

City of Winfield

Randy L. Barrett - Mayor

P.O. BOX 596 • WINFIELD, WEST VIRGINIA 25213 • PHONE (304) 586-2122 • FAX (304) 586-5318
www.cityofwinfield.net

November 8, 2024

Dear Members of the Home Rule Board:

This letter certifies that the City of Winfield, West Virginia, does not have any outstanding fees owed to the State of West Virginia.

Thank you,



Randy Barrett
Mayor



Nikki Phillips
City Clerk



CITY OF WINFIELD

West Virginia Municipal Home Rule Application

Home Rule Committee

8/??/2024

Prepared & Submitted 2024



TABLE OF CONTENTS

Introduction:	3
SECTION 1: APPLICANT INFORMATION	5
General Information:	5
Municipal Classification	5
Categories of Issues to be Addressed.....	5
SECTION 2: NARRATIVE	6
Issue 1: Sale Of Municipal Property Without an Auction	6
Issue 2: Sale Of Municipal Property to Non-Profits for Less Than Fair Market Value Without Auction.....	6
Issue 3: Issue On-The-Spot Citations for Public Nuisance, Health, And Safety Code Violations	7
Issue 4: Municipal Sales And Use Tax	9
APPENDIX	10
Class II legal advertisement of Public Hearing	10
Notice of Public Hearing	11
Affidavit of legal notice of Public Hearing	12
Minutes of Public Hearing, including comments	13
Certified Copy of ordinance authorizing plan or amendment	14
Fiscal Statement.....	15
Affidavit of no outstanding State Fees	16
Attorney Opinion Letter	17

INTRODUCTION:

Winfield is a city in and the county seat of Putnam County, West Virginia, United States, located along the Kanawha River.[5] The population was 2,397 at the 2020 census.[2] It is part of the Huntington–Ashland metropolitan area.

Winfield was established on a 400-acre (160 ha) tract of land owned by Charles Brown. He established a ferry across the river in 1818. The first meeting of the county court was held at the home of Talleyrand P. Brown, in Winfield, on May 22, 1848. The town was incorporated on February 21, 1868, and named in honor of Winfield Scott,[6] the commanding general of the U.S. Army during the Mexican–American War.

The James W. Hoge House, Putnam County Courthouse, and Winfield Toll Bridge are listed on the National Register of Historic Places in 2011.[7][8]

2010 Census: As of the census[14] of 2010, there were 2,301 people, 920 households, and 660 families living in the town. The population density was 954.8 inhabitants per square mile (368.7/km²). There were 967 housing units at an average density of 401.2 per square mile (154.9/km²). The racial makeup of the town was 95.2% White, 1.2% African American, 0.3% Native American, 0.7% Asian, 0.7% from other races, and 1.8% from two or more races. Hispanic or Latino of any race were 1.1% of the population.

There were 920 households, of which 35.8% had children under the age of 18 living with them, 56.0% were married couples living together, 10.9% had a female householder with no husband present, 4.9% had a male householder with no wife present, and 28.3% were non-families. 24.1% of all households were made up of individuals, and 8.8% had someone living alone who was 65 years of age or older. The average household size was 2.50 and the average family size was 2.96. The median age in the town was 40.2 years. 26% of residents were under the age of 18; 6.5% were between the ages of 18 and 24; 25.2% were from 25 to 44; 31% were from 45 to 64; and 11.3% were 65 years of age or older. The gender makeup of the town was 48.2% male and 51.8% female.

2000 Census: As of the census[3] of 2000, there were 1,858 people, 736 households, and 563 families living in the town. The population density was 694.6 inhabitants per square mile (268.7/km²). There were 777 housing units at an average density of 290.5 per square mile (112.4/km²). The racial makeup of the town was 99.19% White, 0.22% African American, 0.27% Native American, 0.22% Asian, and 0.11% from two or more races. Hispanic or Latino of any race were 0.43% of the population.

There were 736 households, out of which 39.0% had children under the age of 18 living with them, 65.1% were married couples living together, 9.5% had a female householder with no husband present, and 23.5% were non-families. 20.8% of all households were made up of individuals, and 7.3% had someone living alone who was 65 years of age or older. The average household size was 2.52 and the average family size was 2.92.

In the town, the population was spread out, with 25.8% under the age of 18, 6.0% from 18 to 24, 32.2% from 25 to 44, 25.9% from 45 to 64, and 10.1% who were 65 years of age or older. The

median age was 38 years. For every 100 females, there were 90.2 males. For every 100 females age 18 and over, there were 86.7 males.

The median income for a household in the town was \$51,023, and the median income for a family was \$59,196. Males had a median income of \$43,885 versus \$29,667 for females. The per capita income for the town was \$23,564. About 4.5% of families and 4.9% of the population were below the poverty line, including 1.9% of those under age 18 and 5.2% of those age 65 or over.

Education: The Putnam County Schools operates public schools in the area. Schools in the Winfield attendance area include Winfield High School, Winfield Middle School, and Winfield Elementary School.[15]

SECTION 1: APPLICANT INFORMATION

Type of Submission: Initial Plan

General Information:

- a. **Name of Municipality:** City of Winfield
- b. **Certifying Official:** Randy Barrett, Mayor
- c. **Contact Person:** Randy Barrett, Mayor
- d. **Address:** 12448 Winfield Road, P.O. Box 596, Winfield, WV 25213
- e. **Phone:** 304-856-2122
- f. **Fax:** 304-586-5318
- g. **Email:** mayor@cityofwinfield.net
- h. **Website:** www.cityofwinfield.net
- i. **2010 Census Population:** 2,301
- j. **2024 Estimate:** 2,800
- k. **City of Winfield Town Council:**
 - i. Dana Campbell
 - ii. Kevin Karnes
 - iii. Scott Morris
 - iv. Ryan Powers
 - v. Joe Rumbaugh
- l. **Recorder:** Dave Mattocks
- m. **Town Attorney:** Timothy J. LaFon
- n. **Town Treasurer:** Nikki Phillips

Municipal Classification:

Class III

Categories of Issues to be Addressed:

Tax, Administration, Dilapidated Housing & Auctions

SECTION 2: NARRATIVE:

Issue 1: SALE OF MUNICIPAL PROPERTY WITHOUT AN AUCTION (Category – Administrative)

Specific Barrier: West Virginia Code § 8-12-18(b).

Specific Problems created by law:

W. Va. Code § 8-12-18(b) states that a municipality must sell property at a public auction. The process of selling all property at public auction is a very involved process that often creates extra work on departments that are running at maximum capacity of workload. There is also the risk of losing potential revenue from property that undersells at an auction.

Specifically, W. Va. Code § 8-12-18(b) mandates that municipalities hold public auctions for the sale of all real and personal property worth in excess of one thousand dollars (\$1,000.00) and announce such auction in a Class II legal advertisement. When the primary purpose is to facilitate economic development within the City and/or the availability of necessary or convenient resources for the benefit of its citizenry, the City proposes that it be permitted to convey real and/or personal property with a value in excess of one thousand dollars (\$1,000.00) and not more than twenty-five thousand (\$25,000.00) for fair market value without having to follow the auction procedures outlined in W.Va. Code § 8-12-18(b). This would avoid costly and time-consuming auction procedures and the possibility that the City would be precluded from conveying property for the desired use in a situation where the primary goal is to facilitate economic growth and/or to make available necessary and convenient resources for the benefit of the City and its residents.

Proposed Solution:

The City of Winfield desires to sell personal or real property of any value by negotiation and transfer without the requirement for public auction, if the sale is deemed to be for a public purpose by municipal resolution, adequate notice is provided to the public, and the sale is for adequate consideration, which may consider fair market value.

Issue 2: SALE OF MUNICIPAL PROPERTY TO NON-PROFITS FOR LESS THAN FAIR MARKET VALUE WITHOUT AUCTION (Category – Administrative)

Specific Barrier: West Virginia Code § 8-12-18

Specific Problems Created by law:

Under W.Va. Code § 8-12-18, the City must convey or lease for fair market value, buildings or land to non-profit organizations providing services that benefit the citizens of the City by public or online auction. Such sale may create a financial burden for the non-profit, and by leasing such property to these organizations, the City retains liability inherent therein.

Proposed Solution:

It is proposed that the City be allowed to lease or convey (without auction) for less than fair market value buildings and land to non-profit organizations with a section 501(c)3 determination which are providing services to the public, that, in their absence, the City itself might have to provide, finance or administer; provided that a test similar to that imposed by W.Va. Code § 1-5-3 is met and that ownership of the land or building would revert to the City in the event the

non-profit ceased to provide such services to the public consistent with W. Va. Code § 8-32-1 or no longer qualified under section 501(c)3 of the Code of the Internal Revenue Service. **THE WV MUNICIPAL HOME RULE BOARD AMENDED THIS INITIATIVE TO INCLUDE A \$25,000 CAP.**

Issue 3: ISSUE ON-THE-SPOT CITATIONS FOR PUBLIC NUISANCE, HEALTH, AND SAFETY CODE VIOLATIONS (Category - Administrative)

Specific Barrier: West Virginia Code § 7-1-3(k)(k) and West Virginia Code § 8-12-16

Specific Problems created by law: W. Va. Code § 7-1-3-(k)(k) states that

In addition to all other powers and duties now conferred by law upon county commissions, commissions are hereby authorized to enact ordinances, issue orders and take other appropriate and necessary actions for the elimination of hazards to public health and safety and to abate or cause to be abated anything which the commission determines to be a public nuisance. The ordinances may provide for a misdemeanor penalty for its violation. The ordinances may further be applicable to the county in its entirety or to any portion of the county as considered appropriate by the county commission.

However, it does not specifically give municipalities the ability to issue on-spot citations once an ordinance is passed allowing municipalities to do so. So, as the law stands, municipalities (or their agents, like City Police or Code Enforcement Officials) are unable to issue on-spot citations to offenders.

Further, W. Va. Code § 8-12-16 makes a lengthy process for municipalities to address issues related to code enforcement. Currently, inspectors and compliance employees issue citations after application and approval by the municipal court in accordance with this code which mandates certain procedural and notice requirements including a requirement that “all orders issued by the enforcement agency shall be served in accordance with the law of this state concerning the service of process in civil actions” and a requirement that such orders “be posted in a conspicuous place on the premises affected by the complaint or order...”.

Proposed Solution:

City of Winfield is proposing that:

“that building and zoning administrators, Code Enforcement Officials, and/or City law enforcement officers be given power to issue citations for reoccurring exterior sanitation/common nuisance violations (including, but not limited to, trash/rubbish, overgrown weeds/grass, junked or otherwise unlawfully situated motor vehicles, maintenance of vacant structures, broken windows or glass, failure to maintain sidewalks and driveways) at the site of the violation and at the time the violation is recognized, similar to the manner in which traffic citations are issued”.

Issue 4: MUNICIPAL SALES AND USE TAX (Category - Tax)

Specific Barrier:

West Virginia State Code § 8-13-5, § 8-13C-4(a), § 8-13C-4(b).

Specific Problems created by law:

W. Va. Code § 8-13-5 sets forth standards by which municipalities can apply a Business and Occupation Tax on all businesses operating within the corporate limits of the municipality, but prohibits municipalities from charging a tax rate higher than the maximum rate imposed by the state. Declining industry and tax base have caused this legislation to become outdated and ineffective at supporting municipal operations and their vision for growth.

WV Code § 8-13C-4(b) permits municipalities to charge a 1% sales and use tax if they repeal their B&O Tax. The revenue generated by a 1 % sales tax will not cover the revenue shortfall created by eliminating B&O Taxes, which will cause a greater, adverse effect on the budget.

Proposed Solution:

With the authority pursuant to West Virginia Code § 8-1-5a, the City of Winfield seeks to enact an ordinance that imposes a 1% municipal sales and use tax that would be administered, collected and enforced by the State Tax Commissioner and conform with the requirements of West Virginia Code § 11-10-11c and the requirements of the Streamlined Sales and Use Tax Administration Act as codified in West Virginia Code § 11-15B-1 et seq. As allowed by WV State Code, the City of Winfield seeks to enact a municipal sale and use tax, while reducing several categories of B&O tax in order to benefit small business owners.

DISCUSSION:

The revenue generated from enacting a 1% Sales and Use Tax would not simply roll into the City of Winfield General Fund. Rather, it would be dedicated to specific projects and services not currently funded within the City's general fund budget. Dedicated funds would also include funds for existing projects, as well as matching funds to secure large federal/state grants for community improvements.

Several housing developments that are within the City of Winfield have streets that are in disrepair and not up to code. These streets are not owned by the City of Winfield nor are they dedicated to the City of Winfield. These streets were approved by the County prior to the City of Winfield having a Building Commission. The City of Winfield desires to utilize the additional funds to attempt to help rectify this situation, along with other infrastructure improvements.

Notice of Public Hearing:

The following is the contents of the form letter sent on City of Winfield letterhead to the Municipal Home Rule Board (MHRB) and the Cabinet Secretary of every State department.

(DATE)

Cabinet Secretary
Charleston, WV 25305

In pursuant to provision § 8-5a(g)(2) of the West Virginia Municipal Home Rule Statute, please find the Notification of Public Hearing by the City of Winfield. This letter shall also serve as official notification by the City of Winfield to apply for Home Rule status at the October 2024 meeting of the Municipal Home Rule Board.

Sincerely,

Randy Barrett, Mayor
City of Winfield

Affidavit of Legal Notice of Public Hearing:

Ad Number 178875

Affidavit of Legal Publication and Posting

STATE OF WEST VIRGINIA

COUNTY OF Kanawha, TO-WIT

I Janice Alston, Classified Advertising

Representative of the The Charleston Gazette-Mail, a newspaper

published in the county of Kanawha, West Virginia, hereby

certify that the annexed publication was inserted in said

newspaper **The Charleston Gazette-Mail.**

The cost of publishing said annexed advertisement

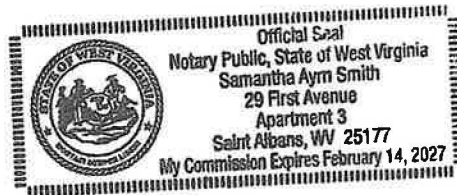
as aforesaid was \$ 66.86

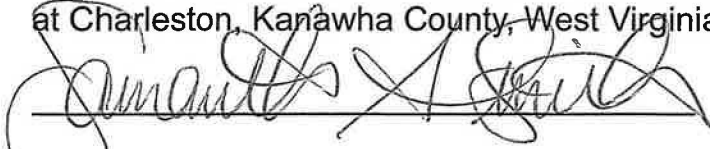
Commencing On: 08/20/2024

Ending On: 08/27/2024

Given under my hand this day 08/27/2024

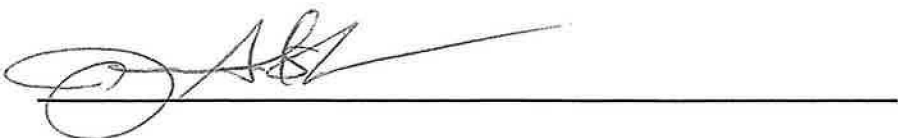
Sworn to and subscribed before me 08/27/2024
at Charleston, Kanawha County, West Virginia





Notary Public of, in and for Kanawha County, West Virginia

MY COMMISSION EXPIRES: 2/14/2027





HD MEDIA COMPANY, LLC

- The Herald-Dispatch • Charleston Gazette-Mail
- The Logan Banner • Williamson Daily News
- Coal Valley News • The Lincoln Journal
- The Lincoln Sentinel • The Putnam Herald
- The Wayne County News • Tri-State Weekly
- Pulse • The Parthenon (Marshall University)

P.O. Box 2017 Huntington, WV 25720 - 2017 • Phone: 304-348-1224

Advertising Invoice

CITY OF WINFIELD
PO BOX 596
WINFIELD, WV 25213

Acct#:68208
Ad#:178875
Phone#:304-586-2122
Date:08/15/2024

Salesperson: Janice Alston

Classification: Legal Notices

Ad Size: 1.0 x 54.0

Advertisement Information:

Description	Start	Stop	Ins.	Cost/Day	Total
Charleston Gazette Mail	08/20/2024	08/27/2024	2	33.43	66.86

Payment Information:

Date:	Order#	Type
08/15/2024	178875	BILLED ACCOUNT

Total Amount: 66.86

Amount Due: 66.86

Attention: Please return the top portion of this invoice with your payment including account and ad number.

Ad Copy

Minutes of Public Hearing, including Documents:

**MINUTES OF THE CITY COUNCIL
SPECIAL MEETING
September 24, 2024
6:00 p.m.**

Mayor Randy Barrett called the meeting of the Winfield City Council to order on September 24, 2024 at 6:00 p.m. at Winfield City Hall, 12448 Winfield Road, Winfield, WV.

Attendance:

Members Attending: Randy Barrett, Mayor; Dana Campbell, Kevin Karnes, Scott Morris, Joe Rumbaugh, Ryan Powers (phone) members; David Mattock, Recorder

Staff Present: Nikki Phillips, City Clerk/Treasurer; Officer Jacob Fletcher; Tim Lafon, City Attorney

No Public in Attendance

No Guests in Attendance

Unfinished Business:

1. PUBLIC HEARING Home Rule.

Mayor Barrett opened the Public Hearing at 6:01 PM. Ordinance 2024-2025-4 Home Rule Application and Written Plan to the Municipal Home Rule Board in Accordance with 8-1-5a et seq Of the West Virginia Code was read aloud. No public or guest were in attendance, therefore there were no questions or discussions.

Dana Campbell made a motion to accept the 3rd Reading of Ordinance #2024-2025-4 Home Rule Application and Written Plan to the Municipal Home Rule Board in Accordance with 8-1-5a et seq Of the West Virginia Code. Motion carried, therefore, Ordinance 2024-2025-4 Home Rule Application and Written Plan to the Municipal Home Rule Board in Accordance with 8-1-5a et seq Of the West Virginia Code is adopted.

Mayor Barrett closed the Public Hearing at 6:03 PM.

- 2. Financial Publication-Charleston Gazette.** Nikki Phillips presented the condensed version of financial statements for the General Fund, Coal Severance and Sanitary Fund that are to be published in the Charleston Gazette. Our accountant, Debbi Rabel, has informed us that an affidavit must be signed by council before publishing the financial.

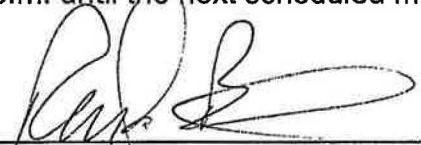
GOOD OF THE ORDER:

Jackie Hunter is trying to back away some from the Seniors and Putnam Aging is going to step in to help keep that program going in Winfield. The Health Department will be at the Community Center to approve the preparation of meals. They are going to try to get more senior citizens involved including new activities for the group. Council has already approved Seniors can have the Community Center every other Thursday in support of that program, this is just going to enhance that program and make it better for the seniors of Winfield.

We purchased a new cruiser as discussed in last month's council meeting. Equipment for the vehicle will be provided through the earmark of federal funds.

ADJOURNMENT

With no further business, Dana Campbell moved that the meeting be adjourned at 6:07 p.m. until the next scheduled meeting. Motion carried.

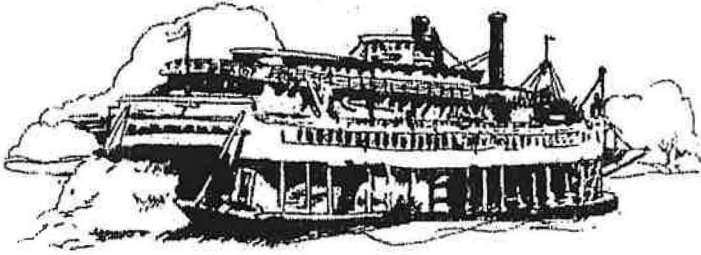


Randy L. Barrett, Mayor



Dave Mattocks, Recorder

Certified Copy of Ordinance Authorizing Plan or Amendment:



City of Winfield

Randy L. Barrett - Mayor

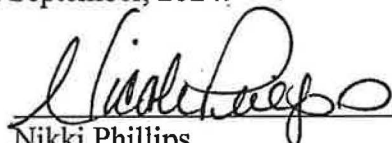
P.O. BOX 596 • WINFIELD, WEST VIRGINIA 25213 • PHONE (304) 586-2122 • FAX (304) 586-5318
www.cityofwinfield.net

City Clerk Verification on Ordinance Authorizing Submission of Plan

ORDINANCE AUTHORIZING SUBMISSION OF PLAN

I, the undersigned Clerk of the City of Winfield, West Virginia, do hereby certify that the foregoing is true, correct and complete copy of an Ordinance Authorizing the Mayor of the City of Winfield, West Virginia to Submit a Home Rule Proposal to the West Virginia Municipal Home Rule Board in accordance with West Virginia Code § 8-1-5a, enacted on the final reading of Council of the City of Winfield, West Virginia on September 24, 2024.

Witness the signature of the undersigned City Clerk of the City of Winfield, West Virginia, and the seal of the City of Winfield, this 29th day of September, 2024.


Nikki Phillips
City Clerk

ORDINANCE #2024-2025-4

AN ORDINANCE OF COUNCIL AUTHORIZING THE MAYOR TO SUBMIT A HOME RULE APPLICATION AND WRITTEN PLAN TO THE MUNICIPAL HOME RULE BOARD IN ACCORANCE WITH §8-1-5a et seq. OF THE WEST VIRIGNIA CODE

BE IT ORDAINED BY THE COUNSEL OF THE CITY OF WINFIELD, PUTNAM COUNTY, WEST VIRGINIA, that the Mayor is hereby authorized to submit a written plan to the Municipal Home Rule Board in accordance with §8-1-5a et seq., as amended, and to otherwise carry into effect and execute all necessary documents required for the consideration of the City of Winfield for the Municipal Home Rule Program. A copy of said written plan is attached hereto and incorporated herein.

FIRST READING: August 13, 2024

SECOND READING: August 21, 2024

PUBLIC HEARING: September 24, 2024

ADOPTION: September 24, 2024

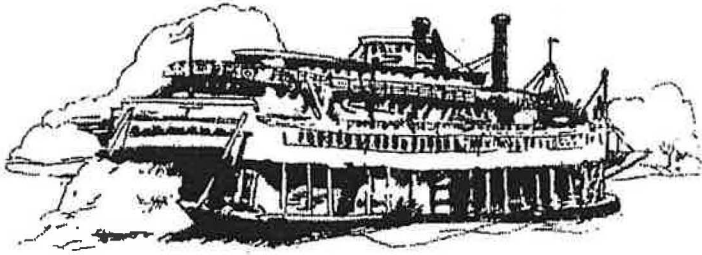
RECORDER  DATE 9/24/2024

MAYOR  DATE 9/24/2024

APPROVE _____

VETO _____

Fiscal Statement:



City of Winfield

Randy L. Barrett - Mayor

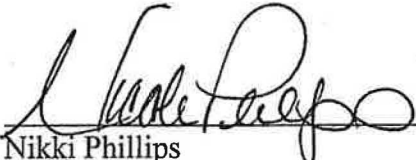
P.O. BOX 596 • WINFIELD, WEST VIRGINIA 25213 • PHONE (304) 586-2122 • FAX (304) 586-5318
www.cityofwinfield.net

Fiscal Statement

The costs and liabilities involved in the City of Winfield's Home Rule Plan include the estimated decrease in business and occupation tax revenue of \$28,407.68, the administration fee from the West Virginia Tax Department for administering, collecting, and enforcing the municipal sales and use tax revenue on the City's behalf of an estimated \$6,144.88, and the annual assessment owed to the Municipal Home Rule Board by all Home Rule cities of \$2,000.00.

The estimated revenue from implementation of the municipal sales and use tax is \$307,244.09

The City will have a net revenue of \$270,691.52. As such, the City can cover all anticipated costs and liabilities associated with the Home Rule Program. (*See attached*)



Nikki Phillips
City Clerk

City of Winfield
 Detail of B&O Tax
 Period July 1, 2022 through June 30, 2023

	TOTAL	Rate	Current Gross Tax	Proposed Reduced Rate	Proposed Gross Tax	Total B&O Tax Reduction
All Other	\$ -	0.015	\$ -	0.15	\$ -	\$ -
Manufacturers	\$ 12,540.82	0.0015	\$ 18.81	0.0015	\$ 18.81	\$ -
Retailers	\$25,801,682.33	0.0025	\$ 64,504.21	0.002	\$ 51,603.36	\$12,900.84
Wholesalers	\$ 5,833,176.05	0.0015	\$ 8,749.76	0.0015	\$ 8,749.76	\$ -
Electric (Domestic/Commercial)	\$ 2,812,207.47	0.02	\$ 56,244.15	0.02	\$ 56,244.15	\$ -
Electric (All Other)	\$ 608,920.45	0.02	\$ 12,178.41	0.02	\$ 12,178.41	\$ -
Natural Gas Companies	\$ 666,344.98	0.02	\$ 13,326.90	0.02	\$ 13,326.90	\$ -
Water Companies	\$ 1,182,051.70	0.02	\$ 23,641.03	0.02	\$ 23,641.03	\$ -
Other Public Utilities	\$ 11,120.99	0.01	\$ 111.21	0.01	\$ 111.21	\$ -
Contracting	\$16,293,642.04	0.01	\$162,936.42	0.01	\$162,936.42	\$ -
Amusement	\$ -	0.005	\$ -	0.005	\$ -	\$ -
Service	\$ 8,500,715.43	0.01	\$ 85,007.15	0.009	\$ 76,506.44	\$ 8,500.72
Rents/Royalties	\$ 7,006,126.81	0.01	\$ 70,061.27	0.009	\$ 63,055.14	\$ 7,006.13
Banking/Loan	\$ 5,797,263.44	0.01	\$ 57,972.63	0.01	\$ 57,972.63	\$ -
Coal	\$ -	0.1	\$ -	0.01	\$ -	\$ -
Sand/Gravel	\$ 200.00	0.03	\$ 6.00	0.03	\$ 6.00	\$ -
Oil,Blast Furnace/Slag	\$ -	0.03	\$ -	0.03	\$ -	\$ -
Natural Gas Companies	\$ -	0.06	\$ -	0.06	\$ -	\$ -
TOTAL	\$74,525,992.51		\$554,757.96		\$526,350.28	\$28,407.68
Total Taxable Sales	\$30,724,408.59					
Additional Council Changes						
Home Rule Tax Rate	0.01					
Total Sales Tax Generated from Home Rule	<u>\$ 307,244.09</u>					
Net Change	\$ 307,244.09					
Less 2% Tax Admin Fee	\$ (6,144.88)					
Less Annual Assessment	\$ (2,000.00)					
Less B&O Reduction	<u>\$ (28,407.68)</u>					
Net Available for New Projects	<u>\$ 270,691.52</u>					

Affidavit of No Outstanding State Fees:

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



Matthew R. Irby, Tax Commissioner

TOWN OF WINFIELD
PO BOX 596
WINFIELD WV 25213-0596

Letter Id: L1721791136
Issued: 11/07/2024
Account #:

West Virginia State Tax Department

Letter of Good Standing

EFFECTIVE DATE: November 7, 2024

A review of tax accounts indicates that TOWN OF WINFIELD is in good standing as of the effective date of this document. Please note, this Letter of Good Standing expires on **February 5, 2025**.

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

Sincerely,

A handwritten signature in cursive script that reads "C. Mitchell".

Catherine Mitchell, Assistant Director
Taxpayer Services Division

Attorney Opinion Letter:

CICCARELLO, DEL GIUDICE & LAFON

ATTORNEYS AT LAW

SUITE 100

1219 VIRGINIA STREET EAST

CHARLESTON, WEST VIRGINIA 25301

MICHAEL J. DELGIUDICE
mikedel@cdlwv.com

TIMOTHY J. LAFON
tlafon@cdlwv.com

ARTHUR T. CICCARELLO
(1930-2004)

TELEPHONE
304-343-4440

FACSIMILE
304-343-4464

November 8, 2024

Director

West Virginia Development Office
West Virginia Home Rule Pilot Program
State Capitol Complex, Building 6, Room 553
Charleston, West Virginia 25305-0311

Re: City of Winfield, West Virginia Attorney Opinion Letter

Dear Director,

In accordance with §8-1-5a(f)(4) of the West Virginia Code, the undersigned Timothy J. LaFon attorney for the City of Winfield, West Virginia, hereby submits this letter certifying that the written plan to which this letter is attached, comports in all respects with West Virginia Code §8-1-5a, as amended, the State Constitution and the United States Constitution and thus, is properly before the Municipal Home Rule Board for its just consideration. In support of this assertion, the undersigned states as follows:

- 1) I am licensed to practice law in the State of West Virginia and I am a member in good standing of the West Virginia State Bar;
- 2) The City of Winfield seeks to implement four ordinances pursuant to the Home Rule statute – a) an ordinance enacting a 1% Sales & Use tax that does not apply to the sale of motor fuel or motor vehicles, and commensurately reducing the business & occupation tax on various classifications as outlined in the written plan; and b) an ordinance authorizing the City of Winfield to dispose of municipal property for a fair market value price but without the necessity of public auction; and (c) an ordinance to issue on the spot citations for public nuisance, health and safety code violations; and (4) an ordinance to shorten the time for forfeiture for certain dilapidated housing;
- 3) Ordinances identical or very similar to these proposals have been previously authorized by this Board and enacted by existing Home Rule cities and have been found to not be in contravention of the Home Rule Statute;

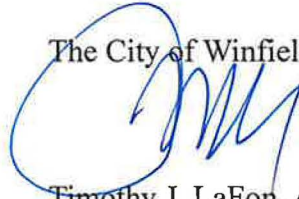
CICCARELLO, DEL GIUDICE & LAFON

- 4) The written plan has no provision attempting to legislate in areas specifically prohibited by §8-1-5a(j) related to (1) environmental law; (2) bidding on government construction and other contracts; (3) The Freedom of Information Act; (4) The Open Governmental Proceedings Act; (5) Wages for construction of public improvements; (6) the provisions of §8-1-5a(j) of the West Virginia Code; and (7) the City of Winfield's written plan;
- 5) Further, the proposed plan does not attempt to address issues specifically prohibited under §8-1-5a(k) related to (1) the Constitutions of the United States or West Virginia; (2) Federal Law or crimes and punishment; (3) Chapters 60-a and sixty-one and sixty-two of the West Virginia Code or state crimes and punishment; (4) pensions or retirement plans; (5) annexation; (6) taxation (other than permitted under §8-1-5a(k)(6) of the West Virginia Code; (7) tax increment financing; (8) extraction of natural resources; (9) persons or property outside the municipal boundaries; (10) marriage and divorce laws; (11) restricting firearm usage; and (12) an occupation tax payable by a non-resident.

Accordingly, based upon the foregoing, I certify that this Home Rule Application comports in all respects with West Virginia State Law and the Constitutions of the United States and the State of West Virginia and thus, is properly before this Board for consideration. The City of Winfield requests that it be permitted to present its submission at a meeting of the Home Rule board.

Respectfully Submitted,

The City of Winfield, by its counsel,



Timothy J. LaFon, Attorney at Law