

City of Buckhannon
70 East Main Street
Buckhannon, WV 26201



Phone: 304.472.1651
TDD# 304.472.9550
Fax# 304.472.0934

West Virginia Municipal Home Rule Board
ATTN: Debbie Browning
West Virginia Development Office
Building 6, Room 553, State Capitol Complex
1900 Kanawha Blvd., East
Charleston, West Virginia

RE: Application of the City of Buckhannon for Amendment to Written Plan

Dear Ms. Browning,

Attached you will find the application of the City of Buckhannon for an Amendment to its Written Plan under its participation in the West Virginia Municipal Home Rule Pilot Program.

Pursuant to the requirements established in West Virginia Code concerning application for amendment, the following documents are attached:

- 1) A copy of the proposed amendment to the written plan; this proposed amendment was made available to the public at Buckhannon City Hall beginning on January 25, 2017.
- 2) Evidence of publication of notice of a public hearing concerning the proposed amendment, which publication took place on January 25, 2017 and February 1, 2017.
- 3) Minutes of the public hearing concerning the proposed amendment, which took place on March 2, 2017.
- 4) A video recording of the public hearing concerning the proposed amendment, which took place on March 2, 2017.
- 5) A copy of the Ordinance authorizing the submission of this application for amendment.

This letter also constitutes the required letter from an attorney licensed to practice law in West Virginia; I hereby certify that the proposed amendment to the City of Buckhannon's written plan complies with the requirements of West Virginia Code §8-1-5a.

Very sincerely yours,

Thomas J. O'Neill
City Attorney
City of Buckhannon, West Virginia
West Virginia Bar No. 10575.

CITY OF BUCKHANNON

**MUNICIPAL HOME RULE
PILOT PROGRAM
AMENDMENT APPLICATION**



**SUBMITTED TO THE WEST VIRGINIA
MUNICIPAL HOME RULE BOARD**

Municipal Home Rule Pilot Program APPLICATION FOR AMENDED PLAN

SECTION I: APPLICANT INFORMATION	
A. General Information	
Name of Municipality: City of Buckhannon	
Certifying Official: David W. McCauley	Title: Mayor
Contact Person: Amberle Jenkins	Title: Director of Finance
Address: 70 E. Main Street	
City, State, Zip: Buckhannon, West Virginia 26201	
Telephone Number: 304-472-1651	Fax Number: 304-472-4620
E-Mail Address: Mayor@buckhannonwv.org	
2010 Census Population: 5,639	
B. Municipal Classification	
<input type="checkbox"/> Class 1 <input type="checkbox"/> Class II <input checked="" type="checkbox"/> Class III <input type="checkbox"/> Class IV	
C. Category of Issues to be Addressed (please attach descriptions for applicable categories)	
<input type="checkbox"/> Tax <input type="checkbox"/> Organization <input type="checkbox"/> Administration <input type="checkbox"/> Personnel <input checked="" type="checkbox"/> Other	

SECTION II: NARRATIVE (written plan, including the following) See Attachments
1) Please see Page 3

SECTION III: AFFIDAVITS See Attachments
Hearing Mandate Verification Publication Mandate Verification Ordinance Authorizing Submission of Plan Fiscal Impact Worksheets/Formulas Feasibility Study (if taxes are proposed) Attorney Opinion (application complies with statutory requirements) State of West Virginia Fees Statement (none outstanding) Agreement to Requirements Statement (firearms, ammunition and firearm accessories)

Requirements Concerning Firearms, Ammunition and Firearm Accessories

Definitions: As used in this subsection:

- (A) Ammunition means fixed cartridge ammunition, shotgun shells, the individual components of fixed cartridge ammunition and shotgun shells, projectiles for muzzle-loading firearms and any propellant used in firearms or ammunition.
- (B) Firearm accessory means a device specifically designed or adapted to enable the wearing or carrying about one's person, or the storage or mounting in or a conveyance, of a firearm, or an attachment or device specifically designed or adapted to be inserted into a affixed onto a firearm to enable, alter or improve the functioning or capabilities of the firearm.

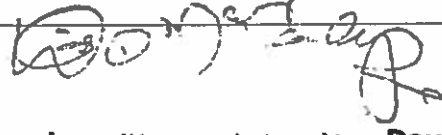
(C) Firearm has the same meaning as in W. Va. § 61-7-2.

General Rule:

- (A) Municipalities participating in the Municipal Home Rule Pilot Program may not restrict in any manner the right of any person to purchase, possess, transfer, own, carry, transport, sell or store any revolver, pistol, rifle, or shotgun, or indirectly prohibit the ownership of the ammunition, or, to restrict in any manner the right of any person to purchase, possess, transfer, own, carry, transport, sell or store any other firearm accessory or accouterment, under any order, ordinance or rule promulgated or enforced by the municipality. This rule may not be construed to prevent any law enforcement official with appropriate authority from enforcing any statute enacted by the state.
- (B) The authority of a municipality to regulate firearms, ammunition, or firearm accessories may not be inferred from its proprietary authority, home rule status or any other inherent or general power.
- (C) Any existing or future orders, ordinances, or rules promulgated or enforced in violation of this subsection are null and void.
- (D) A municipality may regulate the carrying of a firearm in municipal buildings dedicated to government operations, other than parking buildings or garages.

Applicability and Effective Dates:

Ninety days after a new municipality has been selected by the Board to participate in the pilot program, or a previously participating municipality has chosen to continue to participate in the pilot program, any municipal gun ordinances previously authorized by the provisions of section five-a, article twelve, chapter eight of this code shall no longer be of any force or effect for any municipality participating in this program, to the extent they are in conflict with the provisions of this subsection: Provided, that no provision in this subsection may be construed to limit the authority of a municipality to restrict the commercial use of real estate in designated areas through planning or zoning ordinance.



Certifying Official Signature (Mayor or designee): **David W. McCauley, Mayor**

City of Buckhannon Home Rule Amendment Application

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Background

Nestled in the heart of north central West Virginia, Buckhannon is located just miles from Interstate 79 and along U.S. Routes 119, 48 (Corridor H) and 33. Our community offers the simplicity of small town life with the benefit of specialty and antique shops, restaurants, motels, bed and breakfast establishments, Civil War heritage and cultural experiences, and an outstanding liberal arts college – West Virginia Wesleyan College, a 4-year residential college which draws many hundreds of students from other states and countries with the ancillary economic benefits to the community and the state of their faculty, staff, visitors and alumni. Buckhannon's Main Street is a registered Historic District and hosts numerous community events year-round including the renowned West Virginia Strawberry Festival, and Festival Fridays – a new community tradition which draws crowds of hundreds into our downtown's crown jewel park – Jawbone Park – on Friday afternoons from the late spring through early autumn to enjoy locally-sourced food and drink, live music, and camaraderie.

Buckhannon's arts district includes a retail outlet for local artists, a micro-theatre and a performing arts center on the campus of West Virginia Wesleyan College that hosts numerous productions including Mountain Stage performances, Jazz performances and theatre productions. Every September, the Main Street Arts Festival celebrates Buckhannon's local art organizations and talented artists. The City recently purchased the almost century-old Colonial Theatre, which will be restored soon. Outdoor recreation can be found within Buckhannon's city limits. The Buckhannon River is known as one of the best musky fishing locations in the nation and has multiple entries for small boats and kayaks. Our scenic parks are great spots for picnics, walking, biking, and more.

Though the City of Buckhannon promotes its distinctiveness and individual history, it is not too dissimilar from other cities in West Virginia. As with all cities in the state, the City of Buckhannon and its elected representatives are committed to providing every appropriate opportunity for economic growth and diversification for its residents and the businesses located within the City. The City's participation in the Municipal Home Rule Pilot Program has resulted in increased flexibility and responsiveness in meeting the City's challenges, and city leadership is grateful for Buckhannon's participation in the Municipal Home Rule Pilot Program.

Regional tourism is an increasing sector of the local economy, and about twelve restaurants and other businesses are licensed to serve beer, wine, and alcoholic liquor within the corporate limits of the City of Buckhannon. Pursuant to Senate Bill 298, enacted during the 2016 Regular Session of the West Virginia Legislature, the Upshur County Commission held a county option election during the general election held on November 8, 2016 to potentially change the beginning hour to permit the sale or dispensing of non-intoxicating beer, wine and alcoholic liquor for on-premises consumption from 1:00 p.m. to 10:00 a.m. on Sundays. Upshur County voters voted against the question by a margin of 51% to 49%; however, voters within the City of Buckhannon voted for the question by a margin of 57% to 43%. Senate Bill 298 does not provide a mechanism by which the City of Buckhannon may conduct its own option election, leaving the Municipal Home Rule Board as the only entity which may authorize the Buckhannon City Council to put into effect the will of the people of the City as reflected in the option election.

The City of Buckhannon, in an effort to reflect the clear will of the majority of its voters on this question, as well as to realize the modest economic benefits of the adoption of the measure, including the state's realization of attendant increased tax revenue, seeks to amend its Home Rule Application to permit the enactment of an ordinance changing the beginning hour at

which non-intoxicating beer, wine and alcoholic liquor may be sold or dispensed for on-premises consumption on Sundays from 1:00 p.m. to 10:00 a.m.. The City notes that approximately fifteen cities have been approved by the Municipal Home Rule Board for similar measures, with applications expected or pending from several others. All told, about 85 West Virginia municipalities now enjoy that opportunity.

Municipal Classification

The City of Buckhannon has a population of 5,639 (2010 U.S. Census) and is classified under West Virginia Code § 8-1-3 (3) as a Class III city.

Proposal: To change the beginning hour at which non-intoxicating beer, wine and alcoholic liquor may be sold or dispensed for on-premises consumption on Sundays, only within the City of Buckhannon, from 1:00 p.m. to 10:00 a.m.

Problem: West Virginia Code prohibits the sale or dispensing of non-intoxicating beer, wine and alcoholic liquor by private club licensees between the hours of 3:00 a.m. and 1:00 p.m. on Sundays, and by restaurants and private wine bed and breakfasts between the hours of 2:00 a.m. and 1:00 p.m. on Sundays. This restriction within the law has prevented these establishments from offering more traditional brunch menus, missing out on potential economic activity, including tax revenue, which will inure to the benefit of the community and the state. This problem is more acutely realized in Buckhannon because of the presence of West Virginia Wesleyan College and its high number of out-of-state students, whose parents, as well as the College's alumni and other visitors, often travel to the area from their residences in other states where laws may permit the sale of alcohol during the traditional "brunch hours" of 10:00 a.m. through 1:00 p.m. Their inability to enjoy the same amenities as those to which they are accustomed at home represents lost economic activity and tax revenue at a time during which all levels of government seek to enhance such activity.

Moreover, during the option election called by the Upshur County Commission pursuant to Senate Bill 298 (2016) and held during the general election held on November 8, 2016, which would have put into effect the language of this proposed Amendment, voters within the City of Buckhannon approved the ballot question by a margin of 57% to 43%, while voters countywide voted against it by a slim margin of 51% to 49%. In order to place into effect the clearly expressed will of the voters of the City of Buckhannon with respect to the ballot question, the City Council's only present option is to seek this Amendment to its Home Rule Plan, following the example of Buckhannon's sister cities across the State of West Virginia who have sought approval for municipal implementation of this change to the law within their corporate limits.

Solution: If this Amendment is approved by the Municipal Home Rule Board, the City of Buckhannon will consider the enactment of an ordinance changing the beginning hour at which non-intoxicating beer, wine and alcoholic liquor may be sold or dispensed for on-premises consumption on Sundays from 1:00 p.m. to 10:00 a.m.

To the extent required by law, this Amendment shall terminate on or prior to the first day of July, 2019; however, all ordinances enacted under the provisions of this Amendment shall continue in full force and effect until repealed. Further, the City of Buckhannon will cooperate fully with any performance review conducted by the Joint Committee on Government and Finance and provide progress reports to the Municipal Home Rule Board as required.

NOTICE OF PUBLIC HEARING OF THE COUNCIL OF THE CITY OF BUCKHANNON AND OF PROPOSED ADOPTION OF AN AMENDMENT TO THE CITY'S HOME RULE PLAN

TO: All residents of the City of Buckhannon
 Notice is hereby given to all residents of the City of Buckhannon of the City Council's proposed adoption of an Amendment to the Municipal Home Rule Plan of the City of Buckhannon to permit any private club licensee or private wine, beer and breakfast or restaurant to serve beer, wine, and alcoholic liquors after the hour of 10:00 a.m. on Sundays. The Council of the City of Buckhannon will hold a public hearing on the topic of the adoption of said Amendment, to be held on Thursday, March 2, 2017, at 7:00 p.m. o'clock, at Buckhannon's City Hall located at 70 East Main Street in Buckhannon, Upshur County, West Virginia. A reasonable number of copies of the proposed amendment to the City's Municipal Home Rule Plan will be on file at City Hall.

All interested persons may appear at the March 2, 2017 meeting at 7:00 p.m. and be heard with respect to the City Council's proposed adoption of said Amendment.

Amberlie Jenkins, Assistant City Recorder
 #384-1/25/17-2/1/17

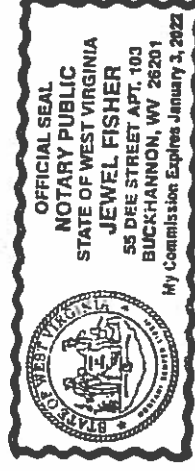
AFFIDAVIT

STATE OF WEST VIRGINIA, COUNTY OF UPSHUR,
 Joy Mullins, Legal Clerk of the Record Delta,
 a Newspaper Published in Buckhannon in said county,
 do hereby certify that the annexed
 AMENDMENT TO THE CITY'S HOME RULE PLAN
 Was published once a week for two (2)
 weeks in said Record Delta Newspaper as aforesaid,
 commencing on the 25th day of January, 2017.

Legal Clerk: Joy Mullins

WEST VIRGINIA, UPSHUR COUNTY, TO WIT:
 Subscribed and sworn before me this 1st
 day of March 2017.

Notary Public: Jewel Fisher
 My commission expires Jan. 3, 2022



THE RECORD DELTA
 P.O. BOX 550
 BUCKHANNON, WV 26201
 (304) 472-2800
 FEIN NO. 363672215

City of Buckhannon
 70 E. Main Street
 Buckhannon, WV 26201

LEGAL ADVERTISEMENT INVOICE

ACCT. 800 LEGAL # 364

DESCRIPTION: AMENDMENT TO THE CITY'S HOME RULE PLAN

PUBLICATION DATES	PUBLICATION COST
1/25/2017	\$ 36.06
2/1/2017	\$ 27.04
	\$ -
	\$ -
	\$ -
	\$ -
	\$ -
AFFIDAVIT FEE	\$ 2.00
TOTAL	\$ 65.09

Legal Rate: .11 1/2 cents per word space for first publication
 75% of the first cost for each additional publication

STATE OF WEST VIRGINIA, COUNTY OF UPSHUR, CITY OF BUCKHANNON, TO WIT:

A regular meeting of the Buckhannon City Council was held on Thursday, March 2, 2017 at 7:00pm at City Hall with the following in attendance:

Mayor	David McCauley	Present
Recorder	Susan Aloï	Via Telephony
Council Member	Mary Albaugh	Present
Council Member	Pam Cuppari	Present
Council Member	CJ Rylands	Present
Council Member	Robbie Skinner	Present
Council Member	David Thomas	Present
Director of Finance/Assistant Recorder	Amberle Jenkins	Present
Director of Public Works	Jerry Arnold	Present
Fire Chief	James Townsend	Present
City Attorney	Tom O'Neill	Present
Office Clerk	Barbara Hinkle	Present
Record Delta Newspaper	Katie Kuba	Present
Channel 3		Present

**City of Buckhannon
City Council Meeting Attendance Record**

Name – Please write clearly	Street Address	Do you desire to address Council? Yes or No and if Yes, State Topic
Dr Tim Reese	42 Collage Ave	Y (N)
MARIA Beay	115 Chestnut St	(Y) N Day Park
Jerry Kimble	90 Little Sand Run City	Y (N)
Hannah Cutlip	34 Baggess St	Y (N)
✓ Ron Rugh	102 Barbours St	(Y) N Maybe 😊 Bunch Bill
✓ Bob Skinnor + ROB HINTON	2 Idan Lane	(Y) N UCDA
✓ Elissa Mills	14 Park	(Y) N
✓ Robyn Simons	16 Park	(Y) N
Stephen Beck	27 Park	Y (N)
✓ Matt Kerney	5 Madison	(Y) N substance abuse meetings
Frank General	93 East Main ST	Y (N)
✓ Jina Cutchfield	116 Circle Dr.	(Y) N Day Park
Derek King		Y (N)
Breanna Mazzella		Y (N)
✓ Josh Hinchman		(Y) N Day Park
Katelyn Fluharty		Y (N)
Laura Meadows		Y (N)
L Jane Cutlip	34 Baggess St	Y (N)

Meeting Agenda Posted 02-27-17

*City Council of Buckhannon – 7:00 pm in Council Chambers
Meeting Agenda for Thursday March 2, 2017*

A. PUBLIC HEARING: ORDINANCE NO. 414 OF THE CITY OF BUCKHANNON, AN ORDINANCE AUTHORIZING THE SUBMISSION OF AN AMENDMENT TO THE CITY'S HOME RULE PLAN TO THE WEST VIRGINIA MUNICIPAL HOME RULE BOARD

B. Call to Order

- B.1 Moment of Silence
- B.2 Pledge to the Flag of the United States of America
- B.3 Mayor's Greetings

C. Recognized Guests

- C.1 Members of the Dog Park Committee
- C.2 UCDA Board Members

D. Department and Board Report

- D.1 Public Works Director- Jerry Arnold
- D.2 Finance Director- Amberle Jenkins
- D.3 City Attorney- Tom O'Neill
- D.4 Fire Chief-James Townsend

E. Correspondence & Information

- E.1 Brickstreet Insurance Re: Safety & Loss Control Follow-Up Visit
- E.2 Upshur-Buckhannon Health Department-Outside Entity Budget Request
- E.3 UCDA- Outside Entity Budget Request
- E.4 Letter to WVWC Re: Establish Dog Park
- E.5 WV Culture & History Grant Program RE: Historic Colonial Theater 48 E. Main St.
- E.6 Final Reminder to Vacant Property Owners
- E.7 FOIA Request West Law Firm
- E.8 Town Hall Meeting Notice-March 13, 2017- Colonial Theatre Project
- E.9 Town Hall Meeting Notice-March 27, 2017-Youth Engagement in our community

F. Consent Agenda

- F.1 Approval of Minutes – Regular meeting 02-16-17 & Special meeting 02-16-17
- F.2 Approval of Building and Wiring Permits
- F.3 Approval of Payment of the Bills
- F.4 UCCVB Zoning-Temporary Extension of the ABCA Licensed Floor Plan-Event Center Brushy Fork
- F.5 Fish Hawk Acres, LLC Zoning Form to ABCA

G. Strategic Issues for Discussion and/or Vote

- G.1 Ordinance 414 Authorize Submission of Amendment Application of Home Rule Plan -2nd /Final Reading
- G.2 Ordinance 415 Stormwater Collection & Management System- 1st Reading
- G.3 City Mapper
- G.4 City Electrical Inspector
- G.5 Continued Discussion on Community Drug Problems

H. Comments and Announcements

- H.1 Mary Albaugh
- H.2 Pamela Cuppari
- H.3 C J Rylands
- H.4 Robbie Skinner
- H.5 David Thomas
- H.6 Susan Aloï

I. Mayor's Comments and Announcements

J. Adjournment

POSTED 02-27-17

Notice of Public Hearing:

January 20, 2017

The Record Delta
Attention: Legal Advertisement Department
2B Clarksburg Road PO Box 550
Buckhannon, WV 26201

RE: Class II Legal Advertisement - City of Buckhannon

Dear Ladies and Gentlemen:

Please find attached herewith a "NOTICE OF PUBLIC HEARING OF THE COUNCIL OF THE CITY OF BUCKHANNON AND OF PROPOSED ADOPTION OF AMENDMENT TO THE CITY OF BUCKHANNON'S HOME RULE PLAN," which I request your newspaper publish twice as a legal advertisement in your editions of January 25 and February 1, 2017, respectively.

Following the second publication of the attached legal advertisement on Wednesday, February 1, 2017 please forward your Publisher's Certificate and Affidavit along with your Publisher's statement to City Recorder Susan Aloj at City Hall.

Should you have any questions or comments whatsoever concerning the publication of this legal advertisement, please contact me at City Hall at 304-472-1651, immediately. Thank you for your assistance in this matter. This letter and attached legal advertisement are being transmitted to you by e-mail attachment and further will be sent by U.S. Postal Service to you at your Clarksburg Road Office.

Very truly yours,

Amberle Jenkins, Assistant City Recorder

Attachment - Legal advertisement - notice of public meeting re: Home Rule Plan Amendment

cc: Members of City Council
David McCauley, Mayor
Thomas J. O'Neill, City Attorney

**NOTICE OF PUBLIC HEARING OF THE COUNCIL OF THE CITY
OF BUCKHANNON AND OF PROPOSED ADOPTION OF AN
AMENDMENT TO THE CITY'S HOME RULE PLAN**

TO: All residents of the City of Buckhannon

Notice is hereby given to all residents of the City of Buckhannon of the City Council's proposed adoption of an Amendment to the Municipal Home Rule Plan of the City of Buckhannon to permit any private club licensee or private wine bed and breakfast or restaurant to serve beer, wine, and alcoholic liquors after the hour of 10:00 a.m. on Sundays.

The Council of the City of Buckhannon will hold a public hearing on the topic of the adoption of said Amendment, to be held on Thursday, March 2, 2017, at 7:00 p.m. o'clock, at Buckhannon's City Hall located at 70 East Main Street in Buckhannon, Upshur County, West Virginia. A reasonable number of copies of the proposed amendment to the City's Municipal Home Rule Plan will be on file at City Hall at least thirty days prior to said hearing, and may be inspected by any member of the public during the regular business hours of City Hall.

All interested persons may appear at the March 2, 2017 meeting at 7:00 p.m. and be heard with respect to the City Council's proposed adoption of said Amendment.

Amberle Jenkins, Assistant City Recorder

WEST VIRGINIA MUNICIPAL HOME RULE PILOT PROGRAM "PROCEDURE TO AMEND WRITTEN PLAN"
<i>Amending a written plan. Please see W. Va. Code § 8-1-5a. Phase I, II, and III municipalities should follow the procedure outlined below to amend their written plan. Requests for new powers or authority, not included in an existing, approved written plan, require an amendment to the written plan.</i>
1) Provide notice at least 30 days prior to a public hearing related to the proposed amendment to the written plan by a Class II legal advertisement.
2) Make a copy of the proposed amendment to the written plan available for public inspection at least 30 days prior to holding a public hearing related to the proposed amendment to the written plan.
3) Hold a public hearing related to the proposed amendment to the written plan.
4) After the public hearing, adopt an ordinance authorizing the submission of the proposed amendment to the written plan to the Municipal Home Rule Board.
5) Seek approval from the Municipal Home Rule Board for the proposed amendment to the written plan. Submit to the Municipal Home Rule Board (Debbie.a.browning@wv.gov); or Debbie Browning; West Virginia Development Office; Building 6, Room 553; Charleston, WV 25305-0311): a) A copy of the proposed amendment to the written plan, including the adopted ordinance authorizing the submission of the proposed amendment. b) Evidence of compliance with 1-3 herein. c) Any comments offered during the public hearing, either in audio or written form. d) 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.
6) The Municipal Home Rule Board will approve or reject the proposed amendment at a publicly noticed meeting.

**PUBLIC HEARING ORDINANCE NO. 414 OF THE CITY OF BUCKHANNON, AN ORDINANCE
AUTHORIZING THE SUBMISSION OF AN AMENDMENT TO THE CITY'S HOME RULE PLAN TO
THE WEST VIRGINIA MUNICIPAL HOME RULE BOARD**

A public hearing to receive comments on ORDINANCE NO. 414, authorizing the submission of an amendment to the City's Home Rule Plan where the City of Buckhannon would change the beginning hour at which non-intoxicating beer, wine and alcoholic liquor may be sold or dispensed for on-premises consumption on Sundays, only within the City of Buckhannon, from 1:00 p.m. to 10:00 a.m.

- **Public Comments:** Only one person asked to be heard being City resident, Ron Pugh stated that he is against the Brunch Bill not so much as in against alcohol before a certain time but because the bill was already voted for in the County and the City. That everybody in the County and City failed it, I think what you are doing now sir is a back doors way of getting your own way of implementing a bill that nobody wants. One restaurant in town perhaps wants it others have stated they do not care one way or the other. I think generally it is going to be bad publicity, and for the Council to do this and start a precedence whereas going behind what the public wants and what they have stated. Mayor McCauley thanked Mr. Pugh and asked if anyone else wanted to be heard relative to Ordinance No. 414. Mayor McCauley gave first call, second call and third call there were no other comments from the public. Mayor McCauley adjourned the public hearing.

Call to Order

- Moment of Silence Mayor McCauley asked for special thoughts and prayers for Harley Brown in regards to health issues. Followed by Pledge to the Flag of the United States of America
- Mayor's Greetings

Recognized Guests

- **Members of the Dog Park Committee-** Lisa Critchfield discussed the benefits of a dog park. Ms. Critchfield updated council that the committee has been working on determining a location, establishing materials for the dog park and how much upkeep and what kind of rules that will be needed for the park. Ms. Critchfield asked the Council to consider budgeting a line item for the park during their budget sessions.
- **Joshua Hinchman** handed out and explained the following brochure and donation form.



Fencing Estimates

Many dog parks have chosen woven wire or farm fencing as an alternative to more expensive chain link fences.

Estimates based on 1000 linear feet
Cost Breakdown:
• (100) Wooden 3.75" x 6'-5" fence posts, installed every 10' \$5.57 per post
• 1,000 linear feet of heavy duty, Red Brand Field Fence: \$ 50 per linear foot

Estimated Total Cost: \$1,099.42


Additional Fencing Costs:
• Entry Gates: \$76.77
• Drive through Gates: 101.45



Chain link fence
Approx. 1000 linear feet
Labor and materials \$22,500.00
A.C.U Fence Co.

Custom Pet Waste Stations \$125.00
Trash Cans - \$100.00
Memorial Benches - \$521.85
Lawn Hydrant: \$50.00
Pet fountain: \$3,000.00

Buckhannon – Upshur Dog Park



Assembled by
Joshua Hinchman

Spring 2017

ZONING FORM

(Original copy must be submitted to the WVABCA Licensing Division)

(FOR USE BY MUNICIPAL AUTHORITIES ONLY)

Note: If an establishment's location is not situated within a municipality, this office will need a letter from the County Commission stating that the establishment location is zoned properly. All applicants must complete the obverse (front) portion of this form.

To: Municipal Clerk or Recorder

Under the requirements set forth in 60-7-4a and/or 11-16-8(a)(5) of the W. Va. State Code, a person intending to apply for a license to operate an ABCA licensed Private Club, Private Wine Restaurant or Tavern at any location within a municipality must file a notice of such intention with the Clerk or Recorder of such municipality at least ten (10) days prior to filing an application for such license with the Alcohol Beverage Control Administration. Pursuant to this requirement, notice is herein given that the following intends to apply to the WV ABCA for a license to operate a Private Club, Private Wine Restaurant, Private Wine Bed and Breakfast, Private Wine Spa, or Tavern issued pursuant to the provisions of §§ Chapter 60, Article 7 and Article 8 and/or Chapter 11, Article 16 of the W. Va. State Code.

Entity Name: FISH HAWK ACRES, LLC

DBA (Doing Business As): FISH HAWK ACRES

Address of Establishment: S W. MAIN ST. BUCKHANNON WV 26201 (Street/Route) (City) (State) (Zip Code)

Applicant's Name(s): HAWKINS DALE (Last) (First) (Middle) LIPPS TERESA (Last) (First) (Middle)

General Description of Premises: FOOD MARKET & RESTAURANT

Food Services to be Offered: DINE IN COUNTER SERVICE FOR LUNCH, TO GO MEALS, DINNER SERVICE FROM 4pm-9pm WITH WAITED TABLE SERVICE

Patron Capacity: 40 MAX.

This Notice has been filed with the Clerk or Recorder of the City/Town of Buckhannon on this 21 day of February, 2017

Applicant's Signature(s): [Signature] Date: FEB 21 2017

(Municipality to fill out reverse side of form)

ABCA-Lic.Z.2

- 1. Is the proposed location for the Private Club, Private Wine Restaurant, Private Wine Bed and Breakfast, Private Wine Spa, or Tavern described consistent with the zoning ordinances of your municipality as either a permitted use or a conditional use of such premises? Yes [x] No
2. (a) If the answer to the first question is 'no,' does your municipality provide within its business zones suitable alternative locations for Private Club, Private Wine Restaurant, Private Wine Bed and Breakfast, Private Wine Spa, or Tavern? Yes No
2. (b) Is the proposed location for the Private Club, Private Wine Restaurant, Private Wine Bed and Breakfast, Private Wine Spa, or Tavern herein described situated in an area designated for the use of community development block grant funds in the municipality? Yes No [x]
3. Does the municipality have any restrictions or regulations prohibiting Limited Video Lottery? Yes No [x]
4. Does the municipality have any restrictions or regulations prohibiting Exotic Dancing establishments? Yes [x] No
5. Additional comments to the Alcohol Beverage Control Administration:

Approved by (Authorized Official Signature and Title): [Signature] Assistant Recorder

City/Town: Buckhannon

Date: 2-21-17

Return Original To: WVABCA Licensing Department 900 Pennsylvania Avenue, 4th Floor Charleston WV 25302

Strategic Issues for Discussion and/or Vote

- Ordinance 414 Authorize Submission of Amendment of Home Rule Plan 2nd / Final Reading:

Mr. O'Neill read Ordinance 414 by caption.

Motion Albaugh/ Skinner to approve Ordinance 414 on 2nd and Final Reading

ORDINANCE NO. 414 OF THE CITY OF BUCKHANNON, AN ORDINANCE AUTHORIZING THE SUBMISSION OF AN AMENDMENT TO THE CITY'S HOME RULE PLAN TO THE WEST VIRGINIA MUNICIPAL HOME RULE BOARD

WHEREAS, the West Virginia Municipal Home Rule Board accepted the City of Buckhannon into Phase II of the West Virginia Municipal Home Rule Pilot Program on October 6, 2014, and approved the written plan submitted therewith; and,

WHEREAS, Chapter 8, Article 1, Section 5a, paragraph (k) of the West Virginia Code of 1931, as amended, permits municipalities participating in the Municipal Home Rule Pilot Program to amend their written plans; and,

WHEREAS, the City of Buckhannon is considering the submission of an amendment to the city's home rule plan, which would change the beginning hour at which non-intoxicating beer, wine and alcoholic liquor may be sold or dispensed for on-premises consumption on Sundays, only within the City of Buckhannon, from 1:00 p.m. to 10:00 a.m.; and,

NOW, THEREFORE, BE IT ORDAINED AND ENACTED BY THE COUNCIL OF THE CITY OF BUCKHANNON, AS FOLLOWS:

ARTICLE I - AUTHORIZATION TO SUBMIT AMENDED PLAN: The Mayor is hereby authorized to submit, pursuant to the rules and procedures established by the West Virginia Municipal Home Rule Board, an application for approval of an amendment to the written plan of the City of Buckhannon, to change the beginning hour at which non-intoxicating beer, wine and alcoholic liquor may be sold or dispensed for on-premises consumption on Sundays, only

within the City of Buckhannon, from 1:00 p.m. to 10:00 a.m., and to take all acts necessary and proper to carry out the submission of said application.

ARTICLE II - EFFECTIVE DATE: This Ordinance shall be deemed effective thirty (30) days following the second (2nd) reading, passage and adoption by the Council of the City of Buckhannon, i.e., April 1, 2017.

FIRST READING: February 16, 2017

PUBLIC HEARING, SECOND READING,
PASSAGE & ADOPTION: March 2, 2017

David W. McCauley, Mayor

CERTIFICATE OF ENACTMENT

I, Susan Aloi, City Recorder, do hereby certify that the foregoing Ordinance No. 414 was lawfully ordained and enacted by the Council of the City of Buckhannon during a regular session of the said Council assembled on March 2, 2017.

Susan Aloi, City Recorder

- Mayor McCauley asked if there is any further discussion. Mr. Thomas stated that he has had several phone calls regarding this Ordinance and he believes that the State legislature in many ways should have provided the opportunity for the municipality and county to have separate elections. Mr. Thomas stated that he had asked in November about having a separate election and Mr. O'Neill researched it and said that it had to go through Home Rule. Mr. Thomas stated that the City precincts overwhelmingly wanted the brunch bill to pass. Mr. Thomas stated that we are doing this for the city not the county and he is an elected official of the city so he feels it is his responsibility to vote for how the citizens asked to have it done when they voted in November.
- Mrs. Cuppari stated that she still disagrees with it, because the majority of the people voted against it, she also stated that her recollection is that 4 out of the 9 precincts in the city limits voted in favor of it. Mayor McCauley stated that is not correct he stated that there are only 4 precincts that comprise the corporate district and all 4 overwhelmingly voted for it.
- Mrs. Albaugh asked if the use of Home Rule is a legal process that gives this Council and the Mayor an opportunity to move forward and make changes for the betterment for the community and we are not doing anything illegal. Mayor McCauley state that is correct.
- Mr. O'Neill wanted to make it clear this ordinance does not establish the change of time. This ordinance only authorizes the submission of the application to the Home Rule Board and the Home Rule Board could say no to the application and it would be over. Mr. O'Neill also stated that the Home Rule Board could say yes to the application and then Council reconsider and never passe an enabling ordinance.

Mayor McCauley called for a roll call vote

Albaugh -	Yes
Rylands-	Yes
Skinner -	Yes
Cuppari-	No
Aloi-	Yes
Thomas-	Yes
Mayor McCauley-	Yes

Mayor McCauley stated that the measure carries 6 to 1.

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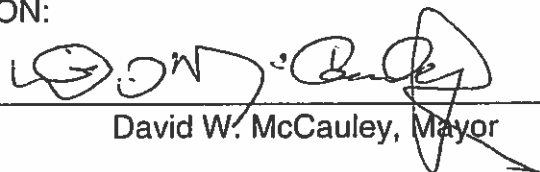
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PUBLIC HEARING, SECOND READING,
PASSAGE & ADOPTION: March 2, 2017



David W. McCauley, Mayor

CERTIFICATE OF ENACTMENT

I, Susan Aloï, City Recorder, do hereby certify that the foregoing Ordinance No. 414 was lawfully ordained and enacted by the Council of the City of Buckhannon during a regular session of the said Council assembled on March 2, 2017.



Susan Aloï, City Recorder

10:20:00

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