



Legal Department

The City of Morgantown

389 SPRUCE STREET
MORGANTOWN, WEST VIRGINIA 26505

September 14, 2016

Municipal Home Rule Board
c/o Ms. Debbie Browning
West Virginia Development Office
Building 6, Room 553
Charleston, WV 25305-1311
By email: debbie.a.browning@wv.gov

RE: Proposed Plan Amendment of the City of Morgantown

Ladies and Gentlemen:

Enclosed with this letter, please find the following documents for the Board's consideration at its October 3rd meeting:

- a) A proposed amendment to the City of Morgantown's written plan pursuant to the Home Rule Pilot Program, along with the adopted Ordinance authorizing submission of the proposed amendment
- b) A publisher's certificate showing the public notice and inspection requirements for this ordinance have been completed.
- c) A letter certifying the proposed ordinance complies with *W. Va. Code* § 8-1-5a.

No comments were offered at the public hearing on this plan amendment, and accordingly none are provided in this packet.

If I may be of any additional assistance in this matter, please contact me.

Sincerely,

Ryan Simonton
City Attorney,
City of Morgantown

Proposed Amendment to the City of Morgantown Home Rule Application

I. Introduction

The City of Morgantown (the “City”) has been approved to participate in West Virginia’s Municipal Home Rule Pilot Program, Phase II (“Home Rule Program”) and its initial written plan has been approved by the Municipal Home Rule Board (the “Board”). An amendment to the City’s written plan was approved by the Board on September 14, 2015.

Pursuant to *W. Va. Code* § 8-1-5a(l), “[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. The guidance requires a public hearing and statement of the reasons for amendment similar to those required in an initial plan under *W. Va. Code* § 8-1-5a(f) and (g).

The City seeks to amend its written plan to propose an ordinance permitting alcohol sales for on-premises consumption prior to 1:00 p.m. on Sundays. The applicable laws and reasons for amendment are set out below.

II. Specific Laws Applicable

West Virginia Code sections 60-7-12(a)(5), 60-8-34, 11-16-18(a)(1), 7-1-3ss.

III. Limitations Presented by Applicable Law

Current law prohibits alcohol sales at private clubs between the hours of 3:00 a.m. and 1:00 p.m. on Sundays (*W. Va. Code* § 60-7-12(a)(5)) and at private wine bed and breakfast or restaurant establishments between 2:00 a.m. and 1:00 p.m. on Sundays (*W. Va. Code* § 60-8-34). All licensees are prohibited from selling alcohol between 2:00 a.m. and 1:00 p.m. except as otherwise provided in Chapter 60, Article 7. *W. Va. Code* § 11-16-18(a)(1). Senate Bill 293, passed in the 2016 regular session and 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. (2016 S.B. 293; *W. Va. Code* § 7-1-3ss (eff. June 10, 2016)). Any election approving Sunday alcohol sales – or declining to do so – could not occur in Monongalia County until November.

Morgantown is home to many local restaurants which could lose business as other jurisdictions adopt standards permitting alcohol sales with Sunday meals. Morgantown also regularly hosts visitors from around the country, including those attending West Virginia University events. The addition of Sunday alcohol sales would present these visitors with additional local amenities and boost the local economy. Both the Morgantown Area Chamber of Commerce and the Greater Morgantown Convention and Visitors Bureau support Morgantown’s effort to authorize on premise alcohol sales to benefit city and county residents as well as visitors in advance of any

ballot issue. The letter of support prepared by these organizations is attached to this Application as “Exhibit 1.”

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. Morgantown would like to join these communities in exercising local authority to expand opportunities for residents, businesses, and visitors.

IV. Proposed solution

Upon approval of the Board, the City will adopt an ordinance permitting alcohol sales by West Virginia Alcohol Beverage Control Administration Class A license holders for on premise consumption beginning at 10:00 a.m. on Sundays. The Corporation of Shepherdstown has successfully implemented this measure through the Home Rule program to support local businesses and promote tourism and the local economy. Additional municipalities were approved to exercise this authority at the Board’s July 11th meeting.

EXHIBIT 1

**Morgantown Area Chamber of Commerce
And
Greater Morgantown Convention and Visitors Bureau
Letter of Support**



Dear Members of the Morgantown City Council:

This letter is being sent to you on the behalf of the Morgantown Area Chamber of Commerce and the Greater Morgantown Convention and Visitor's Bureau. Like you, we are very pleased with the recent passage of Senate Bill 298 by the West Virginia Legislature.

It is now our hope to garner support from across Monongalia County in order that businesses throughout the county may be able to offer this opportunity to their patrons and so that citizens across the county may enjoy this experience. We recognize that the City plans to move forward through the usage of the Home Rule Process in order to secure this privilege for Morgantown businesses and citizens. It is our belief that it will take until November for this process to play out before Brunch can be enjoyed at any establishment in the county, including Morgantown.

We are also under the belief that the statute will allow for the institution of brunch opportunities once the election is certified in November for any business across the county (assuming passage of the ballot issue).

Our request is that while you move forward in your process, that you join us in supporting vigorously the efforts to win the vote across the county, inclusive of the citizens inside the Morgantown City Limits. In simple terms, if the ballot question passes.... The entire county will have the benefit of this "brunch" experience, and.... If the vote should not pass, you would already be poised to provide the opportunity for Morgantown citizens on the exact same schedule as you are presently.

We hope that our recent history of showing what Monongalia County can achieve together...you would join us in supporting this effort for businesses and citizens across the county.

Sincerely,

A handwritten signature in blue ink that reads "Daniel Kimble".

Daniel Kimble, President
Morgantown Area Chamber of Commerce

A handwritten signature in black ink that reads "Peggy J. Myers-Smith".

Peggy J. Myers-Smith, President/CEO
Greater Morgantown CVB

**AN ORDINANCE AUTHORIZING THE CITY TO SUBMIT AN AMENDMENT TO ITS WRITTEN
PLAN TO THE HOME RULE BOARD**

The City of Morgantown hereby ordains that its City Manager is authorized to submit the attached "Proposed Amendment to the City of Morgantown Home Rule Application" to the Municipal Home Rule Board.

FIRST READING: August 16, 2016



Mayor

ADOPTED: September 6, 2016

FILED: September 7, 2016



City Clerk

RECORDED: September 7, 2016

PUBLISHER'S CERTIFICATE

vs.

STATE OF WEST VIRGINIA
COUNTY OF MONONGALIA

I Eric Wilson Advertising Director of
THE DOMINION POST, a newspaper of general circulation
published in the City of Morgantown, County and State
aforesaid, do hereby certify that the annexed

Legal Notice

010094719 July 20, August 2

PUBLIC HEARING NOTICE CITY OF MORGANTOWN, WEST VIRGINIA

Notice is hereby given by the City of Morgantown, WV, that it will hold a public hearing on Tuesday, September 6th at 7:00 p.m. at Morgantown City Hall Council Chambers (2nd floor), 389 Spruce Street, Morgantown, WV 26505 on the following:

A PROPOSED AMENDMENT TO THE CITY OF MORGANTOWN HOME RULE WRITTEN PLAN TO EXPAND SUNDAY ALCOHOL SALES.

Copies of the proposed amended written plan are available for public inspection in the Office of the City Clerk as well as the Office of the City Manager, Morgantown City Hall, 389 Spruce Street, Morgantown, WV 26505 during regular business hours, or by calling the City Manager's Office at (304) 284-7405.

was published in the said THE DOMINION POST once a week

for 2 successive weeks commencing on the

20th day of July, 2016 and ending on the

2nd day of Aug., 2016

The publisher's fee for said publication is \$53.83

Given under my hand this 2nd day of

August, 2016



(SEAL)

Advertising Director of THE DOMINION POST

Subscribed and sworn to before me this 2nd

day of August, 2016



Notary Public of Monongalia County, W. Va.

My commission expires on the 13th day of

December 2019





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c/o Ms. Debbie Browning
West Virginia Development Office
Building 6, Room 553
Charleston, WV 25305-1311
By email: debbie.a.browning@wv.gov

RE: Proposed Ordinances of the City of Morgantown

Ladies and Gentlemen:

In accordance with the procedures established by the Municipal Home Rule Board, I write to certify that the proposed written plan amendment included with this correspondence complies with *W. Va. Code* § 8-1-5a.

If I may be of any additional assistance in this matter, please contact me.

Sincerely,

Ryan Simonton
City Attorney,
City of Morgantown