

**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

November 22, 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

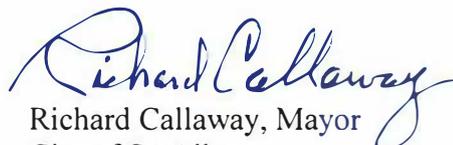
Dear Board Members:

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.

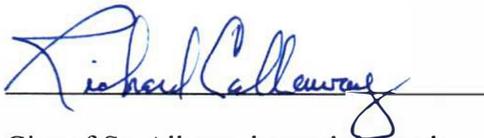
After examination of the tax structure, revenue estimates and needs of the City of St. Albans, the City would like to take advantage of the maximum flexibility concerning taxes provided in the Municipal Home Rule Pilot Program. Consequently, the City of St. Albans is asking the Municipal Home Rule Board 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 blue ink, reading "Richard Callaway", is written over a horizontal line.

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

Date: 11/22/16



# 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 2016-21 titled "An Ordinance authorizing the submission of the first proposed Municipal Home Rule Plan Amendment to the Municipal Home Rule Board."

WITNESS MY HAND AND THE SEAL OF THE CITY OF ST. ALBANS,  
WEST VIRGINIA, this 22<sup>nd</sup> day of November 2016.

Veronica A. Westfall  
City Recorder  
City of St. Albans



**AN ORDINANCE AUTHORIZING THE SUBMISSION OF THE FIRST PROPOSED  
MUNICIPAL HOME RULE PLAN AMENDMENT TO THE  
MUNICIPAL HOME RULE BOARD**

Ordinance No. 2016-21

**WHEREAS**, the City of St. Albans was accepted into the Municipal Home Rule Pilot Program on September 14, 2015; and

**WHEREAS**, the City would like to be able to take full advantage of the tax choices available under Home Rule, which requires an amendment to the City's current Home Rule plan, which in turn requires submission of the proposed amendment to the plan to the Municipal Home Rule Board for approval, which in turn requires this ordinance authorizing the City to submit its proposed amendment to the Municipal Home Rule Board for consideration; and

**WHEREAS**, such an amendment, if approved, would currently permit the imposition of a municipal sales and use tax at the rate of up to one percent, enable the reduction of business and occupation taxes to benefit City residents, and create funds assisting to remedy the City's underfunded pensions, improving infrastructure to further economic development, and aiding the City to meet its statutory obligations;

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

The City of St. Albans does hereby authorize the Mayor the City of St. Albans to submit St. Albans' first proposed amendment to its Municipal Home Rule Written Plan to the Municipal Home Rule Board for approval. The first amendment seeks permission to take full advantage of the flexibility concerning taxes under Home Rule, was subject to a public hearing on November 7, 2016, and was available for public inspection for at least thirty days prior to such hearing.

This Ordinance was the subject of public hearing and read for the first time at a regular meeting of City Council held on November 7, 2016, and will come up for public hearing, second reading and adoption at a regular meeting of City Council to be held on November 21, 2016.

Adopted this 21 day of Nov, 2016.

Approved by:



CITY ATTORNEY



MAYOR



CITY CLERK



# CHARLESTON NEWSPAPERS

P.O. Box 2993  
 Charleston, West Virginia 25330  
 Billing 348-4898  
 Classified 348-4848  
 1-800-WVA-NEWS  
 FEIN 55-0676079

INVOICE DATE	10/17/16
ACCOUNT NBR	060170003
SALES REP ID	0085
INVOICE NBR	013588001

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ISSUE DATE	AD TYPE	PUB	DESCRIPTION		AD NUMBER	AD SIZE TOTAL RUN	RATE	GROSS AMOUNT	NET AMOUNT
			REFERENCE NBR	PURCHASE ORDER #					
10/07	LEGF	GZ	013588001	Notice Rule hearing	0641647	1X0250 2.50	9.10	22.75	22.75
10/14	LEGR	GZ	013588002	Notice Rule hearing		1X0250 2.50	9.10	22.75	
				LEGAL DISCOUNT 25%				5.69-	17.06
TOTAL INVOICE AMOUNT									39.81

State of West Virginia,

## AFFIDAVIT OF PUBLICATION

I, M. J. Smith

CHARLESTON GAZETTE MAIL,

do solemnly swear that the legal notice of:  
 Notice Rule hearing

was duly published in said newspaper(s) at the stated price for the respective newspaper(s) and during the dates listed below:

Subscribed and sworn to before me this 18 day of October



of \_\_\_\_\_  
 10/07/16-10/14/16  
Sarah J. Withrow  
 Notary Public of Kanawha County, West Virginia

**NOTICE**  
 St. Albans City Council will hold a public hearing on Monday, November 7, 2016 at 7:15 p.m. in Council Chambers located at 31 Sixth Avenue, St. Albans, WV, regarding a proposed ordinance for amendment to the existing Home Rule Plan. Said amendment will impose a one percent municipal sales, service and use tax in the City of St. Albans. Interested parties may appear at the public hearing and be heard with respect to the proposed ordinance. A copy of the proposed ordinance may be inspected in the City Clerk's Office, 1499 MacCorkle Avenue.  
 Barbara Hughes  
 City Clerk  
 (641647)

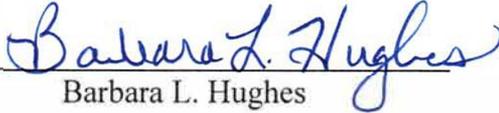
**AFFIDAVIT OF BARBARA L. HUGHES**

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 October 7 through November 7, 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: *May 14, 2017*



  
Notary Public

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**Caldwell  
& Riffie**

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. Riffie, II

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**LAWYERS**

November 22, 2016

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

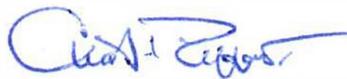
Re: Legal Opinion – Home Rule Proposed Written Plan Amendment (First)

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 November 7, 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.

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

Sincerely yours,



Charles A. Riffie, II  
Attorney at Law

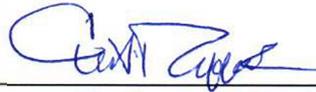
**AFFIDAVIT OF CHARLES RIFFEE, II**

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 November 7, 2016, beginning at 7:15 p.m. prior to the first reading of the related ordinance entitled "AN ORDINANCE AUTHORIZING THE SUBMISSION OF THE FIRST PROPOSED MUNICIPAL HOME RULE PLAN AMENDMENT TO THE MUNICIPAL HOME RULE BOARD"
4. I attended this city Council meeting and public hearing on November 7, 2016.
5. No comments were made by the public during this public hearing.
6. The ordinance entitled "AN ORDINANCE AUTHORIZING THE SUBMISSION OF THE FIRST PROPOSED MUNICIPAL HOME RULE PLAN AMENDMENT TO THE MUNICIPAL HOME RULE BOARD" was read for the second time at a regular meeting of City Council on November 21, 2016, which I attended.

Further the affiant sayeth naught.



Charles A. Riffée, II

STATE OF WEST VIRGINIA,  
COUNTY OF KANAWHA:

The foregoing was subscribed and sworn to before me on the 21 day of November, 2016.

My Commission expires:

May 14, 2017





# 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 the approved City Council minutes of the public hearing and regular City Council meeting held on November 7, 2016.

WITNESS MY HAND AND THE SEAL OF THE CITY OF ST. ALBANS,  
WEST VIRGINIA, this 22<sup>nd</sup> day of November 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 submission of the Municipal Home Rule Amendment. The Public Hearing was held in Council Chambers, 51 Sixth Avenue, on Monday, November 7, 2016. Mayor Callaway called the public hearing to order at 7:20 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 Christopher Withrow  
 Councilman Dale Withrow

Charles Riffie, City Attorney  
 Veronica Westfall, City Recorder  
 Barbara Hughes, City Clerk/Treasurer  
 Kevin Pennington, Parks Superintendent  
 Mike Matthews, Police Chief  
 Lance Carney, Fire Chief  
 Tracy Dillon, Zoning Official

**ABSENT:**

Councilman John Boles (Illness)  
 Councilman Patrick Quinlan (Illness)  
 Councilman Robert Keiffer  
 Orville Browning, Public Works Director  
 Kathy Barnett, Senior Services Director

**PUBLIC HEARING TO HEAR PUBLIC COMMENT ON THE ORDINANCE TO  
 SUBMIT THE MUNICIPAL HOME RULE AMENDMENT:**

Mayor Callaway gave an explanation of the proposed ordinance and opened the floor to hearing any comments or questions from the public.

There were no public comments either for or against the ordinance.

**ADJOURNMENT:**

Being no comments, Councilman Caudill moved to adjourn the public hearing; Councilwoman Thomas 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, November 7, 2016. Mayor Callaway called the meeting to order at 7:34 p.m.

**PRESENT:**

Mayor Dick Callaway	Charles Riffie, City Attorney
Councilman Jason Philabaun	Veronica Westfall, City Recorder
Councilman Garry Pennington	Barbara Hughes, City Clerk/Treasurer
Councilman Jerry Cogar	Kevin Pennington, Parks Superintendent
Vice-Mayor/Councilman Desper Lemon	Mike Matthews, Police Chief
Councilman Ron Colby	Lance Carney, Fire Chief
Councilwoman Cheryl Thomas	Tracy Dillon, Zoning Official
Councilman John Caudill	
Councilman Christopher Withrow	
Councilman Dale Withrow	
Councilman Robert Keiffer	

**ABSENT:**

Councilman John Boles (Illness)  
 Councilman Patrick Quinlan (Illness)  
 Orville Browning, Public Works Director  
 Kathy Barnett, Senior Services Director

**INVOCATION & PLEDGE OF ALLEGIANCE:**

Officer Farry gave the invocation, and Mr. Pennington 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 October 17, 2016. Being none, Councilman Cogar moved for approval; Councilman Colby seconded. Motion carried.

**ORDINANCE AUTHORIZING THE SUBMISSION OF THE FIRST PROPOSED AMENDMENT TO THE MUNICIPAL HOME RULE BOARD:**

Attorney Riffie presented the following ordinance for first reading and stated a public hearing was held prior to tonight's Council meeting:

AN ORDINANCE AUTHORIZING THE SUBMISSION OF THE FIRST PROPOSED  
 MUNICIPAL HOME RULE PLAN AMENDMENT TO THE  
 MUNICIPAL HOME RULE BOARD

Ordinance No. \_\_\_\_\_

**WHEREAS**, the City of St. Albans was accepted into the Municipal Home Rule Pilot Program on September 14, 2015; and

**WHEREAS**, the City would like to be able to take full advantage of the tax choices available under Home Rule, which requires an amendment to the City's current Home Rule plan, which in turn requires submission of the proposed amendment to the plan to the Municipal Home Rule Board for approval, which in turn requires this ordinance authorizing the City to submit its proposed amendment to the Municipal Home Rule Board for consideration; and

**WHEREAS**, such an amendment, if approved, would currently permit the imposition of a municipal sales and use tax at the rate of up to one percent, enable the reduction of business and occupation taxes to benefit City residents, and create funds assisting to remedy the City's underfunded pensions, improving infrastructure to further economic development, and aiding the City to meet its statutory obligations;

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

The City of St. Albans does hereby authorize the Mayor the City of St. Albans to submit St. Albans' first proposed amendment to its Municipal Home Rule Written Plan to the Municipal Home Rule Board for approval. The first amendment seeks permission to take full advantage of the flexibility concerning taxes under Home Rule, was subject to a public hearing on November 7, 2016, and was available for public inspection for at least thirty days prior to such hearing.

This Ordinance was the subject of public hearing and read for the first time at a regular meeting of City Council held on November 7, 2016, and will come up for public hearing, second reading and adoption at a regular meeting of City Council to be held on November 21, 2016.

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

Approved by:

\_\_\_\_\_  
CITY ATTORNEY

\_\_\_\_\_  
MAYOR

\_\_\_\_\_  
CITY CLERK

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

**ORDINANCE TO CLOSE A PORTION OF FOURTH STREET BETWEEN MACCORKLE AVENUE AND THIRD AVENUE:**

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

AN ORDINANCE TO VACATE AND ABANDON A PORTION OF FOURTH STREET BETWEEN MACCORKLE AVENUE AND THIRD AVENUE IN THE CITY OF ST. ALBANS, WEST VIRGINIA

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

**ORDINANCE REGARDING CHANGES TO CITY'S ELECTION PROCEDURES:**

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

AN ORDINANCE SETTING OUT ON ITS RECORD BOOKS, THE PROPOSED ORDINANCE AMENDING THE CHARTER OF ST. ALBANS, WEST VIRGINIA

Councilman Colby moved for adoption; Councilwoman Thomas seconded. Motion carried.

**RESOLUTION TO SUPPORT THE PROPERTY RESCUE INITIATIVE TECHNICAL ASSISTANCE PROGRAM:**

Councilwoman Thomas moved for approval of the resolution to support the Property Rescue Initiative Technical Assistance Program; Councilman Lemon seconded. Motion carried. The resolution is as follows:

RESOLUTION IN SUPPORT OF THE WEST VIRGINIA HOUSING DEVELOPMENT FUND'S PROPERTY RESCUE INITIATIVE TECHNICAL ASSISTANCE PROGRAM

Resolution No. \_\_\_\_\_

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

**Whereas** the citizens of the City of St. Albans are working every day to build a strong and healthy community where future generations can continue to build a life, utilizing and celebrating all of our rich assets;

**Whereas** there exists in the City of St. Albans a great number of abandoned and dilapidated housing structures;

**Whereas** abandoned and dilapidated structures contribute to increased crime, including illicit drug use and sales; pose threats to health and safety; decrease the values of surrounding properties; and reduce the quality of life in our community;

**Whereas** improved properties expand housing opportunities, increase property values, enhance the quality of life in communities and neighborhoods, and attract new businesses and residents;

**Whereas** the City of St. Albans seeks the training and resources to identify, research, prioritize, purchase, remove, or rehabilitate these structures and return these properties to a condition beneficial to our community;

**Whereas** the 2015 West Virginia Legislature creates the West Virginia Property Rescue Initiative through House Bill 2810, which makes loan funding available to cities, counties, and other eligible borrowers to perform demolition, deconstruction, and rehabilitation, and/or to acquire residential structures; and provides technical assistance, training, and consulting services to counties and municipalities regarding the identification, prioritization, purchase, removal, rehabilitation, and prevention of abandoned and dilapidated properties;

**Therefore, be it resolved that** the City of St. Albans City Council supports the City St. Albans' application for technical assistance through the West Virginia Property Rescue Initiative and would support the City of St. Albans' subsequent application for loan funding through the West Virginia Property Rescue Initiative.

This Resolution becomes effective this date. Passed this \_\_\_\_\_ day of November, 2016.

\_\_\_\_\_  
MAYOR

\_\_\_\_\_  
CITY CLERK

**RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A GRANT APPLICATION FOR GRANT FOR FIRE DEPARTMENT LADDER TRUCK:**

Attorney Riffie presented the following resolution:

RESOLUTION AUTHORIZING MAYOR TO EXECUTE, ACKNOWLEDGE AND DELIVER AN APPLICATION FOR THE ASSISTANCE TO FIREFIGHTERS GRANT PROGRAM TO THE DEPARTMENT OF HOMELAND SECURITY, FEDERAL EMERGENCY MANAGEMENT AGENCY

Resolution No. \_\_\_\_\_

BE IT ORDAINED THAT THE ST. ALBANS CITY COUNCIL hereby authorizes Richard Callaway, Mayor of the City of St. Albans to act on its behalf to execute, acknowledge and submit a grant application to the Department of Homeland Security, Federal Emergency Management Agency, for FY 2016 Assistance to Firefighters Grant, for purchase of new ladder truck for the St. Albans Fire Department. Said grant, if awarded, would require the City to make available funds in an amount

equal to and not less than 5 percent of the grant awarded.

This Resolution was adopted and approved at a regular meeting of the City Council of the City of St. Albans this 7<sup>th</sup> day of November, 2016.

ATTEST:

\_\_\_\_\_  
RICHARD CALLAWAY, MAYOR

\_\_\_\_\_  
BARBARA HUGHES, CLERK

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

**FINANCE COMMITTEE REPORT & RECOMMENDATIONS:**

Payment of current invoices:

Councilman Philabaun moved for approval of payment of current invoices in the amount of \$34,083.64; Councilman Caudill seconded. Motion carried.

Seek bids on vehicles for Police & Public Works Department:

Councilman Philabaun moved for approval permission to seek bids on vehicles for Police & Public Works Department; Councilman Cogar seconded. Motion carried.

**APPOINTMENTS:**

Eric Harper to Parks & Recreation Committee:

Councilman Philabaun moved to confirm the Mayor's appointment of Eric Harper, 905 Sutherland Drive, to Parks & Recreation Committee with a term to expire 6/30/19; Councilman Pennington seconded. Motion carried.

**LETTERS & REPORTS:**

Parks Committee:

Mr. Pennington made the following report for the Parks Department:

- November 18<sup>th</sup> dance/fun night for grade school students
- Walk through FOL November 22<sup>nd</sup> w/a hay ride starting at SAHS
- City radio station to play Christmas music during FOL (96.9FM)

Veteran's Day Parade:

Councilwoman Thomas and Councilman D. Withrow thanked everyone for making the Veteran's Day Parade a success.

**ANNOUNCEMENTS:**

Mayor Callaway made the following announcements:

- Election Day—HOLIDAY—Tuesday, November 8<sup>th</sup>—City/MUC offices will be closed.
- Veteran's Day—HOLIDAY—Friday, November 11<sup>th</sup>—City/MUC offices will be closed.
- Finance Cmte., Monday, November 14<sup>th</sup> at 4:30 p.m. in the MUC Conference Room.
- MUC Board, Tuesday, November 15<sup>th</sup> at 5:30 p.m. in the MUC Conference Room.
- Public Works Cmte., November 16<sup>th</sup> at 8:30 a.m. at the City Garage.
- Parks Cmte., November 16<sup>th</sup> at 7:00 p.m. at the Hansford Center.
- Ordinance Cmte., Monday, November 21<sup>st</sup> at 7:00 p.m. in the Council Chambers.
- Public Hearing, Monday, November 21<sup>st</sup> at 7:15 p.m. in the Council Chambers.
- City Council, Monday, November 21<sup>st</sup> at 7:30 p.m. in the Council Chambers.

**PUBLIC FORUM:**

No one addressed Council.

**ADJOURNMENT:**

Being no further business, Councilman Lemon moved, Councilman Keiffer seconded, the meeting be adjourned at 7:50 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 November 21, 2016.

WITNESS MY HAND AND THE SEAL OF THE CITY OF ST. ALBANS,  
WEST VIRGINIA, this 22<sup>nd</sup> day of November 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, Monday, November 21, 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 Christopher Withrow  
 Councilman Dale Withrow  
 Councilman Patrick Quinlan

Charles Riffie, City Attorney  
 Veronica Westfall, City Recorder  
 Barbara Hughes, City Clerk/Treasurer  
 Kevin Pennington, Parks Superintendent  
 Mike Matthews, Police Chief

**ABSENT:**

Councilman John Boles (Illness)  
 Councilman Robert Keiffer  
 Lance Carney, Fire Chief  
 Orville Browning, Public Works Director  
 Kathy Barnett, Senior Services Director

**INVOCATION & PLEDGE OF ALLEGIANCE:**

Councilman Lemon gave the invocation, and Councilman D. Withrow 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 November 7, 2016. Being none, Councilman Caudill moved for approval; Councilman Colby seconded. Motion carried.

Mayor Callaway asked if there were any corrections or additions to the minutes of the Council meeting held on November 7, 2016. Being none, Councilman Lemon moved for approval; Councilman Quinlan seconded. Motion carried.

**ORDINANCE AMENDING SECTION 137.01 COMPOSITION OF THE POLICE DEPARTMENT:**

Attorney Riffie presented the following ordinance for first reading:

AN ORDINANCE AMENDING SECTION 137.01 COMPOSITION [OF THE POLICE DEPARTMENT], OF THE CODIFIED ORDINANCES OF THE CITY OF ST. ALBANS, WEST VIRGINIA

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Ordinance Number

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ST. ALBANS, WEST VIRGINIA, THAT SECTION 137.01 COMPOSITION [OF THE POLICE DEPARTMENT] IS HEREBY AMENDED AS FOLLOWS;

“The Police Department of the City may consist of a Chief, a Deputy Chief, a captain, lieutenants, sergeants, patrol officers, and/or probationary patrol officers. When any member of the Department is appointed Chief or Deputy Chief of the Department unless otherwise provided by Council by an ordinance amending this section, the position occupied by such member prior to his or her appointment as Chief or Deputy Chief shall remain vacant so as to allow such member serving as Chief or Deputy Chief to revert to his or her prior rank at the conclusion of his or her service as Chief or Deputy Chief in accordance with the applicable provisions of these Codified Ordinances and the laws of the State with regard to Police Civil Service. (cf. West Virginia Code §8-14-6, and 17).

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. Riffie, II  
City Attorney

\_\_\_\_\_  
MAYOR

\_\_\_\_\_  
CLERK

Councilman Colby moved for approval; Councilman Philabaun seconded. Councilman Pennington requested members of Council to consider the consequences of their vote if the ordinance passes; this will leave a Captain's slot open and not allow for promotions to that position. Councilman C. Withrow stated that Council should support Chief Matthew's decisions and approve the ordinance. Upon vote, Councilman Pennington voted "Nay". Motion carried.

**ORDINANCE ADDING ROOSEVELT AVENUE AS A ONE WAY STREET BETWEEN SPRUCE AND PFAFF STREETS:**

Attorney Riffie presented the following ordinance for first reading:

AN ORDINANCE AMENDING CITY CODE SECTION 305.02 ONE WAY STREETS AND ALL ALLEYS TO ADD ROOSEVELT AVENUE AS A ONE WAY STREET FROM ITS INTERSECTION WITH SPRUCE STREET TO ITS INTERSECTION WITH PFAFF STREET, TRAVELING IN A WESTERLY DIRECTION

Ordinance No. \_\_\_\_\_

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

Article 305.02 of the Codified Ordinances of the City of St. Albans, West Virginia is hereby AMENDED to ADD Roosevelt Avenue as a one way street from its intersection with Spruce Street to its intersection with Pfaff Street traveling in a Westerly direction.

Except as herein amended, Article 305.02 shall remain in full force and effect. This

ordinance shall be advertised in accordance with applicable provisions of the Charter 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 21st of November, 2016 and will come up for a second reading and adoption at a regular meeting of City Council to be held on the 2016.

Adopted this \_\_\_\_ day of \_\_\_\_\_, 2016

Form Approved

by:

Charles Riffie  
City Attorney

\_\_\_\_\_  
MAYOR

\_\_\_\_\_  
CITY CLERK

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

**ORDINANCE REGARDING CRUELTY TO ANIMALS:**

Attorney Riffie presented the following ordinance:

AN ORDINANCE AMENDING SECTION 505.06 CRUELTY TO ANIMALS OF THE CODIFIED ORDINANCES OF THE CITY OF ST. ALBANS, WEST VIRGINIA

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Ordinance Number

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

Section 505.06 "Cruelty to Animals" of the Codified Ordinances of the City of St. Albans, West Virginia is hereby AMENDED as follows:

**505.06. Cruelty to animals; penalties; exclusions.**

- (a) (1) It is unlawful for any person to intentionally, knowingly or recklessly,
- (A) Mistreat an animal in cruel manner;
  - (B) Abandon an animal;
  - (C) Withhold:
    - (i) Proper sustenance, including food or water;
    - (ii) Shelter that protects from the elements of weather; or
    - (iii) Medical treatment, necessary to sustain normal health and fitness or to end the suffering of any animal;
  - (D) Abandon an animal to die;
  - (E) Leave an animal unattended and confined in a motor vehicle when physical injury to or death of the animal is likely to result;
  - (F) Ride an animal when it is physically unfit;
  - (G) Bait or harass an animal for the purpose of making it perform for a person's amusement;
  - (H) Cruelly chain or tether an animal; or
  - (I) Use, train or possess a domesticated animal for the purpose of seizing, detaining or maltreating any other domesticated animal.

(2) Any person in violation of subdivision (1) of this subsection is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than three hundred nor more than two thousand dollars or confined in jail not more than thirty days, or both.

(b) A person, other than a licensed veterinarian or a person acting under the direction or with the approval of a licensed veterinarian, who knowingly and willfully administers or causes to be administered to any animal participating in any contest any controlled substance or any other drug for the purpose of altering or otherwise affecting said animal's performance is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than five hundred nor more than two thousand dollars.

(c) Any person convicted of a violation of this section forfeits his or her interest in any animal and all interest in the animal vests in the humane society or county pound of the county in which the conviction was rendered and the person is, in addition to any fine imposed, liable for any costs incurred or to be incurred by the humane society or county pound as a result.

(d) For the purpose of this section, the term "controlled substance" has the same meaning ascribed to it by subsection (d), section one hundred one of West Virginia Code § 60A-1-101.

(e) The provisions of this section do not apply to lawful acts of hunting, fishing, trapping or animal training or farm livestock, poultry, gaming fowl or wildlife kept in private or licensed game farms if kept and maintained according to usual and accepted standards of livestock, poultry, gaming fowl or wildlife or game farm production and management, nor to humane use of animals or activities regulated under and in conformity with the provisions of 7 U.S.C. § 2131, et seq., and the regulations promulgated thereunder, as both statutes and regulations are in effect on the effective date of this section.

(f) (1) Notwithstanding any provision of this code to the contrary, no person who has been convicted of a violation of the provisions of subsection (a) or (b) of this section may be granted probation until the defendant has undergone a complete psychiatric or psychological evaluation and the court has reviewed the evaluation. Unless the defendant is determined by the court to be indigent, he or she is responsible for the cost of the evaluation.

(2) For any person convicted of a violation of subsection (a) or (b) of this section, the court may, in addition to the penalties provided in this section, impose a requirement that he or she complete a program of anger management intervention for perpetrators of animal cruelty. Unless the defendant is determined by the court to be indigent, he or she is responsible for the cost of the program.

(i) In addition to any other penalty which can be imposed for a violation of this section, a court shall prohibit any person so convicted from possessing, owning or residing with any animal or type of animal for a period of five years following entry of a misdemeanor conviction. A violation under this subsection is a misdemeanor punishable by a fine not exceeding two thousand dollars and forfeiture of the animal.

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 21<sup>st</sup> day of November, 2016 and will come up for second reading at the regular meeting to be held on the 5<sup>th</sup> day of December, 2016.

Adopted this \_\_\_\_ day of \_\_\_\_\_ 2016.

Approved by:  
Charles A. Riffe, II  
City Attorney

\_\_\_\_\_  
MAYOR

\_\_\_\_\_  
CLERK

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

**ORDINANCE AUTHORIZING THE SUBMISSION OF THE FIRST PROPOSED AMENDMENT TO THE MUNICIPAL HOME RULE BOARD:**

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

AN ORDINANCE AUTHORIZING THE SUBMISSION OF THE FIRST PROPOSED MUNICIPAL HOME RULE PLAN AMENDMENT TO THE MUNICIPAL HOME RULE BOARD

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

**FINANCE COMMITTEE REPORT & RECOMMENDATIONS:**

**Payment of current invoices:**

Councilman Philabaun moved for approval of payment of current invoices in the amount of \$11,058.09; Councilman Pennington seconded. Motion carried.

**LETTERS & REPORTS:**

Councilman Philabaun reported the walk through the Festival of Lights will be tomorrow with a hayride beginning at the SAHS. Mr. Pennington stated they Parks and Public Works employees are working on decorating Main Street and are to be commended for their hard work getting the park ready for the Festival of Lights.

Mayor Callaway presented Councilman Quinlan with a certificate of appreciation from the VFW for being the Ward that raised the most funds for their organization. A round of applause followed.

**ANNOUNCEMENTS:**

Mayor Callaway made the following announcements:

- HOLIDAY—Thanksgiving—Thursday & Friday, November 24<sup>th</sup> & 25<sup>th</sup>—City & MUC Offices will be closed.
- Finance Cmte., Monday, November 28<sup>th</sup> at 4:30 p.m. in the MUC Conference Room.
- Public Safety Cmte., Monday, December 5<sup>th</sup> at 6:30 p.m. in the Council Chambers.
- City Council, Monday, December 5<sup>th</sup> at 7:30 p.m. in the Council Chambers.

**PUBLIC FORUM:**

No one addressed Council.

**ADJOURNMENT:**

Being no further business, Councilman Colby moved, Councilman Philabaun seconded, the meeting be adjourned at 7:45 p.m.

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MAYOR

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CITY CLERK

## CITY OF ST. ALBANS FISCAL IMPACT & FEASIBILITY – MUNICIPAL SALES & USE TAX

### Projected B & O Tax Impact

The fiscal impact of the B & O tax initiatives in St. Albans currently intends to pursue will result in an estimated B&O tax loss of \$3,042.00 annually, by eliminating the Amusement tax category (Ordinance No. 2016-16).

Eliminate B & O Amusement category	(3,400)
Estimated B&O Tax Loss	\$(3,400)

### Projected Municipal Consumer Sales/Use Tax Impact

The base fiscal impact of the municipal consumer sales/use tax is estimated to be approx. \$696,000 in revenue per year in St. Albans once the tax is in effect for a full year. It is our understanding that the West Virginia State Tax Department of Revenue is currently unable to provide detailed data regarding retail sales tax receipts for the retail tax base in St. Albans. In order to estimate the impact of a municipal sales/use tax, St. Albans estimated base retail classification under its B & O taxes for the last full fiscal year, which produced estimated retail base sales of \$200 million. The proposed tax rate of 1% applied to the estimated retail base sales is estimated to produce \$2 million in revenue. Adjustments were made to this number for the exemption of food and automobile sales, leaving approximately \$700,000 in revenue annually.

### Sales/Use Tax Initiative

Implement 1% Sales/Use Tax	2,000,000
Less: Food and Auto sales Exemption	<u>(1,300,000)</u>
Estimated Sales/Use Tax Revenue	\$ 700,000

### Net Revenue Impact

The estimated net revenue to St. Albans resulting from the \$3,400 estimated loss due to the elimination of certain B & O tax rates and the \$700,000 estimated revenue from the municipal consumer sales/use tax would be an estimated **\$696,600** annually.