

City of St. Albans

West Virginia

Municipal Home Rule

Written Plan Amendment

2016





City of St. Albans

P.O. BOX 1488 • ST. ALBANS, WEST VIRGINIA 25177
www.stalbanswv.com

Telephone Numbers:

Mayor's Office.....(304) 727-2971
City Hall 722-3391
Police & Fire Depts. 727-2251
Building Department ... 727-2962
Parks & Recreation 722-4625
Public Works 722-4259

September 12, 2016

Mayor

Dick Callaway
1499 MacCorkle Avenue
St. Albans, WV 25177
Municipal Home Rule Board
c/o Debbie Browning
West Virginia Development Office
State Capitol complex, Bldg. 6, Room 553
Charleston, WV 25305-0311

Re: First Proposed Written Plan Amendment by the City of St. Albans

Dear Board Members:

Enclosed please find the following documents for the Board's immediate consideration:

- The first proposed plan amendment to the City of St. Albans' Municipal Home Rule Written Plan and Application of 2015. This first proposed amendment seeks permission to take full advantage of the flexibility concerning taxes under Home Rule as permitted by the West Virginia Legislature.
- A copy of the Ordinance authorizing submission of this first proposed amendment to the written plan to the Municipal Home Rule Board.
- The legal advertising invoice with affidavit of publication concerning publication of the public hearing related to the first proposed amendment to the written plan.
- An affidavit certifying that a copy of proposed amendment was available for public inspection at my office at City Hall at least thirty days prior to the public hearing.
- A letter from the City Attorney certifying that the proposed amendment complies with W. Va. Code §8-1-5a.

Thank you for your time and consideration of the first proposed plan amendment to the City of St. Albans' Municipal Home Rule Written Plan and Application. If I may be of additional assistance, please do not hesitate to contact me.

Sincerely,

Richard Callaway, Mayor
City of St. Albans

First Proposed Amendment to the Written Plan of the City of St. Albans 2016

I. Introduction

The City of St. Albans was accepted into the Municipal Home Rule Pilot Program on September 14, 2015 pursuant to W. Va. Code §8-1-5a (2014). The City of St. Albans Municipal Home Rule Written Plan and Application of 2015 included administrative category issues.

Pursuant to W. Va. Code §8-1-5a (k), a municipality participating in the Municipal Home Rule Pilot Program may amend its written plan at any time. Since participating in the program, the City of St. Albans has adopted four home Rule ordinances. After study and deliberation, the City of St. Albans now wishes to amend its written plan to include a municipal sales tax in order to permit the City the broadest flexibility permissible under Home Rule.

The Municipal Home Rule Board has provided guidance for municipalities proposing a plan amendment. Such guidance states the following procedures for an amendment of a written plan:

1. At least 30 days' notice of a public hearing related to the proposed amendment to the written plan by a class II legal advertisement;
2. Availability of a copy of the proposed amendment to the written plan for public inspection at least 30 days prior to holding the public hearing related to the proposed amendment to the written plan;
3. A public hearing related to the proposed amendment to the written plan;
4. Adoption of an ordinance authorizing the submission of the proposed amendment to the written plan to the Municipal Home Rule Board after the public hearing;
5. Submission of the proposed amendment to the written plan to the Municipal Home Rule Board, including a copy of the proposed amendment to the written plan, the adopted ordinance authorizing the submission of the proposed amendment, evidence of compliance with the notice and public hearing requirements, any audio or written comments offered during the public hearing and a letter from an attorney licensed to practice law in West Virginia certifying that the proposed amendment of the written plan complies with W. Va. Code §8-1-5a; and
6. Approval or rejection of the proposed amendment by the Municipal Home Rule Board.

The City of St. Albans is hereby seeking permission from the Municipal Home Rule Board to amend its written plan. The City of St. Albans certifies that it has complied with the first five requirements for the amendment of the written plan prior to the City's submittal of this amendment request to the Municipal Home Rule Board for consideration.

II. Specific Laws Applicable.

West Virginia Code §8-1-13C-1 et seq.

III. Problem Created by Applicable Laws

Municipalities in West Virginia have limited means to obtain revenue to provide necessary services to their residents. The Municipal Home Rule Pilot Program, W. Va. Code §8-1-5a, currently gives participating municipalities the authority to enact a municipal sales tax of up to one percent if it reduces or eliminates its municipal business and occupation tax. Other than this authority, municipalities do not have the authority to levy a consumer sales tax except in limited circumstances. See W. Va. Code §§8-13C-4 and 13C-9.

The current lack of flexibility regarding the imposition of sales and use taxes is problematic. It focuses the generation of a municipality's income on taxes that affect the municipality's residents and businesses. Examples of such taxes include utility taxes per W. Va. Code §8-13-5a and business and occupation taxes per W. Va. Code §8-13-5. This focus bestows benefits upon visitors of a municipality for which its residents have to pay. City residents are paying for all services, such as police and garbage collection, which also benefit visitors who shop in St. Albans. Without a sales tax, there is no efficient method for a city to obtain reimbursement from visitors.

IV. Proposed Solution

In September 2015, the Municipal Home Rule Board granted the City of St. Albans Home Rule Plan. This plan does not take advantage of all permissible options concerning the establishment of a sales tax under Home Rule as permitted by the West Virginia Legislature. West Virginia Code §8-1-5a currently permits each participating municipality to enact a municipal sales tax up to one percent if it reduces or eliminates a portion of municipal B & O tax.

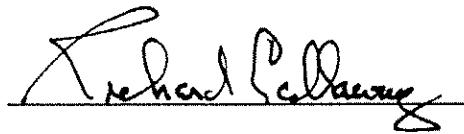
After examination of the tax structure, revenue estimates and needs of the City of St. Albans, the City would like to take advantage of the maximum flexibility concerning taxes provided in the Municipal Home Rule Pilot Program. Consequently, the City of St. Albans is asking the Municipal Home Rule Board to permit this amendment of the City of St. Albans' Municipal Home Rule Written Plan and Application of 2015 to permit the City the privilege of enacting sales and use taxes to the broadest extent permissible per W. Va. Code §8-1-5a, without the restrictions imposed in other sections of article one, chapter eight of the West Virginia Code.

The proposed restructuring of taxes, including the enactment of a sales and use tax and reduction of municipal B & O tax, would assist the City of St. Albans in resolving existing inequities. It would permit the City to reduce the tax burden on St. Albans residents and to have such burden shared by visitors to the City. The City of St. Albans shall eliminate the Business

and Occupation Tax on the business of operating amusements in the City of St. Albans, to be effective upon the date of imposition of a Municipal Sales and Service Tax of 1%.

As detailed above, this first proposed amendment to the Municipal home Rule Written Plan of the City of St. Albans seeks permission to take full advantage of the flexibility concerning taxes under Home Rule as permitted by the West Virginia Legislature. The City of St. Albans appreciates the Municipal Home Rule Board's consideration of this first plan amendment.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Richard C. Callaway", is written over a horizontal line.

City of St. Albans, by and through
Its Mayor, Richard C. Callaway

Date: 9/12/16



City of St. Albans

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Mayor
Dick Callaway
1499 MacCorkle Avenue
St. Albans, WV 25177

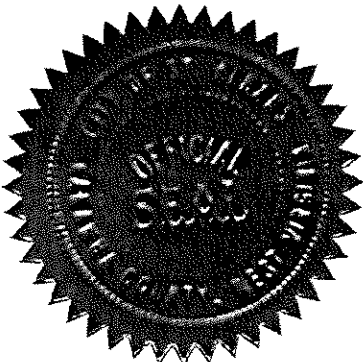
STATE OF WEST VIRGINIA
COUNTY OF KANAWHA
CITY OF ST. ALBANS

I, Veronica A. Westfall, City Recorder of the City of St. Albans, do hereby certify that the foregoing is a true and correct copy of Ordinance No. 2016-15 titled "Ordinance creating Article 408 of the Codified Ordinances of the City of St. Albans imposing municipal sales and service tax and municipal use tax in accordance with West Virginia Code §8-1-5a and Ordinance No. 2016-16 titled "An Ordinance amending Article 757 of the Codified Ordinances of the City of St. Albans, West Virginia.

WITNESS MY HAND AND THE SEAL OF THE CITY OF ST. ALBANS,

WEST VIRGINIA, this 7th day of September 2016.

Veronica A. Westfall
City Recorder
City of St. Albans



ORDINANCE CREATING ARTICLE 408 OF THE CODIFIED ORDINANCES OF THE CITY OF ST. ALBANS IMPOSING MUNICIPAL SALES AND SERVICE TAX AND MUNICIPAL USE TAX IN ACCORDANCE WITH WEST VIRGINIA CODE §8-1-5a

Ordinance No. 2016-15

WHEREAS, in accordance with the provisions of Chapter 8, Article 1, Section 5a of the West Virginia State Code, the City of St. Albans is entitled to impose a municipal sales and service tax and municipal use tax; the following creates Article 408 of the Codified Ordinances of the City of St. Albans, West Virginia:

408.01 Definitions:

For the purpose of application, interpretation, and construction of this Ordinance, the definitions as set forth in West Virginia Code Chapter 11, Articles 15, 15A and 15B, shall apply, and the definitions therein are fully incorporated herein by reference.

408.02 Imposition of a Municipal Sales and Service Tax:

In accordance with the authority as set forth in West Virginia Code §8-1-5a, effective on the first day of July, 2017, there is hereby imposed upon all persons or entities engaging in business within the municipal boundaries of the City of St. Albans a Municipal Sales and Service Tax in an amount equal to one percent (1 %) on all sales made and services rendered within the boundaries of the municipality of the City of St. Albans, subject to the following:

- (1) The base of the Municipal Sales and Service Tax imposed herein shall be identical to the base of the Consumers Sales and Service Tax imposed pursuant to the provisions of West Virginia Code Chapter 11, Article 15; and,
- (2) Except for the exemption provided in West Virginia Code §11-15-9f, all exemptions and exceptions from Consumers Sales and Service Tax apply to this Municipal Sales and Service Tax; and
- (3) Sales of motor vehicles subject to the tax imposed under West Virginia Code §11-15-3c and sales of gasoline and special fuel are not subject to the Municipal Sales and Service Tax herein imposed; and,
- (4) The Municipal Sales and Service Tax herein imposed is subject to the sourcing rules set forth in West Virginia Code Chapter 11, Article 15B.

408.03 Imposition of a Municipal Use Tax:

In accordance with the authority set forth in West Virginia Code §8-1-5a, effective on and after the first day of July, 2017, a Municipal Use Tax is hereby levied and imposed on the use within the City of St. Albans of tangible personal property, custom software, and taxable services, at the rate of one percent (1 %) of the purchase price of such property or taxable services, subject to the following:

- (1) The base of the Municipal Use Tax herein imposed shall be identical to the base of the use tax imposed pursuant to West Virginia Code Chapter 11, Article 15A; and,
- (2) Except for the exemptions provided in West Virginia Code §11-15-9f, all exemptions and exceptions from the use tax imposed pursuant to West Virginia Code Chapter 11, Article 15A apply to the Municipal Use Tax herein imposed; and,
- (3) Uses of motor vehicles subject to the tax imposed under West Virginia Code §11-15-3c and uses of gasoline and special fuel are not subject to the Municipal Use Tax herein imposed; and,
- (4) The Municipal Use Tax herein imposed is subject to the sourcing rules set forth in West Virginia Code Chapter 11, Article 15B.

408.04 Credit Against Municipal Use Tax:

A person or entity is entitled to a credit against the Municipal Use Tax herein imposed on the use of a particular item of tangible personal property, custom software or services equal to the amount, if any, of sales tax lawfully paid to another municipality for the acquisition of the property or service; provided, the amount of credit allowed shall not exceed the amount of Municipal Use Tax imposed on the use of the property or service in the City of St. Albans. For purposes of this Ordinance the following definitions shall apply:

- (1) "Municipality" means a municipality, as defined in West Virginia Code §8-1-2, or a comparable unit or entity of local government in another State; and,
- (2) "Sales Tax" includes a sales tax or compensating use tax lawfully imposed on the use of tangible personal property, custom software or a service by the municipality or county, as appropriate, in which the sale or use occurred; and,
- (3) "State" includes the fifty (50) states of the United States and the District of Columbia, but does not include any of the several territories organized by Congress.

No credit is allowed under this Ordinance for payment of any sales or use taxes imposed by this State or any other State.

408.05 Tax Commissioner Shall Administer, Enforce and Collect Taxes:

The services of the West Virginia State Tax Commissioner shall be used to administer, enforce and collect the Municipal Sales and Service Tax and Municipal Use Tax herein imposed and the City shall coordinate such services with the West Virginia State Tax Department.

408.06 Municipal Taxes Imposed in Addition to Consumer Sales and Service Tax and Consumer Use Tax:

The Municipal Consumers Sales and Service Tax and Municipal Use Tax imposed pursuant to this Ordinance shall be in addition to the Consumers Sales and Service Tax and Use Tax imposed pursuant to West Virginia Code Chapter 11, Articles 15 and 15A, on sales made and services rendered and taxable uses of tangible personal property, custom software, and taxable services within the boundaries of the municipality of the City of St. Albans and, except as exempted or excepted, all sales made and services rendered and taxable uses of tangible personal property, custom software, and taxable services within the boundaries of the municipality of the City of St. Albans shall remain subject to the tax levied by those Articles. Further, the Municipal Sales and Service Tax and Municipal Use Tax imposed pursuant to this Ordinance shall be imposed in addition to any tax imposed pursuant to the provisions of West Virginia Code §7-22-1, §8-13-6, §8-13-7, and §8-38-12, respectively.

Effective Date:


The effective date of the Ordinance shall be the first day of the calendar quarter that begins one hundred and eighty days after passage of the Ordinance and notice has been provided to the Tax Commissioner, which would be July 1, 2017.


This ordinance was introduced and read for the first time at a regular meeting of City Council held on Aug 15, 2016 and will come up for public hearing, second reading and adoption at a regular meeting of City Council to be held on Sept 2, 2016.

Adopted this 2nd day of September 2016

Approved by:

Charles A. Riffie, II
City Attorney


MAYOR


CITY CLERK

AN ORDINANCE AMENDING ARTICLE 757 OF THE CODIFIED
ORDINANCES OF THE CITY OF ST. ALBANS, WEST VIRGINIA

2016-16
Ordinance Number

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ST. ALBANS,
WEST VIRGINIA, THAT:

Modifying thereto the following hereby AMENDS Article 757, Business and
Occupation Tax of the Codified Ordinances of the City of St. Albans, West Virginia:

Repeal the following section:

757.08 BUSINESS OF OPERATING AMUSEMENTS

The purpose of this revision is to completely and totally eliminate business and
occupation tax on the business of operating amusements.

Except as herein amended said Article 757 shall remain in full force and effect.

This Ordinance shall be advertised in accordance with the applicable provisions
of the Codified Ordinances of the City of St. Albans, West Virginia.

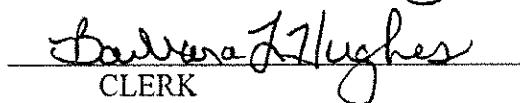
This Ordinance was introduced and read for the first time at a regular meeting of
City Council held on the 15th day of Aug 2016 and will come up for public hearing and
second reading at the regular meeting to be held on the 6th day of Sept 2016.

This Ordinance shall be effective for taxes due for the period beginning July 1,
2017.

Adopted this 6th day of Sept 2016.

Approved by:
Charles A. Riffée, II
City Attorney


MAYOR


CLERK



CHARLESTON NEWSPAPERS

P.O. Box 2993
Charleston, West Virginia 25330
Billing 348-4898
Classified 348-4848
1-800-WVA-NEWS

LEGAL ADVERTISING INVOICE

Table with 2 columns: Field Name (INVOICE DATE, ACCOUNT NBR, SALES REP ID, INVOICE NBR) and Value (07/25/16, 060170003, 0085, 002631001)

M

BILLED TO

CITY OF ST. ALBANS
PO BOX 1488****
1499 MACCORKLE AVENUE
ST ALBANS WV 25177 USA

Please return this portion with your payment.
Make checks payable to: Charleston Newspapers

AMOUNT PAID: _____



CHARLESTON NEWSPAPERS

P.O. Box 2993
Charleston, West Virginia 25330
Billing 348-4898
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1-800-WVA-NEWS
FEIN 55-0676079

Table with 2 columns: Field Name (INVOICE DATE, ACCOUNT NBR, SALES REP ID, INVOICE NBR) and Value (07/25/16, 060170003, 0085, 002631001)

Legal pricing is based upon 65 words per column inch.

Each successive insertion is discounted by 25% of the first insertion rate.

The Charleston Gazette Mail rate is \$.14 per word.

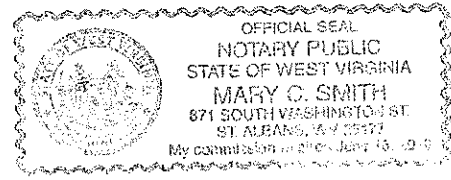
Main advertising invoice table with columns: ISSUE DATE, AD TYPE, PUB, DESCRIPTION, AD NUMBER, AD SIZE, RATE, GROSS AMOUNT, NET AMOUNT. Includes rows for Public Hearing Aug 1 and LEGAL DISCOUNT 25%.

State of West Virginia,

AFFIDAVIT OF PUBLICATION

Vertical text on the left side of the affidavit, partially obscured by a stamp.

Handwritten signature of Barbara Hughes, City Clerk.



Subscribed and sworn to before me this 27th day of July 2016.

Notary Public of Kanawha County, West Virginia. Date: 07/15/16-07/22/16.

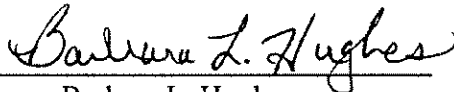
AFFIDAVIT OF BARBARA L. HUGHES

STATE OF WEST VIRGINIA
COUNTY OF KANAWHA, TO-WIT:

Barbara L. Hughes, who being duly sworn, deposes and says as follows:

1. My name is Barbara L. Hughes, and I am over the age of 18 years old and have personal knowledge of the facts stated herein.
2. I have served at all times relevant herein as the City Clerk/Treasurer for the City of St. Albans, West Virginia.
3. The City of St. Albans' first proposed amendment to its Municipal Home Rule Written Plan was available for public inspection at St. Albans City Hall during regular business hours from July 15 through August 15, 2016.

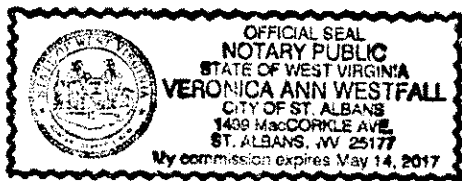
Further the affiant sayeth naught.


Barbara L. Hughes

STATE OF WEST VIRGINIA,
COUNTY OF KANAWHA:

The foregoing was subscribed and sworn to before me on
My Commission expires:


Notary Public



**Caldwell
& Riffée**

3818 MacCorkle Ave., S.E.
P.O. Box 4427
Charleston, W V 25364
(304) 925-2100
(304) 925-2193, fax

Joseph W. Caldwell
Charles A. Riffée, II

LAWYERS

September 12, 2016

Richard Callaway, Mayor
P.O. Box 1488
St. Albans, WV 25177


Re: Legal Opinion – Home Rule Proposed Written Plan Amendment (First)

Dear Mayor Callaway:

As the City Attorney for the City of St. Albans, I have reviewed the first proposed amendment to the City of St. Albans' Municipal Home Rule Written Plan in regard to a municipal sales and use tax, which was the subject of a public hearing on August 15, 2016. Upon my review of the proposed amendment, it is my legal opinion as the attorney licensed to practice in West Virginia that it and the entire written plan do not violate the provisions of W. Va. Code §8-1-5a. The ordinance was read at a regular scheduled meeting of City Council, after the public hearing, on August 15, 2016, and a second reading of the Ordinance occurred at the next regular scheduled meeting of City Council on September 6, 2016.

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

Sincerely yours,



Charles A. Riffée, II

AFFIDAVIT OF CHARLES RIFFEE, II

STATE OF WEST VIRGINIA
COUNTY OF KANAWHA, TO-WIT:

Charles A. Riffée, II, who being duly sworn, deposes and says as follows:

1. My name is Charles A. Riffée, II, and I am over the age of 18 years old and have personal knowledge of the facts stated herein.
2. I have served at all times relevant herein as the City Attorney for the City of St. Albans, West Virginia.
3. A public hearing on the City of St. Albans' first proposed amendment to its Municipal Home rule Written Plan was held during the regular meeting of the City Council of the City of St. Albans on August 15, 2016, beginning at 7:15 p.m. prior to the first reading of the related ordinance entitled "ORDINANCE CREATING ARTICLE 408 OF THE CODIFIED ORDINANCES OF THE CITY OF ST. ALBANS IMPOSING MUNICIPAL SALES AND SERVICE TAX AND MUNICIPAL USE TAX IN ACCORDANCE WITH WEST VIRGINIA CODE §8-1-5a, and the ordinance was read for the first time at said regular City Council meeting.
4. I attended this city Council meeting and public hearing on August 15, 2016.
5. No comments were made by the public during this public hearing.
6. The ordinance entitled "ORDINANCE CREATING ARTICLE 408 OF THE CODIFIED ORDINANCES OF THE CITY OF ST. ALBANS IMPOSING MUNICIPAL SALES AND SERVICE TAX AND MUNICIPAL USE TAX IN ACCORDANCE WITH WEST VIRGINIA CODE §8-1-5a" was read for the second time at the next regular meeting of City Council on September 6, 2016, which I attended..

Further the affiant sayeth naught.


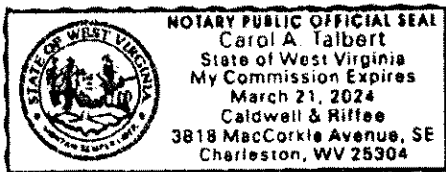


Charles A. Riffée, II

STATE OF WEST VIRGINIA,
COUNTY OF KANAWHA:

The foregoing affidavit was subscribed and sworn to before me on September 12, 2016.

My commission expires: 03/21/2024.


Notary Public



City of St. Albans

P.O. BOX 1488 • ST. ALBANS, WEST VIRGINIA 25177
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Mayor
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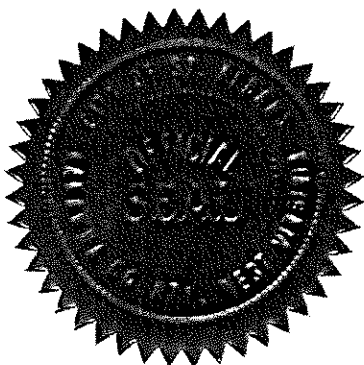
STATE OF WEST VIRGINIA
COUNTY OF KANAWHA
CITY OF ST. ALBANS

I, Veronica A. Westfall, City Recorder of the City of St. Albans, do hereby certify that the foregoing is a true and correct copy of the approved City Council minutes of the public hearing and regular City Council meeting held on August 15, 2016.

WITNESS MY HAND AND THE SEAL OF THE CITY OF ST. ALBANS,

WEST VIRGINIA, this 7th day of September 2016.

Veronica A. Westfall
City Recorder
City of St. Albans



The City Council of the City of St. Albans, West Virginia, held a Public Hearing regarding the Ordinance creating Article 408 of the codified ordinances imposing a municipal sales and service tax and municipal use tax an amendment to the existing Home Rule plan. The Public Hearing was held in Council Chambers, 51 Sixth Avenue, on Monday, August 15, 2016. Mayor Callaway called the public hearing to order at 7:20 p.m.

PRESENT:

Mayor Dick Callaway	
Councilman Jason Philabaun	Mike Matthews, Police Chief
Councilman Garry Pennington	Barbara Hughes, City Clerk/Treasurer
Councilman Jerry Cogar	Veronica Westfall, City Recorder
Vice-Mayor/Councilman Desper Lemon	Lance Carney, Fire Chief
Councilman Ron Colby	Kevin Pennington, Parks Superintendent
Councilwoman Cheryl Thomas	
Councilman John Caudill	
Councilman Patrick Quinlan	
Ward 6 (Vacant)	

ABSENT:

Councilman John Boles (Illness)
 Councilman Robert Keiffer
 Councilman Christopher Withrow
 Orville Browning, Public Works Director
 Kathy Barnett, Senior Services Director
 Charles Riffée, City Attorney

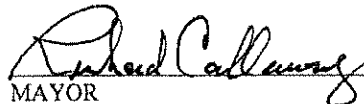
**PUBLIC HEARING TO HEAR PUBLIC COMMENT ON THE ORDINANCE
 CREATING ARTICLE 408 OF THE CODIFIED ORDINANCES OF THE CITY
 OF ST. ALBANS IMPOSING MUNICIPAL SALES AND SERVICE TAX AND
 MUNICIPAL USE TAX:**

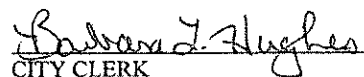
Mayor Callaway gave an explanation of the proposed ordinance and opened the floor to hearing any comments or questions from the public regarding the ordinance creating Article 408 of the Codified Ordinances of the City of St. Albans imposing Municipal Sales and Service Tax and Municipal Use Tax.

No one addressed Council.

ADJOURNMENT:

Being no comments, Councilman Pennington moved to adjourn the public hearing; Councilman Lemon seconded. Mayor Callaway declared the public hearing adjourned at 7:25 p.m.


 MAYOR


 CITY CLERK

The regular meeting of the City Council of the City of St. Albans, West Virginia, was held in Council Chambers, 51 Sixth Avenue, Monday, August 15, 2016. Mayor Callaway called the meeting to order at 7:30 p.m.

PRESENT:

Mayor Dick Callaway	
Councilman Jason Philabaun	
Councilman Garry Pennington	
Councilman Jerry Cogar	
Vice-Mayor/Councilman Desper Lemon	
Councilman Ron Colby	
Councilwoman Cheryl Thomas	
Councilman John Caudill	
Councilman Patrick Quinlan	
Ward 6 (Vacant)	
	Mike Matthews, Police Chief
	Barbara Hughes, City Clerk/Treasurer
	Veronica Westfall, City Recorder
	Lance Carney, Fire Chief
	Kevin Pennington, Parks Superintendent

ABSENT:

Councilman John Boles (Illness)
 Councilman Robert Keiffer
 Councilman Christopher Withrow
 Orville Browning, Public Works Director
 Kathy Barnett, Senior Services Director
 Charles Riffie, City Attorney

INVOCATION & PLEDGE OF ALLEGIANCE:

Pastor Barry Moll gave the invocation, and led the Pledge of Allegiance.

APPROVAL OF MINUTES:

Mayor Callaway asked if there were any corrections or additions to the minutes of the Council meeting held on August 1, 2016. Being none, Councilman Caudill moved for approval; Councilman Colby seconded. Motion carried.

ORDINANCE REGARDING FAILURE TO APPEAR IN MUNICIPAL COURT:

City Clerk Barbara Hughes presented the following ordinance for first reading:

AN ORDINANCE AMENDING SECTION 504.01 FAILURE TO APPEAR IN MUNICIPAL COURT, OF THE CODIFIED ORDINANCES OF THE CITY OF ST. ALBANS, WEST VIRGINIA

Ordinance Number _____

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ST. ALBANS, WEST VIRGINIA, THAT SECTION 504.01 OF THE CITY CODE IS HEREBY AMENDED AS FOLLOWS;

504.01 FAILURE TO APPEAR IN MUNICIPAL COURT.

- (a) Any person, who, having been released upon his personal recognizance or having been otherwise admitted to bail and released, and who shall willfully and without just cause fail to appear in Municipal Court, as and when it may be required of him, shall be guilty of the offense as hereinafter prescribed, and, upon conviction thereof, shall be punished in the manner hereinafter provided.
- (b) If any such person was admitted to bail or released after being arrested for, charged or convicted of a misdemeanor and shall thereafter be convicted for a violation of the provision of subsection (a) hereof, such person shall be guilty of a misdemeanor and shall be fined not more than one thousand dollars (\$1,000) or confined in the County Jail for not more than thirty days, or both such fine and confinement.
- (c) A law-enforcement officer may issue a citation instead of making an arrest, if there are reasonable grounds to believe that the person being cited will appear to answer the charge:

The citation shall provide that the defendant shall appear within a designated time.

If the defendant fails to appear in response to the citation or if there are reasonable grounds to believe that he will not appear, a complaint may be made and a warrant shall issue. When a physical arrest is made and a citation is issued in relation to the same offense the officer shall mark on the citation, in the place specified for court appearance date, the word "arrested" in lieu of the date of court appearance.

This Ordinance shall be advertised in accordance with the applicable provisions of the Codified Ordinances of the City of St. Albans, West Virginia.

This Ordinance was introduced and read for the first time at a regular meeting of City Council held on the ____ day of _____, 2016 and will come up for public hearing and second reading at the regular meeting to be held on the ____ day of _____, 2016.

Adopted this ____ day of _____, 2016.

Approved by:

Charles A. Riffe, II

MAYOR

City Attorney

CLERK

Councilman Cogar moved for approval; Councilman Lemon seconded. Upon vote, motion carried.

ORDINANCE CREATING ARTICLE 408 OF THE CODIFIED ORDINANCES OF THE CITY OF ST. ALBANS IMPOSING MUNICIPAL SALES AND SERVICE TAX AND MUNICIPAL USE TAX:

City Clerk Barbara Hughes stated a public hearing was held prior to tonight's Council meeting to hear public comment regarding the following ordinance:

ORDINANCE CREATING ARTICLE 408 OF THE CODIFIED ORDINANCES OF THE CITY OF ST. ALBANS IMPOSING MUNICIPAL SALES AND SERVICE TAX AND MUNICIPAL USE TAX IN ACCORDANCE WITH WEST VIRGINIA CODE §8-1-5a

Ordinance No. _____

WHEREAS, in accordance with the provisions of Chapter 8, Article 1, Section 5a of the West Virginia State Code, the City of St. Albans is entitled to impose a municipal sales and service tax and municipal use tax; the following creates Article 408 of the Codified Ordinances of the City of St. Albans, West Virginia:

408.01 Definitions:

For the purpose of application, interpretation, and construction of this Ordinance, the definitions as set forth in West Virginia Code Chapter 11, Articles 15, 15A and 15B, shall apply, and the definitions therein are fully incorporated herein by reference.

408.02 Imposition of a Municipal Sales and Service Tax:

In accordance with the authority as set forth in West Virginia Code §8-1-5a, effective on the first day of July, 2017, there is hereby imposed upon all persons or entities engaging in business within the municipal boundaries of the City of St. Albans a Municipal Sales and Service Tax in an amount equal to one percent (1%) on all sales made and services rendered within the boundaries of the municipality of the City of St. Albans, subject to the following:

- (1) The base of the Municipal Sales and Service Tax imposed herein shall be identical to the base of the Consumers Sales and Service Tax imposed pursuant to the provisions of West Virginia Code Chapter 11, Article 15; and,
- (2) Except for the exemption provided in West Virginia Code §11-15-9f, all exemptions and exceptions from Consumers Sales and Service Tax apply to this Municipal Sales and Service Tax; and
- (3) Sales of motor vehicles subject to the tax imposed under West Virginia Code §11-15-3c and sales of gasoline and special fuel are not subject to the Municipal Sales and

Service Tax herein imposed; and,

- (4) The Municipal Sales and Service Tax herein imposed is subject to the sourcing rules set forth in West Virginia Code Chapter 11, Article 15B.

408.03 Imposition of a Municipal Use Tax:

In accordance with the authority set forth in West Virginia Code §8-1-5a, effective on and after the first day of July, 2017, a Municipal Use Tax is hereby levied and imposed on the use within the City of St. Albans of tangible personal property, custom software, and taxable services, at the rate of one percent (1%) of the purchase price of such property or taxable services, subject to the following:

- (1) The base of the Municipal Use Tax herein imposed shall be identical to the base of the use tax imposed pursuant to West Virginia Code Chapter 11, Article 15A; and,
- (2) Except for the exemptions provided in West Virginia Code §11-15-9f, all exemptions and exceptions from the use tax imposed pursuant to West Virginia Code Chapter 11, Article 15A apply to the Municipal Use Tax herein imposed; and,
- (3) Uses of motor vehicles subject to the tax imposed under West Virginia Code §11-15-3c and uses of gasoline and special fuel are not subject to the Municipal Use Tax herein imposed; and,
- (4) The Municipal Use Tax herein imposed is subject to the sourcing rules set forth in West Virginia Code Chapter 11, Article 15B.

408.04 Credit Against Municipal Use Tax:

A person or entity is entitled to a credit against the Municipal Use Tax herein imposed on the use of a particular item of tangible personal property, custom software or services equal to the amount, if any, of sales tax lawfully paid to another municipality for the acquisition of the property or service; provided, the amount of credit allowed shall not exceed the amount of Municipal Use Tax imposed on the use of the property or service in the City of St. Albans. For purposes of this Ordinance the following definitions shall apply:

- (1) "Municipality" means a municipality, as defined in West Virginia Code §8-1-2, or a comparable unit or entity of local government in another State; and,
- (2) "Sales Tax" includes a sales tax or compensating use tax lawfully imposed on the use of tangible personal property, custom software or a service by the municipality or county, as appropriate, in which the sale or use occurred; and,
- (3) "State" includes the fifty (50) states of the United States and the District of Columbia, but does not include any of the several territories organized by Congress.

No credit is allowed under this Ordinance for payment of any sales or use taxes imposed by this State or any other State.

408.05 Tax Commissioner Shall Administer, Enforce and Collect Taxes:

The services of the West Virginia State Tax Commissioner shall be used to administer, enforce and collect the Municipal Sales and Service Tax and Municipal Use Tax herein imposed and the City shall coordinate such services with the West Virginia State Tax Department.

408.06 Municipal Taxes Imposed in Addition to Consumer Sales and Service Tax and Consumer Use Tax:

The Municipal Consumers Sales and Service Tax and Municipal Use Tax imposed pursuant to this Ordinance shall be in addition to the Consumers Sales and Service Tax and Use Tax imposed pursuant to West Virginia Code Chapter 11, Articles 15 and 15A, on sales made and services rendered and taxable uses of tangible personal property, custom software, and taxable services within the boundaries of the municipality of the City of St. Albans and, except as exempted or excepted, all sales made and services rendered and taxable uses of tangible personal property, custom software, and taxable services within the boundaries of the municipality of the City of St. Albans shall remain subject to the tax levied by those Articles. Further, the Municipal Sales and Service Tax and Municipal Use Tax imposed pursuant to this Ordinance shall be imposed in addition to any tax imposed pursuant to the provisions of West Virginia Code §7-22-1, §8-13-6, §8-13-7, and §8-38-12, respectively.

Effective Date:

The effective date of the Ordinance shall be the first day of the calendar quarter that begins one

hundred and eighty days after passage of the Ordinance and notice has been provided to the Tax Commissioner, which would be July 1, 2017.

This ordinance was introduced and read for the first time at a regular meeting of City Council held on _____ and will come up for public hearing, second reading and adoption at a regular meeting of City Council to be held on _____.

Adopted this _____ day of _____.

Approved by:

Charles A. Riffie, II
City Attorney

MAYOR

CITY CLERK

Councilman Lemon moved for approval; Councilman Cogar seconded. Motion carried.

ORDINANCE AMENDING ARTICLE 757 OF THE CODIFIED ORDINANCES:

City Clerk Barbara Hughes presented the following ordinance for first reading:

AN ORDINANCE AMENDING ARTICLE 757 OF THE CODIFIED ORDINANCES OF THE CITY OF ST. ALBANS, WEST VIRGINIA

Ordinance Number

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ST. ALBANS, WEST VIRGINIA, THAT:

Modifying thereto the following hereby AMENDS Article 757, Business and Occupation Tax of the Codified Ordinances of the City of St. Albans, West Virginia:

Repeal the following section:

757.08 BUSINESS OF OPERATING AMUSEMENTS

The purpose of this revision is to completely and totally eliminate business and occupation tax on the business of operating amusements.

Except as herein amended said Article 757 shall remain in full force and effect.

This Ordinance shall be advertised in accordance with the applicable provisions of the Codified Ordinances of the City of St. Albans, West Virginia.

This Ordinance was introduced and read for the first time at a regular meeting of City Council held on the _____ day of _____, 2016 and will come up for public hearing and second reading at the regular meeting to be held on the _____ day of _____, 2016.

This Ordinance shall be effective for taxes due for the period beginning July 1, 2017.

Adopted this _____ day of _____ 2016.

Approved by:
Charles A. Riffie, II
City Attorney

MAYOR

CLERK

Councilman Cogar moved for approval; Councilwoman Thomas seconded. Motion carried.

ORDINANCE REGARDING TOBACCO USAGE RESTRICTIONS:

City Clerk Barbara Hughes presented the ordinance for second reading. The caption is as follows:

AN ORDINANCE AMENDING ARTICLE 523 TOBACCO USAGE RESTRICTIONS OF THE CODIFIED ORDINANCES OF THE CITY OF ST. ALBANS, WEST VIRGINIA

Councilman Colby moved for adoption; Councilman Philabaun seconded. Motion carried.

RESOLUTION AUTHORIZING RELEASE OF SANITARY SEWER RIGHT OF WAY (CVS property):

City Clerk Barbara Hughes presented the following resolution:

RESOLUTION AUTHORIZING RELEASE OF SANITARY SEWER RIGHT OF WAY

Resolution No. _____

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF ST. ALBANS,

WEST VIRGINIA:

That the Council of the City of St. Albans releases and abandons the sanitary sewer right of way reserved in Deed Book 1983, Page 358 and dated June 23, 1981, on record in the Office of the Kanawha County Clerk, and authorize the Mayor of the City of St. Albans to execute a deed of surrender and release of said sewer right of way .

This Resolution becomes effective this date. Passed this 15th day of August, 2016.

MAYOR

CITY CLERK

Councilman Lemon moved for approval; Councilman Philabaun seconded. Motion carried.

FINANCE COMMITTEE REPORT AND RECOMMENDATIONS:

Payment of current invoices:

Councilman Philabaun moved for approval of payment of current invoices in the amount of \$14,042.23; Councilman Pennington seconded. Motion carried.

LETTERS & REPORTS:

Discuss changes to city's election procedures:

Councilman Philabaun stated he would like to see the City's election be placed on the county ballot to save money. Councilman Philabaun requested this be placed on the next agenda for Council's discussion and action.

Parks Committee Report:

Councilman Philabaun reported on the following:

- Summer activities and events
- Saturday concert in the park
- Tailgate prior to first SAHS football game
- Pool is closed

St. Albans Night Out:

Councilwoman Thomas reported that the St. Albans Night Out was a huge success and thanked everyone involved.

ANNOUNCEMENTS:

Mayor Callaway made the following announcements:

- MUC Board, Tuesday, August 16th at 5:30 p.m. in the MUC Conference Room.
- Finance Cmte., Monday, August 29th at 4:30 p.m. in the MUC Conference Room.
- Labor Day—HOLIDAY—Monday, September 5th—City & MUC offices are closed.
- Drug Task Force, Tuesday, September 6th at 10:00 a.m. in the MUC Conference Room.
- Public Safety Cmte., Tuesday, September 6th at 6:30 p.m. in the Council Chambers.
- City Council, Tuesday, September 6th at 7:30 p.m. in the Council Chambers.

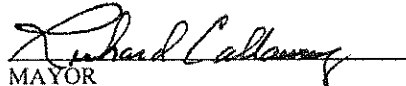
PUBLIC FORUM:

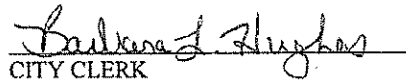
Shirley Craigo, 2741 Forrestal Avenue:

Shirley Craigo stated her concerns with off street parking being utilized by home care professionals. Ms. Craigo suggested the home owner put in a parking pad on their property.

ADJOURNMENT:

Being no further business, Councilman Colby moved, Councilman Lemon seconded, the meeting be adjourned at 7:55 p.m.


MAYOR


CITY CLERK



City of St. Albans

P.O. BOX 1488 • ST. ALBANS, WEST VIRGINIA 25177
www.stalbanswv.com

Telephone Numbers:

Mayor's Office.....(304) 727-2971
City Hall 722-3391
Police & Fire Depts. 727-2251
Building Department ... 727-2962
Parks & Recreation 722-4625
Public Works 722-4259

Mayor

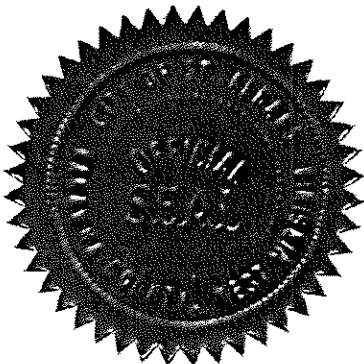
Dick Callaway
1499 MacCorkle Avenue
St. Albans, WV 25177

STATE OF WEST VIRGINIA
COUNTY OF KANAWHA
CITY OF ST. ALBANS

I, Veronica A. Westfall, City Recorder of the City of St. Albans, do hereby certify that the foregoing is a true and correct copy of the DRAFT City Council minutes of the meeting held on September 6, 2016.

WITNESS MY HAND AND THE SEAL OF THE CITY OF ST. ALBANS,
WEST VIRGINIA, this 7th day of September 2016.

Veronica A. Westfall
City Recorder
City of St. Albans



The regular meeting of the City Council of the City of St. Albans, West Virginia, was held in Council Chambers, 51 Sixth Avenue, Tuesday, September 6, 2016. Mayor Callaway called the meeting to order at 7:30 p.m.

PRESENT:

Mayor Dick Callaway	Charles Riffe, City Attorney (7:35 p.m.)
Councilman Jason Philabaun	Mike Matthews, Police Chief (7:36 p.m.)
Councilman Garry Pennington	Barbara Hughes, City Clerk/Treasurer
Councilman Jerry Cogar	Veronica Westfall, City Recorder
Vice-Mayor/Councilman Desper Lemon	Lance Carney, Fire Chief
Councilman Ron Colby	Kevin Pennington, Parks Superintendent
Councilman Robert Keiffer	John Johnson, Public Works Department
Councilman Christopher Withrow	
Councilman John Caudill	
Councilman Patrick Quinlan	
Ward 6 (Vacant)	

ABSENT:

Councilman John Boles (Illness)
 Councilwoman Cheryl Thomas (Illness)
 Orville Browning, Public Works Director
 Kathy Barnett, Senior Services Director

INVOCATION & PLEDGE OF ALLEGIANCE:

Councilman Lemon gave the invocation, and Councilman Colby led the Pledge of Allegiance.

APPROVAL OF MINUTES:

Mayor Callaway asked if there were any corrections or additions to the minutes of the public hearing held on August 15, 2016. Being none, Councilman Caudill moved for approval; Councilman Pennington seconded. Motion carried.

Mayor Callaway asked if there were any corrections or additions to the minutes of the Council meeting held on August 15, 2016. Being none, Councilman Caudill moved for approval; Councilman Quinlan seconded. Motion carried.

ORDINANCE ESTABLISHING AND FIXING OF RATES FOR WATER

SERVICE (Water rate increase):

City Clerk Barbara Hughes presented the ordinance regarding the water rate increase and stated there will be a public hearing prior to the next Council meeting. The ordinance caption is as follows and the ordinance is attached:

AN ORDINANCE OF THE CITY OF ST. ALBANS, KANAWHA COUNTY, WEST VIRGINIA, AMENDING AND REENACTING THE ESTABLISHMENT AND FIXING OF RATES, CHARGES AND DELAYED PENALTY CHARGES FOR WATER SERVICE FOR CUSTOMERS OF THE MUNICIPAL UTILITY COMMISSION OF THE CITY OF ST. ALBANS, KANAWHA COUNTY, WEST VIRGINIA

Mayor Callaway stated that Michael Griffith, CPA, and Greg Belcher, with Chapman Technical, were present to answer any questions. Being none, Councilman Lemon moved for approval; Councilman Quinlan seconded. Motion carried.

ORDINANCE REGARDING FAILURE TO APPEAR IN MUNICIPAL COURT:

Attorney Riffe presented the ordinance for second reading and adoption. The caption is as follows:

AN ORDINANCE AMENDING SECTION 504.01 FAILURE TO APPEAR IN MUNICIPAL COURT, OF THE CODIFIED ORDINANCES OF THE CITY OF ST. ALBANS, WEST VIRGINIA

Councilman Lemon moved for adoption ; Councilman Cogar seconded. Motion carried.

ORDINANCE CREATING ARTICLE 408 OF THE CODIFIED ORDINANCES OF THE CITY OF ST. ALBANS IMPOSING MUNICIPAL SALES AND SERVICE TAX AND MUNICIPAL USE TAX:

Attorney Riffie presented the ordinance for second reading and adoption. The caption is as follows:

AN ORDINANCE CREATING ARTICLE 408 OF THE CODIFIED ORDINANCES OF THE CITY OF ST. ALBANS IMPOSING MUNICIPAL SALES AND SERVICE TAX AND MUNICIPAL USE TAX IN ACCORDANCE WITH WEST VIRGINIA CODE §8-1-5a

Councilman Philabaun moved for adoption; Councilman Pennington seconded. Councilman Colby questioned when this would become effective. As stipulated in the ordinance being adopted, City Clerk Hughes responded it would be effective July 1, 2017. Motion carried.

ORDINANCE AMENDING ARTICLE 757 OF THE CODIFIED ORDINANCES:

Attorney Riffie presented the ordinance for second reading and adoption. The caption is as follows:

AN ORDINANCE AMENDING ARTICLE 757 OF THE CODIFIED ORDINANCES OF THE CITY OF ST. ALBANS, WEST VIRGINIA

Councilman Cogar moved for adoption; Councilman Quinlan seconded. Motion carried.

DECLARE VACANCY IN WARD 6:

With the passing of Councilwoman Griffith, Mayor Callaway declared a vacancy in Ward 6. Mayor Callaway stated members of Council could bring nominations to fill the seat at the next Council meeting, and they would vote to fill the seat the following meeting.

FINANCE COMMITTEE REPORT AND RECOMMENDATIONS:

Payment of current invoices:

Councilman Philabaun moved for approval of payment of current invoices in the amount of \$24,506.65; Councilman Caudill seconded. Motion carried.

Seek quotes on financing fire department air pack system:

Councilman Philabaun moved for approval to seek quotes on financing fire department air pack systems; Councilman Lemon seconded. Motion carried.

LETTERS & REPORTS:

Councilman Philabaun reported on the following Parks & Recs activities:

- Grade school dances beginning starting this Friday
- Pre-post game tailgate celebrations for SAHS football games
- Bonfire at City Park for homecoming
- Haunted Trail meetings on Mondays at shelter 1

Mayor Callaway and Officer Farry gave a report on the reduction of problems at the SAHS as well as the success rate of truancy court.

ANNOUNCEMENTS:

Mayor Callaway made the following announcements:

- Finance Cmte., Monday, September 12th at 4:30 p.m. in the MUC Conference Room.
- P&Z, Monday, September 12th at 7:00 p.m. in the Council Chambers.
- Public Works Cmte., Wednesday, September 14th at 8:30 a.m. at the City Garage.
- Parks Cmte., Wednesday, September 14th at 7:00 p.m. at the at City Park, Shelter 1.
- Ordinance Cmte., Monday, September 19th at 7:00 p.m. in the Council Chambers.
- Public Hearing, Monday, September 19th at 7:15 p.m. in the Council Chambers.
- City Council, Monday, September 19th at 7:30 p.m. in the Council Chambers.

PUBLIC FORUM:

Edgehill Drive residents request update on condemned property:

Residents on Edgehill Drive requested the status of the condemned meth house. City Clerk Hughes stated the Building Officials office has sent out a demolition notice and are awaiting proof of receipt of notice. Attorney Riffie summarized the process of how condemned properties need to go through proper legal notifications and due process as well as finding funding prior to having property torn down.

Bobby Young, 1926 Harrison Avenue:

Upon question posed by Mr. Young, Mayor Callaway stated that prior to any property being rezoned, a hearing and Council action would be required and property owners would be notified.

Arti-Gras:

Emily Wall invited everyone to the Arti-Gras planning meeting to be hold tomorrow at Mayberry's at 5:30 p.m.

ADJOURNMENT:

Being no further business, Councilman Colby moved, Councilman Lemon seconded, the meeting be adjourned at 7:55 p.m.

MAYOR

CITY CLERK