

# City of Clarksburg

---

West Virginia

**MUNICIPAL HOME RULE PILOT  
PROGRAM APPLICATION**

**2016 AMENDMENT**



## CITY OF CLARKSBURG

222 WEST MAIN STREET • CLARKSBURG, WV 26301 • PH. (304) 624-1673 • FAX (304) 624-6135

OFFICE OF THE MAYOR

June 6, 2016

West Virginia Home Rule Program  
West Virginia Department of Commerce  
State Capitol Complex  
Building 6, Room 525  
Charleston, WV 25303

Re: Home Rule Second Amendment

Dear Home Rule Program Committee:

On behalf of the citizens and elected leaders of Clarksburg, thank you for allowing Clarksburg to participate in the Home Rule Program. As evidenced by the success of the Pilot Program, implementing Home Rule has allowed municipalities to move forward in areas of economic development, neighborhood revitalization, and more efficient governance. With local government being the closest level of government the people, Home Rule has provided novel ideas and afforded municipalities the opportunity to better serve its constituents.

At this time, we are submitting a second amendment to our Home Rule Application and, as in the past, we will continue to take a responsible approach to ensure that Home Rule contributes toward the enhancement of the lives of the people who live, work, visit and play in our city. The enclosed, second amended, application sets forth the next area of governance where we believe added responsibilities at our city government level can produce positive changes in our efforts to improve the quality of life in our community. As always, we remain committed to open government and open discussions regarding all matters that come before our elected officials and all issues that concern our citizens.

Thank you again for playing such an important role in making government more efficient and effective and much appreciation to each of you for committing your time and effort to making a positive difference throughout our great state. Should you have any questions concerning any aspect of our Home Rule Application or our amendment thereto, please do not hesitate to contact me.

Sincerely,

Catherine A. Goings, Mayor

CAG:amw  
Enclosure



# CITY OF CLARKSBURG

WEST VIRGINIA

OFFICE OF  
CITY MANAGER

June 6, 2016

West Virginia Home Rule Pilot Program  
West Virginia Department of Commerce  
State Capital Complex  
Building 6, Room 525  
Charleston, West Virginia 25303

Re: Home Rule Second Amendment

Dear Members of the Home Rule Program Committee:

On behalf of my office and the elected officials of Clarksburg, West Virginia, I extend our appreciation for your consideration and vital deliberation of our Second Home Rule Application Amendment. Our municipality is extremely motivated and welcome the positive difference the Home Rule Program has provided and will continue to provide for years to come. The current approved Home Rule Plan has had a positive impact on the governing relationship we have with our residents.

The City of Clarksburg is submitting a second amendment to our Home Rule Plan. This amended plan further details the added responsibilities we request in the enclosed narrative and application. We have discussed and deliberated to the fullest extent to which we feel these changes will make to our governing practices and our economy. Our residents have had the opportunity to review what the City of Clarksburg proposes in addition to discussing these changes with various members of City Council and myself. We are proud to present our second amendment in the hopes of ultimately having the ability to improve the quality of life for the Clarksburg residents and its visitors.

If you have any questions or if I can be of any further assistance please do not hesitate to contact my office. I can be reached Monday through Friday from 8am to 4:30pm at (304) 624-1677 or by email at [mhowe@cityofclarksburgwv.com](mailto:mhowe@cityofclarksburgwv.com).

Sincerely,

Martin Howe, ICMA-CM  
City Manager

cc: Honorable Mayor and Council Members

**TABLE OF CONTENTS**

**A. EXECUTIVE SUMMARY.....3**

**B. APPLICATION, SECTION I: APPLICANT INFORMATION.....5**

**C. APPLICATION, SECTION II: NARRATIVE.....6**

**D. APPLICATION, SECTION III: AFFIDAVITS..... 10**

**HEARING MANDATE VERIFICATION..... 10**

**PUBLISHER’S CERTIFICATE PUBLIC HEARING.....**

**NOTICE OF PUBLIC HEARING .....**

**MINUTES FROM PUBLIC HEARING .....**

**CITY COUNCIL AGENDA 1<sup>ST</sup> READING.....**

**CITY COUNCIL APPROVED MINUTES .....**

**PUBLISHER’S CERTIFICATE PUBLIC HEARING .....**

**CITY COUNCIL AGENDA 2<sup>ND</sup> READING/PUBLIC HEARING .....**

**CITY COUNCIL MINUTES (UNAPPROVED) .....**

**ORDINANCE AUTHORIZING SUBMISSION OF PLAN.....**

**CODE OFFICIAL / INSPECTOR ORDINANCE.....**

**ATTORNEY OPINION.....**

**STATE OF WEST VIRGINIA FEES STATEMENT (NONE OUTSTANDING).....**

## EXECUTIVE SUMMARY

The City of Clarksburg is a Class II Municipal Corporation located in Harrison County, West Virginia, having a population of approximately 16,000+, was selected as a participant in the West Virginia Home Rule Pilot Program by the West Virginia Municipal Home Rule Board at its meeting held on October 6, 2014, as to all sections of its application. Clarksburg's original application contained seven (7) sections,

- COLLECTION OF CLEAN-UP COST
- COLLECTION OF DEMOLITION LIEN
- RELIEF FROM PARTY AFFILIATION REQUIREMENT
- PROCUREMENT OF ARCHITECT-ENGINEERING SERVICES
- BUILDING AND ZONING ADMINISTRATION ENFORCEMENT PROVISIONS
- APPROPRIATE ADEQUATE FUNDING FOR ADVERTISING THE CITY
- IMPOSE SALES AND USE TAX

The City of Clarksburg has enacted the provision relief from party affiliation requirement for Municipal Non-Partisan Election and Board Commissioners, Procurement of Architect – Engineering Services, the Appropriate Adequate Funding for Advertising the City and also the 1% Sales & Use Tax. The collection of clean-up costs has been resolved by the Legislature and therefore the City has not enacted.

The City has previously amended its' plan on Thursday, December 17, 2015. That amendment, To Permit Local Certification of Supervision of Code Enforcement Officials and Inspectors was proposed, along with the City of Bridgeport, to the Home Rule Board in January, 2016, at which time both cities attempted to work with the WV Fire Commission and the State Legislators to draft and approve legislation. Consequently, the City of Clarksburg along with Bridgeport returned to the Home Rule Board on Monday, April 4<sup>th</sup> at which time the City of Bridgeport was approved and City of Clarksburg was tabled due to not having a full compliment of Board Members as well as awaiting for a ruling from Kanawha County Circuit Court.

This is the second amendment of Clarksburg's Home Rule Plan.

The City of Clarksburg (the City) is tucked away in the hills of North-Central West Virginia. Clarksburg is the County Seat of Harrison County. Clarksburg is located at the intersection of two (2) heavily traveled highways and the second busiest interchanges in the state; Interstate 79 and U.S. Route 50. Clarksburg enjoys the amenities of the largest city in the region with the advantages of a small hometown community. Clarksburg residents enjoy a rich mixture of retail, industrial, and government services, along with a thriving business community, with an abundance of recreational facilities. Clarksburg also has one of the best preserved historic downtowns in the state.

The population of the City of Clarksburg has been steady in the last decade. We aim to increase the population of our City and provide greatly needed municipal services to the residents of Clarksburg. However, the City faces numerous challenges in managing its<sup>2</sup> budget and delivering services mandated by state law. The City is often restricted by state laws that prevent the City from carrying out duties and responsibilities to its residents in a cost-effective, efficient, and timely manner. The following proposed amendment to the Municipal Home Rule Plan outlines solutions to enhance and improve the ability of the City to meet its present and future obligations. Approval of this plan will ensure that the City can continue improving the services and quality of life provided to its residents.

Clarksburg takes great pride in the quality and efficiency of its administrative staff and believes that the amendments to its Home Rule Plan herein set forth will add to and improve the efficient management of its assets and the efficiency with which it carries forth its municipal purposes. Approval of this plan will ensure that the City can continue improving the services and quality of life provided to its residents.

**SECTION I: APPLICANT INFORMATION**

**A. General Information**

Name of Municipality: City of Clarksburg

Certifying Official: Martin Howe      Title: City Manager

Contact Person: Martin Howe      Title: City Manager

Address: 222 West Main Street

City, State, Zip: Clarksburg, WV 26301

Telephone Number: 304-624-1677      Fax Number: 304-624-1662

E-Mail Address: mhowe@cityofclarksburgwv.com

2010 census Population: 16,000+

**B. Municipal Classification**

Class I \_\_\_\_      Class II  X       Class III \_\_\_\_      Class IV \_\_\_\_

**C. Category of Issues to be Addressed**

Please identify areas to be addressed through home rule: (Check all that apply)

\_\_\_\_ Taxing     X  Organization    \_\_\_\_ Administrative    \_\_\_\_ Personnel

(Please describe-attach additional pages for each category):

Please see a summary description of each category on the following pages.

---

## SECTION II: NARRATIVE

### PERMIT SALE OF ALCOHOL BEFORE 1:00 P.M. ON SUNDAYS

**Introduction:** Clarksburg is at the center of North Central West Virginia, and the county seat of Harrison County. The City has been successful with developments of three (3) Brownfields sites and continuing to redefine itself. Clarksburg is an outstanding place to live, work and play. In an effort to continue our growth, and to provide a standard of excellence its residents deserve, the City would like to amend its Home Rule Application in the following manner.

Under WV State Code Section 8-1-5a(k), municipalities participating in the Municipal Home Rule Pilot Program may amend their written plans. For the reasons set forth herein, Clarksburg is now requesting that the Board authorize the following amendment to Clarksburg's approved plan.

**Specific State Laws, Policies, Rules or Regulations:** WV State Code Section 60-7-12(a)(5); 60-8-34; 11-16-18(a)(1), attached as Exhibit A hereto.

**Problem:** *West Virginia State Code Restrains Restaurants and Hotels During Brunch Hours by Prohibiting the Service of Alcohol Before the Hour of One O'Clock P.M. on Sundays.*

### A Short History of Brunch

According to the Smithsonian, Sunday brunch was popularized in the 1930's by hotels as a dining option for travelers on a day when many restaurants were closed. Combining two services (breakfast and lunch) into one provided staffing and kitchen economies for the establishment. Restaurants soon also began offering brunch service and began popularizing the inclusion of morning cocktails such as Bloody Marys, Bellinis, or Mimosas. The popularity of brunch extended as women entered the post-World War II workforce and began looking for an option to preserve the tradition of a Sunday meal with family and friends, but without the time spent in the kitchen preparing that meal. More and more, weekend mornings became the preferred time for groups of friends with career and family obligations to get together. Brunch also offered a form of celebration on holidays like Mother's Day and Easter, and in the last decade has given rise to new traditions like the bridal brunch.

## West Virginia Liquor Laws

Since the repeal of prohibition, West Virginia has maintained various laws regulating the sale of alcohol, including the current prohibition on the sale of alcohol before one o'clock p.m. on Sundays. As the popularity of brunch grew, some restaurants and hotels in Clarksburg and other West Virginia municipalities began offering brunch service, but have indicated that the inability to serve the traditional brunch cocktails until the afternoon has stifled attendance and resulted in limited revenue. On behalf of its membership, the West Virginia Hospitality and Travel Association has advocated for a relaxation of the state's liquor laws to allow alcohol to be served before one o'clock on Sundays so that establishments can capitalize on the popularity of brunch and maximize their revenue from brunch service.

***Proposed Solution: The City of Clarksburg Desires to Authorize Certain Class "A" ABCA License Holders to Serve Alcohol Beginning at Ten O'Clock A.M. on Sundays.***

Cities that have been approved as Home Rule cities are permitted to modify the time at which alcohol may be served on Sundays within their cities, and such a modification is the type of innovative solution that was intended by the Legislature when it enacted the Home Rule Statute. See 8-1-5(a)(a) intent; see also 8-1-5a(i) (modification of time for sale of alcohol within a Home Rule City is not contrary to the provisions of the Home Rule Statute). The Legislature has acknowledged the value of the Home Rule Program as an incubator for municipalities to try new ideas and solutions to overcome administrative and economic restraints and has enacted several state laws that began as one City's idea in the Home Rule Program. With regard to this issue, Shepherdstown has already successfully enacted its own rules regarding Sunday alcohol sales through Home Rule and if authorized to do the same, Clarksburg's enactment will provide citizens with the opportunity to witness and experience an unrestricted, traditional brunch service in the City of Clarksburg.

Although Counties do not currently have home rule powers, the Legislature did recently address the issue of relaxing restrictions on Sunday alcohol sales on a countywide basis. During the 2016 regular session, the Legislature enacted law that provides a mechanism for interested counties to place that issue on the ballot. Notwithstanding, counties and cities often serve a very different population. A survey of Google search interests in "brunch" published in the

Washington Post indicates that brunch is much more popular in urban areas than in rural areas. Given that the interests of Clarksburg and those of the rest of the county may be varied, restaurant and hotel owners and operators in Clarksburg and the Clarksburg Visitor's Bureau ("CVB") have requested that the City pursue this issue now. The City remains supportive of any action the county may take to make earlier alcohol service available countywide. Successful enactment by Clarksburg now will also benefit the county and any other city or county that may be considering Home Rule enactment or countywide election by demonstrating the benefits of relaxing Sunday alcohol restrictions prior to the time in which that issue could be placed on a countywide ballot.

There is good reason to believe that enactment of this power by Clarksburg will benefit its citizenry and result in an economic enhancement to businesses within the City. One of the larger hotels within our corporate City limits would have the opportunity to market for champagne brunch events on which they have heretofore been unable to fully capitalize. The expanded window for alcohol service may also facilitate more events on Sundays benefiting caterers and event venues. Festivals which carryover in Sunday would also have the ability to add increase sales by allowing for the sale of wine and beer before 1:00 p.m., if they so choose. All of this increased revenue for both small and large hospitality business will result in additional business and occupation tax for the City and increased sales tax revenue for both the City and the state. There may also be additional benefits to the City, state, and its citizens from increased working hours and/or tips for servers and other hospitality workers.

The CVB and its Board of Directors, which is composed of civic leaders and people involved in the City's hospitality and tourism industries, fully support the City's use of Home Rule to allow earlier Sunday alcohol service in Clarksburg. Aside from the potential direct financial benefit, relaxing Sunday liquor laws and allowing restaurants in the City to be fully operational on Sunday enhance the City's image in the eyes of business and leisure travelers thereby enriching their travel experience in Clarksburg and promoting Clarksburg as a hip, historic destination. The City's envisions the reinforcement of Clarksburg's position as the region's entertainment and cultural destination with the recently announced revitalization and renovation of the Robinson Grand Performing Arts Center, and active promotion of Clarksburg as a city that offers

a range of lifestyle choices. These goals are instrumental in attracting new residents to the City and retaining its current residents. The establishment of earlier Sunday alcohol service is another way for the City to meet these goals and strengthen its social vitality.

**Conclusion:** The City of Clarksburg respectfully requests that it be granted the power under WV State Code Section 8-1-5a to amend its approved Home Rule Plan to permit the City to allow certain Alcohol Beverage Control Administration Class “A” license holders to begin serving alcohol at ten o’clock a.m. on Sundays.

**SECTION III: AFFIDAVITS**

**Hearing Mandate Verification**

Page intentionally left blank:

Verification to be inserted upon completion of the Public Hearing.

# **Insert City Council Agenda and Public Hearing**

Page intentionally left blank:

Agenda to be inserted after approval

## **City Council Minutes from Public Hearing**

Page intentionally left blank:

Minutes to be inserted upon completion of the Public Hearing

## **Publication Mandate Verification**

Page intentionally left blank:

Verification to be inserted once received at City Hall

## **Ordinance Authorizing Submission of Plan**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CLARKSBURG, WEST VIRGINIA, TO SUBMIT TO THE MUNICIPAL HOME RULE BOARD A PROPOSED AMENDMENT, ATTACHED HERETO AS EXHIBIT A, TO THE CITY OF CLARKSBURG'S MUNICIPAL HOME RULE PLAN CONSISTENT WITH WEST VIRGINIA STATE CODE SECTION 8-1-5a, REQUESTING APPROVAL TO ALLOW THE SALE OF ALCOHOLIC BEVERAGES BY CERTAIN ALCOHOL BEVERAGE CONTROL ADMINISTRATION CLASS "A" LICENSE HOLDERS BEGINNING AT 10:00 A. M. ON SUNDAYS**

**WHEREAS**, the owners of restaurants and hotels in the City have indicated that there is a market for brunch service on Sundays, and that current restrictions on hours of Sunday alcohol service imposed by state law stifle Sunday morning brunch attendance; and

**WHEREAS**, the Clarksburg Convention and Visitor's Bureau and its Board of Directors, which is composed of civic leaders and people involved in the City's hospitality and tourism industries, fully support the City's use of Home Rule to allow earlier Sunday alcohol service in Charleston thereby enabling restaurants and hotels in the City to be fully operational on Sunday to enhance the City's image in the eyes of business and leisure travelers and enrich the experiences of visitors to Clarksburg; and

**WHEREAS**, the Council has determined that slowing alcohol sales at Sunday morning brunch service within the City will produce more revenue and strengthen City businesses, increase City business and occupation tax revenues and City/state sales tax revenues, and increase earnings for servers and other employees working in the hotels and restaurants in the City; and

**WHEREAS**, the Council believes that the City can enhance its position as one of the region's principal entertainment and cultural destinations, and the active promotion of Clarksburg as a city that offers a range of lifestyle choices in order to attract new residents to the City and retain its current residents; the establishment of an earlier Sunday alcohol service is another way for the city to meet these goals and strengthen its social vitality.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CLARKSBURG, WEST VIRGINIA:**

### **SECTION 1. Amendment of the City's Home Rule Plan:**

That, on behalf of the City of Clarksburg, the Mayor, the City Attorney, the City Administration are hereby authorized and requested to submit to the Municipal Home Rule Board, in accordance with the requirements of W. Va. Code § 8-1-5a and application guidelines of the Municipal Home Rule Board, an application to the Municipal Home Rule Pilot Program, and to request approval by the Board of the City of Clarksburg Home Rule Plan; thereby allowing the City of Clarksburg to be considered for participation in the West Virginia Home Rule Pilot

Program. The Mayor and the Administration are further authorized to do all things reasonably necessary to obtain approval by the Board of this application.

**SECTION 1. Effective Date**

This Ordinance shall be effective upon passage.

Passed by Council of the City of Clarksburg on FIRST READING on this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

Passed by Council of the City of Clarksburg on SECOND AND FINAL READING on this day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
CATHERINE A. GOINGS, MAYOR

**ATTEST:**

\_\_\_\_\_  
ANNETTE M. WRIGHT  
CITY CLERK

**APPROVED AS TO FORM:**

\_\_\_\_\_  
GREGORY A. MORGAN  
CITY ATTORNEY

## **Permit Sale of Alcohol Before 1:00 P.M. on Sundays**

Page intentionally left blank:

Ordinance to be approved once City is authorized to amend plan.

The City will be presenting bullet points of ordinance at the Home Rule Board Public Meeting.

LAW OFFICES OF  
**YOUNG MORGAN & CANN, PLLC**

363 LEE AVENUE

CLARKSBURG, WEST VIRGINIA 26301

CARMINE J CANN  
JAMES V CANN  
GREGORY A MORGAN

(304) 624-5687  
FAX (304) 624-4006

ROGER J MORGAN (2011)  
JAMES CANN (1970)  
LLOYD H YOUNG (1978)

Greg Morgan  
City Attorney of Clarksburg

Date: June 6, 2016

Applicant: CITY OF CLARKSBURG, WEST VIRGINIA

Re: City of Clarksburg Municipal Home Rule Proposal

Ladies and Gentlemen:

As City Attorney for the City of Clarksburg, I have reviewed West Virginia Code § 8-1-5a, Municipal Home Rule Pilot Program "Procedure to Amend Written Plan" Application Guidelines, the proposed City of Clarksburg Municipal Home Rule Amended Written Plan, and other documents related thereto (collectively, the "Amended Plan") as I have deemed necessary for the purposes of this opinion.

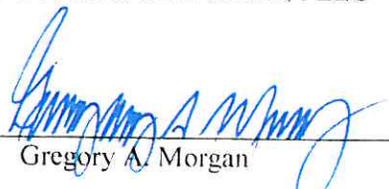
Based upon the examination of such documents and my understanding of the intent of the proposed provisions contained in the Plan, it is my opinion that the Amended Plan complies with the required statutory requirements in that:

1. The Plan does not contain any proposed changes to ordinances, acts, resolutions, rules or regulations that are contrary to the:
  - i. US of WV Constitutions,
  - ii. Chapter 60 – A Uniform Controlled Substances Act,
  - iii. Chapter 61 – Crimes and Their Punishment,
  - iv. Chapter 62 – Criminal Procedure – of this code;
2. The Plan does not contain any proposed changes to ordinances, acts, resolutions, rules, or regulations that would create a defined contribution employee pension or retirement plan for its employees currently covered by a defined benefit pensions plan.

The Municipal Home Rule Board may rely upon this opinion.

Very truly yours,

YOUNG MORGAN & CANN, PLLC

By: 

Gregory A. Morgan



OFFICE OF  
CITY MANAGER

# CITY OF CLARKSBURG

WEST VIRGINIA

June 6, 2016

West Virginia Home Rule Pilot Program  
West Virginia Department of Commerce  
State Capitol Complex  
Building 6, Room 525  
Charleston, West Virginia 25303

Re: West Virginia Fees Statement

Dear Members of the Home Rule Board:

In regard to the Section III: Affidavits Application Checklist requirements, please accept this as the City of Clarksburg's State of West Virginia Fees Statement. This letter is to acknowledge that the City of Clarksburg is current on all fees and has no outstanding fees due to the State of West Virginia

If you have any questions or concerns moving forward, please do not hesitate to call my office, Monday through Friday, 8:00 am to 4:30 pm at 304/624.1677 or contact me by email at [mhowe@cityofclarksburgwv.com](mailto:mhowe@cityofclarksburgwv.com).

Respectively,

Martin Howe, ICMA-CM  
City Manager