 2022  
2<sup>nd</sup> reading date May 16, 2022  
Date of adoption May 16, 2022
- Required narrative presentation of each separate proposal (see Sample Form Application)

### ATTACHMENTS

- Affidavit of legal notice of Public Hearing
- Minutes of Public Hearing, including comments (if any)
- Certified copy of ordinance authorizing plan or amendment
- Fiscal statement demonstrating municipality's ability to manage costs or liabilities associated with proposals
- Affidavit that municipality owes no outstanding State fees
- Attorney opinion letter that application and plan or amendment complies with applicable State law
- Submit eight (8) originals and one (1) electronic copy of application plan or amendment to the MHRB

## COUNCIL MEETING OF MAY 16, 2022

The second regular monthly meeting of the Mannington City Council, with Mayor Lora Michael presiding, was held Monday, May 16, 2022 at 7:00 p.m. at city hall. Council members attending were Kris Bates, John Crow, Tim Fluharty and Roger Russell.

The minutes from the last regular meeting and the public hearing on the Home Rule application were approved as read. Russell made the motion. Crow seconded it and all approved.

The first item of Old Business was the second and final reading of Ordinance #468 which authorizes the filing of the Home Rule application. Fluharty made the motion to read the heading only. Russell seconded the motion and it carried. Mayor Michael read the heading. Russell made the motion to adopt Ordinance #468. Bates seconded the motion and all approved.

Next was the second and final reading of Ordinance #469 which approves the acquisition of three FEMA properties. Bates made the motion to read the heading only. Russell seconded the motion and it carried. Michael read the heading. Bates made the motion to adopt Ordinance #469. Crow seconded the motion and it carried.

The second and final reading of Ordinance #470 which amends the C-1 District in the zoning regulations was the final ordinance to be considered. Russell made the motion to read the heading only. Bates seconded the motion and it carried. Michael read the heading. Fluharty made the motion to adopt Ordinance #470 which allows commercial gaming and entertainment establishments as permitted/conditional uses in the C-1 Downtown Historic/Commercial District. Crow seconded the motion and all approved.

Councilman Fluharty asked if the kayak launch at Hough Park was still in the works. Michael said she had not heard anything about it since she took office but asked Fluharty if he wanted to take on that project. Fluharty said he would.



In New Business, the bids for the city's liability insurance were opened. The two received were: Assured Partners \$74,449.53 and WV Corp 47,937.00. Craw made the motion to accept WV Corp's proposal pending review of both proposals. Russell seconded the motion and it carried.

Quotes for the flower baskets for the downtown light poles were the next item on the agenda. The only bid received was from Mountaineer Florist for \$1,820. Councilman Fluharty said Anthony from Something Special contacted him to say he would give the city a 30% discount on the flowers, but he did not submit a quote. In order to cut the cost, Council agreed that the city would just purchase the flowers and the city guys would put in the baskets.

Repairs on the 2016 Ford Explorer cruiser were discussed. Chief of Police Jim Rigsby said he is waiting on the recall parts for the tow links from Corwin Ford and the estimate for the other repairs is \$2,800. Rigsby said both control arms are bad. Russell said it looks like it is time to start looking for a replacement for the Explorer. Craw asked about grants. Rigsby said he has looked but hasn't found any.

Rigsby introduced Josh Payton who has applied for a job with the police department. The physical ability testing is scheduled for May 31<sup>st</sup> and if they pass it, then the psychological testing will be scheduled. Discussion followed about the number of officers needed and Michael said she would like to see three full time officers and one part time.

In his department report, Rigsby said the Dodge truck repairs are complete; however, he was told the problem may re-occur, but it could be soon or years down the road. Fluharty asked if Rigsby had any info on the damage to his truck that took place in the city hall parking lot. Rigsby said he would talk to him after the meeting.

Superintendent Ted Nice said they flushed the air out of the lines, got the trailhead restroom opened for the summer months and two dumpsters were filled at Saturday's Clean Up Day.

City Clerk Michele Fluharty said she submitted the paperwork to the PSC for the sewer rate increase. She said if no protests are received within the 30

days, the PSC will then act. Fluharty also said she received correspondence from the Marion County Commission concerning the plans to cut back on services at the Veterans' Hospital in Clarksburg. She asked if council wished to consider an ordinance opposing any plans to close or reduce VA Hospitals and all agreed they would.

The outstanding bills were reviewed. Craw made the motion to approve payment of the outstanding bills. Fluharty seconded the motion and it carried.

Fluharty made the motion to adjourn. Craw seconded the motion and it carried. The meeting adjourned at 7:45 p.m.

**CERTIFICATION**

**I hereby certify that this is a true copy of Ordinance #468 which was duly enacted by the Council of the City of Mannington on the 16<sup>th</sup> day of May, 2022.**

**Dated this 8<sup>th</sup> day of July 2022.**

  
**City Clerk & Recorder**