

CITY OF OAK HILL



HOME RULE PLAN AMENDMENT

City of Oak Hill

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INTRODUCTION

The City of Oak Hill was selected to participate in the West Virginia Home Rule Pilot Program on September 14, 2015. The City of Oak Hill has enacted ordinances from the original Home Rule Plan. This is the first proposed amendment by the City of Oak Hill.

SPECIFIC LAWS, ACTS, RESOLUTIONS, POLICIES, RULES OR REGULATIONS

WV State Code Section 60-7-12(a) (5); 60-8-34; 11-16-18(a) (1)
Attached as Exhibit A

PROBLEMS CREATED BY THE ABOVE LISTED STATE CODES

Tourism is becoming more prevalent within the City of Oak Hill with each passing year. The dining experience of visitors to this municipality is one of many factors that contribute to a positive experience for the traveler. Recognizing that tourism is seasonal, we should allow our local restaurants to maximize their business income while providing their customers with options they may desire. Many visitors to the City of Oak Hill, as well as local patrons, are not afforded the opportunity to purchase alcohol prior to one o'clock p.m. The problem created is reduced income for restaurants and not meeting the expectation of some patrons.

SOLUTION

The solution the City of Oak Hill seeks is to allow alcohol sales in restaurants beginning at ten o'clock a.m. on Sunday mornings. Following is a quote from the Director of the New River Convention & Visitors Bureau, Sharon Cruikshank:

I would like to stress what a great opportunity the City of Oak Hill has by applying for the Brunch option through a Home Rule amendment. Having brunch is usually before 1PM and has become popular with many hotels, resorts around the world, now Oak Hill can pursue this issue. Home rule gives the City the ability to apply and to allow their dining establishments to serve alcohol beginning at 10AM on Sundays. This is a huge option for those businesses selling food to upgrade their service. ACE Adventure Resort, Café One Ten, Holiday Lodge, Los Vaqueros and

Home Rule Plan Amendment Proposal

Rio Grande would all benefit with sales in their restaurants. I have spoken to the Holiday Lodge, ACE and all are very interested in having this option to market.

The CVB would like to request that the City of Oak Hill be the leader in Fayette County and pursue this issue now. They would be the ONLY location allowed to offer this benefit to their businesses. The county's only option is to put it on the ballot and is not allowed to move forward without handling the issue thru an election process. The business community NEEDS every advantage they can get and again, the CVB encourages the City of Oak Hill to enact this option and give their businesses an additional economic enhancement. This additional option would result in additional tax revenue for the City.

The New River Convention & Visitors Bureau Board of Directors, which is composed of tourism and hospitality businesses and civic leaders, fully support this option for the City of Oak Hill. # Destination Oak Hill, let's make it happen!

Exhibit A

ARTICLE 7. LICENSES TO PRIVATE CLUBS.

§60-7-12. Certain acts of licensee prohibited; criminal penalties.

(a) It is unlawful for any licensee, or agent, employee or member thereof, on such licensee's premises to:

(1) Sell or offer for sale any alcoholic liquors other than from the original package or container;

(2) Authorize or permit any disturbance of the peace; obscene, lewd, immoral or improper entertainment, conduct or practice, gambling or any slot machine, multiple coin console machine, multiple coin console slot machine or device in the nature of a slot machine;

(3) Sell, give away or permit the sale of, gift to or the procurement of any nonintoxicating beer, wine or alcoholic liquors for or to, or permit the consumption of nonintoxicating beer, wine or alcoholic liquors on the licensee's premises, by any person less than twenty-one years of age;

(4) Sell, give away or permit the sale of, gift to or the procurement of any nonintoxicating beer, wine or alcoholic liquors, for or to any person known to be deemed legally incompetent, or for or to any person who is physically incapacitated due to consumption of nonintoxicating beer, wine or alcoholic liquor or the use of drugs;

(5) Sell, give or dispense nonintoxicating beer, wine or alcoholic liquors in or on any licensed premises or in any rooms directly connected therewith, between the hours of three o'clock a.m. and one o'clock p.m., or, between the hours of three o'clock a.m. and ten o'clock a.m. in any county upon approval as provided for in section three-pp, article one, chapter seven of this code, on any Sunday;

ARTICLE 8. SALE OF WINES.

§60-8-34. When retail sales prohibited.

It shall be unlawful for a retailer, farm winery, wine specialty shop retailer, private wine bed and breakfast, private wine restaurant or private wine spa licensee, his or her servants, agents or employees to sell or deliver wine between the hours of two o'clock a.m. and one o'clock p.m., or, it shall be unlawful for a winery, farm winery, private wine bed and breakfast, private wine restaurant or private wine spa, his or her servants, agents or employees to sell wine between the hours of two o'clock a.m. and ten o'clock a.m. in any county upon approval as provided for in section three-pp, article one, chapter seven of this code, on Sundays, or between the hours of two o'clock a.m. and seven o'clock a.m. on weekdays and Saturdays.

CHAPTER 11. TAXATION.

ARTICLE 16. NONINTOXICATING BEER.

§11-16-18. Unlawful acts of licensees; criminal penalties.

(a) It shall be unlawful:

(1) For any licensee, his, her, its or their servants, agents or employees to sell, give or dispense, or any individual to drink or consume, in or on any licensed premises or in any rooms directly connected , nonintoxicating beer or cooler on weekdays between the hours of two o'clock a.m. and seven o'clock a.m., or between the hours of two o'clock a.m. and one o'clock p.m., or a Class A retail dealer who sells nonintoxicating beer for on premises consumption only between the hours of two o'clock a.m. and ten o'clock a.m. in any county upon approval as provided for in section three-pp, article one, chapter seven of this code, on any Sunday, except in private clubs licensed under the provisions of article seven, chapter sixty of this code, where the hours shall conform with the hours of sale of alcoholic liquors;

Ordinance

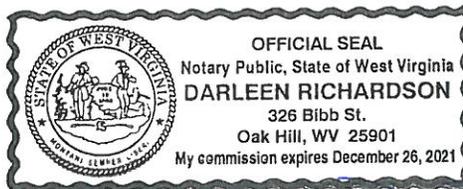
Introduced on August 15, 2016

Authorization to submit to the Home Rule Board a proposed amendment affecting State code 60-7-12, 60-8-34 and 11-16-18. The amendment requests approval for the City of Oak Hill to allow the sale of alcoholic beverages by ABC Class "A" license holders beginning at 10:00 A.M. on Sundays.

On behalf of the City of Oak Hill, the City Manager is hereby authorized and requested to submit to the Municipal Home Rule Board a proposed amendment. (attached) The amendment to the City of Oak Hill Home Rule Plan shall be consistent with WV Code Section 8-1-5a.



Fred Dickinson, Mayor



1st reading August 15, 2016

Pass - Yes No

2nd Reading September 21, 2016

Pass - Yes No

West Virginia Code

§60-7-12. Certain acts of licensee prohibited; criminal penalties.

(a) It is unlawful for any licensee, or agent, employee or member thereof, on such licensee's premises to:

(5) Sell, give or dispense nonintoxicating beer, wine or alcoholic liquors in or on any licensed premises or in any rooms directly connected therewith, between the hours of three o'clock a.m. and one o'clock p.m. on any Sunday;

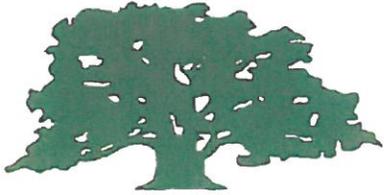
§60-8-34. When retail sales prohibited.

It shall be unlawful for a retailer, farm winery, wine specialty shop retailer, private wine bed and breakfast, private wine restaurant or private wine spa licensee, his or her servants, agents or employees to sell or deliver wine between the hours of two o'clock a.m. and one o'clock p.m. on Sundays, or between the hours of two o'clock a.m. and seven o'clock a.m. on weekdays and Saturdays.

§11-16-18. Unlawful acts of licensees; criminal penalties.

(a) It shall be unlawful:

(1) For any licensee, his, her, its or their servants, agents or employees to sell, give or dispense, or any individual to drink or consume, in or on any licensed premises or in any rooms directly connected therewith, nonintoxicating beer or cooler on weekdays between the hours of two o'clock a.m. and seven o'clock a.m., or between the hours of two o'clock a.m. and one o'clock p.m., on any Sunday, except in private clubs licensed under the provisions of article seven, chapter sixty of this code, where the hours shall conform with the hours of sale of alcoholic liquors;



"Pride of the Plateau"

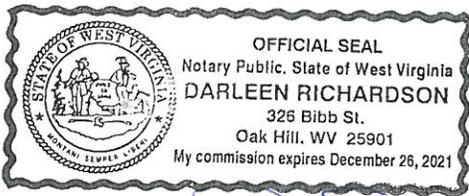
CITY OF OAK HILL

INCORPORATED 1925

Affidavit

One verbal comment was received during the hearing on September 21, 2016 concerning the Home Rule plan amendment. Mrs. Sharon Cruikshank spoke in favor of the proposed amendment.

William C. Hannabass, City Manager



Affidavit

I, William C. Hannabass, City Manager of the City of Oak Hill, posted on August 18, 2016 the proposed amendment to the Home Rule Application as specified in the public notice below that is published as a Class II legal advertisement in the Fayette Tribune. The proposed amendment will be available for public inspection through September 21, 2016.

Public Hearing

Notice is hereby given that a public hearing will be held during a special meeting of the City of Oak Hill City Council on September 21, 2016 at 6pm. The meeting will be held on the first floor of City Hall in Council Chambers at 100 Kelly Avenue, Oak Hill, WV. The hearing is related to the proposed amendment to the City's Home Rule Plan allowing the sale of alcohol by class "A" license holders at 10am on Sundays. Interested parties will be heard by the City Council during this hearing. Immediately following the hearing, City Council will consider adopting an ordinance authorizing the submission of the proposed amendment of the City's Home Rule Plan to the Municipal Home Rule Board. The proposed amendment is available for public inspection on the first floor of City Hall at 100 Kelly Avenue, Oak Hill, WV.

 Date 8/18/2016

William C. Hannabass
City Manager

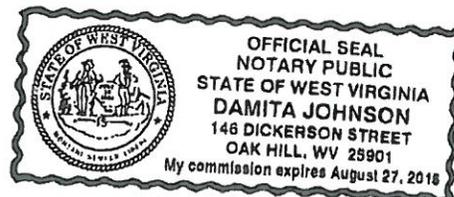


Sworn to and subscribed
Before me this 18th day
Of August A.D. 2016



Notary Public

My Commission expires 8-27-2018



**AFFIDAVIT OF PUBLICATION
BECKLEY NEWSPAPERS
BECKLEY, WEST VIRGINIA 25801**

08/29/2016

STATE OF WEST VIRGINIA
COUNTY OF FAYETTE, to wit:

I, Sonya G. Mitchell, being duly sworn upon my oath, do depose and say that I am Legal Advertising Clerk for Beckley Newspapers, a corporation, publisher of the newspaper entitled The Fayette-Tribune, a Republican newspaper; that I have been duly authorized by the board of directors of such corporation to execute this affidavit of publication; that such newspaper has been published for more than one year prior to publication of the annexed notice described below; that such newspaper is regularly published twice-weekly for at least fifty weeks during the calendar year, in the municipality of Oak Hill, Fayette County, West Virginia; that such newspaper is a newspaper of "general circulation" as that term is defined in article three, chapter fifty-nine of the Code of West Virginia, 1931, as amended, within the publication area of areas of the aforesaid municipality and county; that such newspaper averages in length four or more pages, exclusive of any cover, per issue; that such newspaper is circulated to the general public at a definite price of consideration; that such newspaper is a newspaper to which the general public resorts for passing events of a political, religious, commercial and social nature, and for current happenings, announcements, miscellaneous reading matter, advertisements and other notices; that the annexed notice

of Public Hearing

(Description of notice)

was duly published in said newspaper once a week for 2 successive weeks (Class 2), commencing with the issue of 08/22/2016 and ending with the issue of 08/29/2016, that said annexed notice was published on the following dates: 08/22/2016, 08/29/2016, and that the cost of publishing said annexed notice as aforesaid was \$ 40.72

Signed

Sonya G. Mitchell

Sonya G. Mitchell
Legal Advertising Clerk
Beckley Newspapers

Taken, subscribed and sworn to before me in my said county this day:
08/29/2016

My commission expires March 27, 2021

Diana L. Slone
Notary Public of Raleigh County,
West Virginia



COPY OF PUBLICATION

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8-29-MON-2-FT; L 365

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W. H. FILE, JR.
(1911-2009)

SENDER'S DIRECT EMAIL:
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ROBERT N. FILE
WILLIAM H. FILE, III

LEGAL ASSISTANT:
LISA A. BROWN

September 23, 2016

Robert S. Kiss, Chairman
West Virginia Municipal Home Rule Board
c/o Debbie Browning
West Virginia Development Office
West Virginia Department of Commerce
Capitol Complex, Building 6, Room 525
Charleston, West Virginia 25305-0311

Re: City of Oak Hill, West Virginia Amendment to its Municipal Home Rule
Pilot Program Phase II Plan

Dear Chairman Kiss:

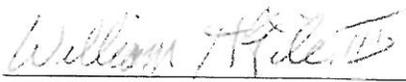
I am the City Attorney for the City of Oak Hill and have served as counsel to the City of Oak Hill, West Virginia, in connection with the above referenced Municipal Home Rule PILOT Program Plan (the "Plan"). In connection with rendering this opinion, I have reviewed W. Va. Code §8-1-5a (2015), the Application Guidelines for Participation in Phase II of the Municipal Home Rule Pilot Program and the Application of the City of Oak Hill, West Virginia (the "Application") to propose an Amendment to the Plan, including all attachments thereto.

Based upon my examination of said documents and my understanding of the Application, it is my opinion that the Proposed Amendment to the Plan complies with W. Va. Code §8-1-5a (2015).

The Municipal Home Rule Board may rely upon this opinion. If you have any questions, please contact the undersigned.

Sincerely,

FILE PAYNE SCHERER & FILE PLLC

By: 
William H. File, III
W. Va. State Bar No. 4558

WHFIII:jlb

Cc: Mayor Fred Dickinson
Damita Johnson, City Clerk-Treasurer