



# Town of Fayetteville

West Virginia Municipal Home Rule Application



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## INTRODUCTION:

The Town of Fayetteville was originally known as Vandalia, named after Abram Vandal, who first settled here. When incorporated on November 21, 1872, the town name changed to Fayetteville in honor of Marquis de Lafayette of France. Lafayette was a French aristocrat and military officer who fought in the American Revolutionary War, leading troops in several battles including the siege of Yorktown.

The center of town is the Fayette County Courthouse. There has been a total of three courthouses. The first was destroyed by the Union forces during the Civil War on October 19, 1861. A second which was completed in 1887 was also lost to fire. The third and present courthouse was completed on November 22, 1895, thus keeping the business of the County in Fayetteville.

In the 1970's with mining on the decline and the completion of the New River Gorge Bridge, the area opened up and started to grow into a tourist destination with whitewater rafting, climbing, biking and hiking. Fayetteville became one of America's Coolest Small Towns and has continued to be unique in its growth. Cathedral Café, Pies-n-Pints and Secret Sandwich Society are a few of our local eateries which have national recognition. Outdoor retail stores, recreational manufacturing and vacation rentals continue to be viable markets in our area as well.

Fayetteville West Virginia is moving forward on a national media level. With increased visitation throughout the entire year, we need to increase our funding sources to handle the growth coming to our area. Now we boast a population of 2,806 as of the 2019 Census. While this is a small number the needs are the same as our larger counterparts in the state.

In October 2008, the Town sold their water and sewer systems to West Virginia American Water. While this was a good thing for some, it has posed a problem for how the Town could raise income to address the storm water issues. The number one priority for the Town of Fayetteville is the one percent tax initiative to address our storm water needs as well as other projects and needs within our boundaries.

Fayette County is home to The Summit Bechtel National Scout Reserve, a High Adventure Base National Training Center. Most recently, the New River Gorge National River has been designated as the newest National Park & Preserve.

We currently have eleven full time police officers to manage our Route 19 retail area and our downtown. Our volunteer fire department not only handles fire calls within Fayetteville, but also assists on wrecks, climbing rescues and other emergencies throughout the area including the National Park. As we anticipate a twenty percent increase in visitation this year, both these departments need to increase their coverage and services.

## SECTION 1: APPLICANT INFORMATION

Type of Submission: Initial Plan

### General Information:

- a. **Name of Municipality:** Town of Fayetteville
- b. **Certifying Official:** Sharon Cruikshank, Mayor
- c. **Contact Person:** Matt Diederich, Town Superintendent
- d. **Address:** 125 North Court Street, PO Box 298, Fayetteville, WV 25840
- e. **Phone:** (304) 574-0101
- f. **Fax:** (304) 574-3765
- g. **Email:** [town@fayettevillewv.gov](mailto:town@fayettevillewv.gov)
- h. **Website:** [www.fayettevillewv.gov](http://www.fayettevillewv.gov)
- i. **2010 Census Population:** 2,892
- j. **2019 Estimate:** 2,806
- k. **Fayetteville Town Council**
  - i. Stanley Boyd
  - ii. Brian Good
  - iii. Gabe Peña
  - iv. Okey Skidmore
  - v. Lori Tabit
- l. **Recorder:** Zenda Vance
- m. **Town Attorney:** Carl Harris
- n. **Town Treasurer:** Kathy Williams

### Municipal Classification:

Class III

### Categories of Issues to be Addressed:

Tax, Administration

## SECTION 2: NARRATIVE

### Issue 1: Municipal Sales and Use Tax

Category- Tax

#### Specific Barrier:

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

#### Specific Problems created by law:

WV Code§ 8-13-5 sets 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(a) permits municipalities to charge a 1 % sales and use tax only if the municipality's pension fund is underfunded. The Town of Fayetteville does not have a pension plan outside of the state's retirement plan for public employees.

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 Town of Fayetteville 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 Town of Fayetteville seeks to enact a municipal sales and use tax, while reducing several categories of B&O tax to benefit small business owners.

#### Discussion:

The revenue generated from enacting a 1 % Sales and Use Tax would not simply roll into the Town's general fund; rather, it would be dedicated to specific projects and services not currently funded within our regular budget. Below, we have identified five priority areas that we feel are not funded or underfunded currently. These projects all relate back to Fayetteville's Comprehensive Plan.

## Funding Allocation:

### **50%- Stormwater/ Flood Control Fund**

In 2008, the Town of Fayetteville elected to sell both water and sewer utilities to WV American Water. By doing so, the Town was left with storm water as a remaining utility. Federal Environmental Protection Agency mandated regulations through the MS4 Permit requires municipalities to conform to storm water and sewer separation and clean water standards. This was an unfunded mandate which has left the Town with limited resource to comply. This continues to be an issue and a major factor as to why we are applying for Home Rule and the ability to collect the 1% tax.

### **25%- Parks and Recreation**

Fayetteville is known for its outdoor recreation opportunities. The Town would like to offer additional kid-friendly outdoor opportunities through its Parks and Recreation Department. The vision is to fund several big projects within the Town Park and other areas throughout Town. i.e., Improvements made at the current skate park, bike skills area on park property, paved pump track, splash park and improvements at the Town athletic field.

### **10%- Citizen Services**

Parking and signage were both issues identified in the Town's comprehensive plan. Parking in the downtown area continues to be a major concern. We plan to use a portion of this funding to explore the possible solutions to alleviate downtown congestion. Signage continues to be an issue and we plan on using a portion of the funds to streamline all signs and help direct visitors in the area.

### **10%- Business and Residential Property Improvement Program**

Creation of the Fayetteville Business and Residential Property Improvement Program. This grant program will provide limited financial assistance to qualifying business and residential property owners interested in renovating their façade or sidewalk. Grants of \$4,000 for businesses and \$2,000 for residential will be awarded based on funding availability.

### **5%- Municipal Building Improvements**

Fayetteville currently owns and maintains ten major buildings, as well as three parks and two cemeteries. Many of these buildings are aging and need major repairs. The current Town Hall was constructed in 1921 and is need of renovation.

**Revenue Impact:**

The Town of Fayetteville proposes to further reduce already low B&O taxes by approximately \$95,230, 6.1% annually. Amusements and manufacturers will be eliminated altogether. Contracting will be reduced from 0.02 to 0.015. Retailers with gross income less than \$250,000 per quarter will be reduced from 0.002 to 0.0015. Water utility B&O will be reduced by 2%. Fayetteville residents will see this reduction on their water bill from WV American Water.

**TABLE 1: B&O Tax Reduction**

B&O Category	Current Rate	Prop. New Rate	Savings
Amusements	0.0050	0.0000	796
Contracting	0.0200	0.0150	31,688
Manufacturers	0.0030	0.0000	108
Retailers (up to \$250K/ Qtr.)	0.0020	0.0015	16,984
Water Utility	0.0400	0.0200	45,654
<b>Total B&amp;O Reduction</b>			<b>\$95,230</b>

**TABLE 2: 1% Estimate**

(* Taxable Sales estimated by WV Dept of Revenue)	
Total Taxable Sales	\$60,000,000
1% Tax Rate	0.01
<b>Total Sales Tax Generated</b>	<b>\$600,000</b>

**TABLE 3: Net Change**

<b>Total Sales Tax Generated</b>	<b>\$600,000</b>
Less 5% Tax Admin Fee	(30,000)
Less Annual Assessment	(2,000)
Less B&O Elimination/Reduction	(95,230)
<b>Net Available for New Projects</b>	<b>\$472,770</b>

Under the changes proposed in this application, the Town of Fayetteville expects to gain approximately \$472,770 in annual additional net tax revenues, considering the expected increase in revenues from sales tax, decrease in B&O taxes, annual assessment, and West Virginia State Tax Department administration fee.

## Issue 2: Sale of Municipal Property without an Auction

Category- Administrative

### Specific Barrier:

West Virginia State Code § 8-12-18(b).

### Specific Problems created by law:

WV 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.

### Proposed Solution:

The Town of Fayetteville 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. There was a recent auction of town property which was widely publicized but was only attended by one bidder. If it would have been possible to sell the property through a realtor or by private negotiation, it is believed that it would have been sold for a much higher price than minimum bid.

## Issue 3: On the Spot Citations

Category- Administrative

### Specific Barrier:

West Virginia State Code § 8-12-16.

### Specific Problems created by law:

WV Code § 8-12-16 requires Code Enforcement Officers to post public notice ten days prior and to apply for and receive approval from the municipal courts before a citation can be issued for any public nuisance, including rundown properties. The process is inefficient and leads to an extended delay between identification of a public nuisance and compliance from the property owner.

### Proposed Solution:

The Town of Fayetteville desires to clean up areas that have become unsightly due to owner's neglect in removing vegetation and other debris. This would permit citations to be issued for violations of Town ordinances and would permit the collection of fees for remedial work through the Town's Municipal Court as opposed to proceeding through County Magistrate Court.



# APPENDIX

## Class II legal advertisement of Public Hearing

Public Hearing

Notice of Public Hearing

Municipal Home Rule Plan and Application

Notice is hereby given by the Town of Fayetteville, West Virginia that it will hold a public hearing on Thursday, August 5, 2021, from 4:00 p.m. through 6:00 p.m. at Fayetteville Town Hall, council chambers, 125 North Court Street, Fayetteville, WV.

The purpose of this public hearing is to discuss the Town of Fayetteville's proposed written plan for Home Rule. This information will be utilized by the Town of Fayetteville in its application for acceptance into the West Virginia Municipal Home Rule Program, established by W.Va. Code §8-15a.

The Town of Fayetteville Home Rule Plan will be available for public inspection beginning Friday, July 2, 2021, at Fayetteville Town Hall, 125 North Court Street, Fayetteville, WV, during normal business hours of 8:00 a.m. to 4:00 p.m.

Interested citizens are invited to attend the public hearing scheduled Thursday, August 5, 2021, from 4:00 p.m. to 6:00 p.m., and to present oral or written comments concerning the Town of Fayetteville's proposed Home Rule plan. This public hearing will also be presented virtually through the Town's Zoom Account, for more information about participating by Zoom please contact Town Hall at (304) 574-0101. Written comments may be addressed to the Office of Mayor, Town of Fayetteville, PO Box 298, Fayetteville, WV 25840.

The first reading of the Ordinance, approving the Town of Fayetteville's Home Rule plan and application, will be considered by Council for adoption on Thursday, August 5, 2021, at 6 p.m. immediately following the public hearing at Town Hall, Council Chambers.

The second reading of the Ordinance, approving the Town of Fayetteville's Home Rule plan and application, will be considered by Council for adoption on Thursday, August 19, 2021, at 6p.m., during a special session council meeting at Town Hall, Council Chambers.

Please run as a Class II legal ad for Thursday, July 1 and Thursday, July 8, 2021.

## Notice of Public Hearing

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

June 30, 2021

Cabinet Secretary  
Charleston, WV 25305

In pursuant to provision § 8-1-5a(g)(2) of the WV Municipal Home Rule Statute, please find the Notification of Public Hearing by the Town of Fayetteville. This letter shall also serve as official notification by the Town of Fayetteville to apply for Home Rule status at the October 2021 meeting of the Municipal Home Rule Board.

Sincerely,

Matt Diederich  
Town Superintendent  
Fayetteville

Affidavit of legal notice of Public Hearing

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## Affidavit of Publication

### STATE OF WEST VIRGINIA COUNTY OF FAYETTE,

I, Jeremy Basham, of The Fayette Tribune, a weekly newspaper published in the City of Oak Hill, Fayette County, West Virginia, do certify that the notice attached hereto under the caption;

was published in the said Fayette Tribune 2 time(s) on the following day(s), namely 07/01/21, 07/08/21

Publication Fee: \$48.09

Signed:

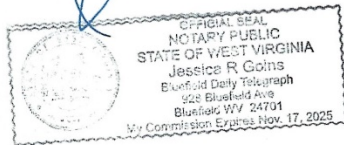
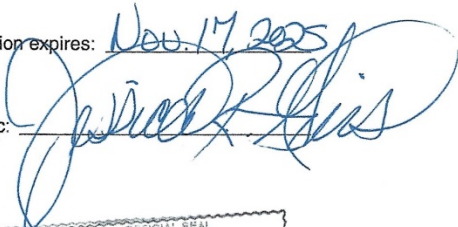


Subscribed and sworn to before me this day  
07/08/2021

My commission expires:

Nov. 17, 2025

Notary Public:



#### Public Hearing Notice of Public Hearing Municipal Home Rule Plan and Application

Notice is hereby given by the Town of Fayetteville, West Virginia that it will hold a public hearing on Thursday, August 5, 2021, from 4:00 p.m. through 6:00 p.m. at Fayetteville Town Hall, council chambers, 125 North Court Street, Fayetteville, WV.

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## Minutes of Public Hearing, including comments

### Home Rule

### Public Hearing

125 N Court Street, Fayetteville, WV

4:00 PM

August 5, 2021

The Town of Fayetteville held a Home Rule public hearing at 4 pm on August 5, 2021, at Town Hall. Those present were Carl Harris, Town Attorney, Mayor Sharon Cruikshank, Matt Diederich, Town Superintendent, Kathy Williams, Town Treasurer, Stanley Boyd, Council Person (via Zoom), Okey Skidmore, Council Person, Gabe Peña, Council Person, Lori Tabit, Council Person and Zenda Vance, Town Recorder.

At 4:00 pm Mayor Cruikshank called the meeting to order and asked everyone to sign in. We had visitors Abbie Newell and Eric Pack joining the hearing by Zoom. Sharon confirmed that everyone on Zoom received a copy of the Home Rule program.

Sharon started the hearing by introducing all the committee and council members attending. She then explained and defined what the Home Rule program is about and how it will benefit all the residents of Fayetteville. A slide presentation is also available. She turned the presentation over to Matt and he stated that 68 municipalities in West Virginia are currently charging the 1% sales tax and referred to the city listing included in the presentation packet and found at [wv.tax.gov](http://wv.tax.gov).

4:10 pm Jenna Grayson signed in to attend the hearing “in-person”.

Matt continued to explain that the 1% tax will not apply to groceries, fuel, cell service or prescriptions. He also showed on the slides an example displaying two receipts from Sam’s in Beckley, WV. The receipts demonstrate just how small an amount the 1% tax adds up to. Beckley has been a Home Rule city for six years now.

A conversation developed regarding stormwater issues and how becoming Home Rule will greatly benefit the Fayetteville residents by eliminating a stormwater fee that is a federal mandate and would be added to their monthly water bill in the near future. The Town would designate 50% of the 1% tax to stormwater needs. Matt showed on the slide presentation a water bill from the City of Oak Hill charging a residential account \$2.00 for a monthly stormwater fee. The slide presentation also showed pictures of flooding areas in the Lively Street area and Stanley Boyd explained how just one culvert on Heslep Avenue cost the Town over \$42,000. Carl, added to the conversation, wanted the residents to know the issues with stormwater and the high costs of engineering fees to comply with Federal mandates. The stormwater plan for the “Frogtown” area has an estimated cost of 2.4 million dollars. In 2019, we were working with FEMA to obtain a grant to help with the “Frogtown” area, but just when we thought we would receive the grant it was cancelled and applied to the FEMA housing needs. To become a Home Rule city would greatly help in this category of needs.

Matt turned the presentation over to Okey Skidmore, Chairman of the Park Board, to explain how becoming a Home Rule city will benefit the community by upgrading our town parks using 25% of the proceeds. Okey talked about the plans to construct a Splash Pad at the town park, which would benefit the residents as well as the visitors to our town. We have plans to construct a bike skills area and we now have the old football field to renovate for athletic purposes. Sharon explained the upgrades we would like to make to our existing skate park so it would be more user friendly, and everyone could enjoy it.

The presentation was turned over to Gabe and he explained the 10% of the tax proceeds will go to a Property Improvement Program (PIP). This program will fund a grant façade to help residents and businesses with exterior improvements to their homes and businesses. Residential will receive \$2,000 and business \$4,000. Gabe also explained how the façade committee will not consist of any elected official. It will be made up of residents and business owners. He feels this program will be successful and no other local town is offering this type of assistance. We received the idea from the City of Buckhannon and their program has proven to be very beneficial.

Matt talked about the 10% that will be used for parking and signage in the downtown area. Parking is a constant struggle in Fayetteville, and we would like to try to find ways to direct visitors around town easily. He spoke about Beckley and how their signage makes parking easy to find in the area. We need to focus on finding easier ways of getting people to the trails, restaurants, stores etc.

Matt explained how 5% will be used to maintain our municipal buildings, which we have 10 major buildings, 3 parks, 2 cemeteries and our Town Hall building is over 100 years old. The third floor of Town Hall is in desperate need of renovating so the space can be used for more than just storage.

That completed the plans for the tax proceeds and now the hearing is turned over to Kathy to explain the business and occupation tax (B&O tax) adjustments to be made for Home Rule. Kathy stated the B&O tax will be eliminated for amusement businesses and manufacturing businesses. Contractors will see a reduction in the B&O tax rate as contracting will be reduced from 2% to 1.5 % and retailers reporting under the first tier will see the B&O tax rate reduced from .20 % to .15 % and the reduction for water companies will be from 4% to 2 %. The water company (WVAW) currently list the B&O tax on a separate line on the resident's water bill, so once this change takes place the resident will notice a 2% reduction for this fee. Basing the rates on the 2020 B&O revenues we will be reducing B&O tax approximately \$95,230. The State of WV Tax Department supplied us with an estimated taxable sales total for our area, using this as a base figure 1% of this will be approximately \$600,000 less the state annual fees at \$32,000 and taking into consideration the B&O tax reduction of \$95,230 the town should receive a net tax revenue of \$472,770 to fund the projects talked about in this hearing today.

Carl spoke about more benefits of being a Home Rule city mentioning the sale of property. He referred to a recent sale of a building our town sold, which we lost money by selling it at an auction. A Home Rule city can sale property by means other than holding an auction, such as by advertisement or by the assistance of a realtor. Currently, sale by auction is mandatory by state code and leaves cities no choice unless a town is Home Rule. Also, one other Home Rule benefit is the ability to alleviate nuisance properties quickly by being able to issue on the spot citations and avoid a lengthy processing time through magistrate court by using our municipal court judge to reach the goal of cleaning up properties.

Sharon asked if anyone had any questions and asked the "in-person" visitor Jenna Grayson if she had heard of any problems from anyone concerning Home Rule. Jenna talked about Fayette County having plans for stormwater at a county level, but she thinks the Home Rule program is great and she has not heard any negativity or problems with the Town moving forward with this plan.

Abbie Newell joining us from Zoom thanks everyone for all the hard work the Town has put into moving us forward in Home Rule.

Gabe asked Abbie about the trails regarding the coalition. He explained how there is a lot of money available for outdoor recreational grants.

4:30 pm Jenna Grayson left the hearing. Eric Pack on Zoom left the hearing and the only other visitor at this time is Abbie Newell and she exited Zoom at 4:32 pm.

4:30 pm the presentation is complete. Sharon and Zenda exited for a moment to confirm that a water emergency at the Morris Harvey Bed & Breakfast has been taken care of by WVAW.

4:45 pm Sharon and Zenda returned to the hearing and Thomas Fezell came in person and signed in.

Sharon greeted him with a program packet, and he stated his major concern is what the 1% tax will be used for.

Sharon began explaining to Mr. Fezell starting with stormwater details. She also explained the percentages and the plans for the proceeds. She also explained how becoming Home Rule will spread out the costs to everybody instead of just the Fayetteville residents. The estimated tax start date would be July 1, 2022.

Carl also explained to Mr. Fezell how out of town residents will shop Fayetteville as well as our residents and visitors.

5:00 pm Rose Michaels and Chris Colin joined the hearing by Zoom.

Mr. Fezell asked if the Town has considered grants to help with stormwater. Sharon explained how we attempted a stormwater grant through FEMA, but it was pulled from Fayetteville and used for housing and at that time we lost the whole grant. Carl and Mr. Fezell talked about the use of stormwater liners and grants to pay for them, and Carl explained how the grants are no longer there. Gabe also stated how grants take a lot of time and we must have something that is MS4 compliant. Carl stated how stormwater cannot go into the sewer and how smoke testing is done, and Mr. Fezell said he understands and that the water company now uses concrete to keep storm drains from entering the sewer systems.

5:05 pm Joy Marr entered the hearing "in person" and signed in.

At this time the presentation started over from the beginning for those just arriving.

5:20 pm, we have two people "in person" and two people on Zoom.

Joy Marr had questions regarding the cost of locating storm drains throughout the town and she feels it is important to know where they are located even if it does cost quite a bit, she feels it would be worth it. Joy talked with Mr. Fezell and exited the hearing at 5:25 pm.

Mr. Fezell talked with Sharon about parking and confirms that the old football field will not be used for parking.

The group explained the parking plan at old the elementary school lot.

Mr. Fezell feels we need two more hotels and five more restaurants. Sharon explained to him we are trying to secure businesses to our town. Mr. Fezell stated he works as a driver for Adventures and staffing seems to be the biggest problem. He has not had a day off for twenty-one days. He continued

to talk about the Fayetteville community and then exited the hearing at 5:35 pm. At this time no one is at the hearing “in-person” or on Zoom.

5:45 pm Cathy Pritt signed into the hearing “in-person”. She just wanted to stop by and give her support. She is in favor of the Home Rule program. She exited the hearing leaving no one else in attendance.

6:00 pm The hearing is complete and closed.

NO negative comments opposing Fayetteville’s Home Rule Application were made by anyone who participated in the Public Hearing.

Submitted by Kathy Williams

### **Chat Correspondence via Zoom**

16:02:43 From Town of Fayetteville to Everyone:

*We will begin shortly*

16:03:28 From Town of Fayetteville to Everyone:

*Would either of you like to speak?*

16:04:31 From Abbie Newell to Everyone:

*I am just listening in to learn more at this point. thank you very much for checking*

16:30:24 From Town of Fayetteville to Everyone:

*Any questions?*

16:31:24 From Abbie Newell to Everyone:

*I would like to thank everyone for your hard work*

16:52:43 From Town of Fayetteville to Rose Michaels (Direct Message):

*Would you like to speak?*

17:00:24 From Town of Fayetteville to Everyone:

*We will be going back through the entire plan at 5.*

17:00:32 From Town of Fayetteville to Everyone:

*Would anyone like to speak?*

Certified Copy of ordinance authorizing plan or amendment

**ORDINANCE AUTHORIZING THE APPLICATION TO THE MUNICIPAL HOME RULE BOARD TO PARTICIPATE IN THE HOME RULE PROGRAM UNDER WEST VIRGINIA CODE § 8-1-5a**

WHEREAS, the Town of Fayetteville seeks to enhance the overall quality of life of its citizens, and

WHEREAS, the Town of Fayetteville, believes that it can improve the economy, infrastructure and social well-being of its community if permitted to adopt the Home Rule Program as provided by West Virginia Code § 8-1-5a(b) and § 8-1-5a (c) (1), and

WHEREAS, the Town of Fayetteville is a Class III municipality under State law and is eligible to participate in the Municipal Home Rule Program, and

WHEREAS, the Town Council finds that participating in the Municipal Home Rule Program is in the public interest, and

WHEREAS, the Town of Fayetteville's inclusion in the Municipal Home Rule Program would permit more efficiency and enable it to more effectively and responsibly pursue and successfully achieve the aforesaid goals.

NOW, THEREFORE, BE IT ORDAINED BY THE FAYETTEVILLE TOWN COUNCIL:

Upon its passage, this Ordinance shall be titled and officially known as the "Fayetteville Home Rule Authorization Ordinance".

The Mayor, Town Recorder, and Town Superintendent are hereby authorized and directed to complete and submit consistent with the form of Home Rule Plan attached hereto and as provided by West Virginia Code § 8-1-5a, a formal Application and a proposed Home Rule Plan to the Municipal Home Rule Board for its consideration and approval.

This Ordinance shall become effective immediately upon its second reading and passage.

First Reading: August 5, 2021

Second Reading: August 19, 2021

Passed: August 19, 2021

ATTESTED:

  
ZENDA VANCE, RECORDER

  
SHARON CRUIKSHANK, MAYOR



## Fiscal Statement

Mayor Sharon Cruikshank  
Recorder Zenda Vance  
Superintendent Matt Diederich  
Town Attorney Carl Harris  
Police Chief David Kinzer



Council Members:  
Stanley Boyd  
Brian Good  
Gabriel Peña  
Okey Skidmore  
Lori Tabit

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August 2, 2021

### Fiscal Statement

The estimated annual revenue from implementation of the municipal sales and use tax is \$600,000.

The cost and liabilities involved in the Town of Fayetteville's Home Rule Plan include the administration fee from the West Virginia Tax Department for administering the municipal sales and use tax on the Town's behalf of an estimated \$30,000, the annual assessment owed to the Municipal Home Rule Board of \$2,000, and an estimated decrease in business and occupation tax revenue of \$95,230.

The Town will have an estimated net revenue of \$472,770. Therefore, the Town can cover all anticipated costs and liabilities associated with the Home Rule Program.

Respectfully,

A handwritten signature in cursive script that reads "Kathy Williams".

Kathy Williams  
Town Treasurer

TOWN OF FAYETTEVILLE  
 REVENUE CONTROL REPORT  
 GENERAL FUND

TITLE	ACCOUNT #	ORIGINAL BUDGET	APPROVED REVISION	REVISED BUDGET	AMOUNT RECEIVED	UNCOLLECTED BALANCE
ASSIGNED FUND BALANCE	1 280 000 00	584,574.00	17,141.00	601,715.00	.00	601,715.00
UNASSIGNED BALANCE	1 299 020 00	1015,814.00	(167,547.00)	848,267.00	.00	848,267.00
PROPERTY TAXES	1 301 010 00	682,458.00	.00	682,458.00	39.39	682,418.61
PRIOR YEAR TAXES	1 301 020 05	36,000.00	.00	36,000.00	1,979.75	34,020.25
SUPPLEMENTAL TAXES	1 301 060 00	35,000.00	.00	35,000.00	3,419.77	31,580.23
CO PENALTIES & INTEREST	1 302 000 00	6,000.00	.00	6,000.00	455.35	5,544.65
GAS & OIL SEVERANCE TAX	1 303 100 00	5,000.00	.00	5,000.00	.00	5,000.00
2% EXCISE TAX	1 304 000 00	151,000.00	.00	151,000.00	8,239.89	142,760.11
BUSINESS & OCCUPATION TAX	1 305 100 00	1500,000.00	.00	1500,000.00	201,182.91	1298,817.09
BUSINESS & OCCUPATION TAX WVML	1 305 200 00	.00	.00	.00	.00	.00
WINE & LIQUOR TAX	1 306 000 00	75,000.00	.00	75,000.00	19,808.58	55,191.42
ANIMAL CONTROL TAX	1 307 000 00	.00	.00	.00	.00	.00
HOTEL/MOTEL TAX	1 308 100 00	94,000.00	.00	94,000.00	26,815.55	67,184.45
FIRE INSURANCE PREMIUM SURTAX	1 311 000 00	50,000.00	.00	50,000.00	.00	50,000.00
TOWN COURT COSTS	1 320 000 00	37,000.00	.00	37,000.00	815.00	36,185.00
POLICE CONTINGENCY FUND	1 320 100 00	5,400.00	.00	5,400.00	290.00	5,110.00
TOWN FINES	1 320 200 00	20,000.00	.00	20,000.00	2,718.25	17,281.75
POLICE FORFEITURE REVENUES	1 320 300 00	.00	.00	.00	12,160.00	(12,160.00)
POLICE ADMINISTRATE FEE	1 320 401 00	.00	.00	.00	60.00	(60.00)
PARKING VIOLATIONS	1 321 000 00	1,000.00	.00	1,000.00	45.00	955.00
BUSINESS LICENSE ETC	1 325 000 00	15,000.00	.00	15,000.00	11,159.42	3,840.58
BUILDING PERMITS	1 326 000 00	.00	.00	.00	.00	.00
VACATION RENTAL PERMIT FEE	1 326 100 00	5,000.00	.00	5,000.00	800.00	4,200.00
VACANT PROPERTY PERMIT FEE	1 326 200 00	.00	.00	.00	.00	.00
FRANCHISE FEES	1 328 000 00	18,000.00	.00	18,000.00	.00	18,000.00
INSPECTION FEES	1 329 000 00	15,000.00	.00	15,000.00	11,761.38	3,238.62
IRP TAX	1 330 000 00	38,000.00	.00	38,000.00	18,253.33	19,746.67
TRUCKS FEE						
RENTS, CONCESSIONS	1 345 000 00	1,000.00	.00	1,000.00	175.00	825.00
COPS PAST GRANT	1 365 000 00	.00	.00	.00	.00	.00
STATE GRANTS	1 366 000 00	.00	.00	.00	.00	.00
GRANTS - HIDTA	1 366 100 00	.00	.00	.00	.00	.00
OTHER GRANTS	1 367 000 00	.00	.00	.00	.00	.00
GRANTS-OTHER-HISTRC HIGH SCHOO	1 367 100 00	.00	.00	.00	.00	.00
GRANTS-OTHER-VA MEMORIAL	1 367 200 00	.00	.00	.00	.00	.00
GRANTS-OTHER-B DACK	1 367 300 00	.00	.00	.00	10.00	(10.00)
POLICE EQUIP FUND TRANSFER	1 369 100 00	7,800.00	.00	7,800.00	638.00	7,162.00
GAS TAX REFUND	1 375 000 00	6,500.00	.00	6,500.00	.00	6,500.00
GAMING INCOME	1 376 000 00	8,000.00	.00	8,000.00	852.42	7,147.58
GAIN/LOSS SALE OF W/S UTILITY	1 379 000 00	.00	.00	.00	.00	.00
EARNED INTEREST	1 380 000 00	3,200.00	.00	3,200.00	38.59	3,161.41
REIMBURSEMENTS	1 381 000 00	.00	.00	.00	315.24	(315.24)
SALE OF FIXED ASSET	1 383 000 00	.00	.00	.00	.00	.00
INSURANCE CLAIMS	1 386 000 00	.00	.00	.00	.00	.00
FILING FEES	1 387 000 00	300.00	.00	300.00	.00	300.00
ACCIDENT REPORTS	1 389 000 00	2,500.00	.00	2,500.00	380.00	2,120.00
RECYCLE REVENUES	1 391 000 00	.00	.00	.00	638.00	(638.00)
VIDEO LOTTERY	1 397 000 00	8,000.00	.00	8,000.00	753.41	7,246.59
MISCELLANEOUS REVENUE	1 399 000 00	1,000.00	.00	1,000.00	608.51	391.49
CREDIT CARD PROCESSING FEE A/R	1 399 200 00	3,000.00	.00	3,000.00	179.97	2,820.03
MISCELLANEOUS REV-NRTA BUS	1 399 300 00	.00	.00	.00	.00	.00
MISCELLANEOUS REVENUE-VA FLAGS	1 399 400 00	.00	.00	.00	216.00	(216.00)
TOTAL REVENUES		4430,546.00	(150,406.00)	4280,140.00	324,808.71	3955,331.29

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, State Tax Commissioner

OFFICE OF CLERK  
FAYETTEVILLE TOWN OF  
125 N COURT ST  
FAYETTEVILLE WV 25840-1209

Letter Id: L1454351904  
Issued: 08/24/2021

**West Virginia State Tax Department**

**Statement of Good Standing**

**EFFECTIVE DATE: August 24, 2021**

A review of tax accounts indicates that FAYETTEVILLE TOWN OF is in good standing as of the effective date of this document. Please note, this Statement of Good Standing expires on **November 22, 2021**.

The issuance of this Statement 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,

Nicole Grant, Tax Unit Supervisor  
Taxpayer Services Division

atL103 v.31

Taxpayer Services Division ■ P.O. Box 885 ■ Charleston, WV 25323-0885  
Toll Free (800) 982-8297 ■ [www.tax.wv.gov](http://www.tax.wv.gov)

Attorney opinion letter

**CARL L. HARRIS**  
**ATTORNEY AT LAW**  
**P. O. BOX 708**  
**MONTGOMERY, WV 25136**

304 222 1549

harriscl@aol.com

August 19, 2021

West Virginia Municipal Home Rule Board  
P. O. Box 11360  
Charleston, West Virginia 25339

RE: Application of the Town of Fayetteville  
West Virginia Municipal Home Rule Program Application

Dear Board Members:

I represent the Town of Fayetteville as its duly appointed Town Attorney. In that capacity, the Mayor and Council have requested that I review West Virginia Code, Article 8, Chapter 1, Section 5a and other applicable sections, the Municipal Home Rule Application Guidelines, and the Town of Fayetteville's Application for Municipal Home Rule, including the Exhibits attached thereto.

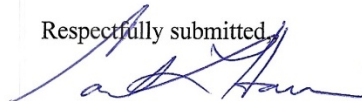
Based upon my review of the applicable statutes, the Application for Municipal Home Rule, the Exhibits attached thereto and further by my attendance at the Town Council meetings and public hearing, it is my legal opinion that the Application complies with the requirements of West Virginia Code, Article 8, Chapter 1, Section 5a.

I further submit that the Application does not include proposals that will make changes to ordinances, acts, resolutions, rules, and regulations contrary to environmental laws; bidding on government construction and other contracts; the Freedom of Information Act; the Open Governmental Proceedings Act; wages for construction of public improvements; the provisions of West Virginia Code §8-1-5a, or the Town of Fayetteville's written plan.

Furthermore, the Application does not propose to pass any ordinance, act, resolution, rule, or regulation prohibited by the Constitution of the United States nor the Constitution of the State of West Virginia, nor any Federal or State laws or regulations. The Application does not propose to impose any unpermitted duties upon other government entities or to impose an occupation tax, fee, or assessment payable by a nonresident of the Town of Fayetteville, except for the proposal of a municipal sales tax of up to one percent in connection with the reduction of the Town's Business and Occupation Tax as set out in the Application and as permitted by West Virginia Code §8-1-5a-(i)(14).

If additional information is needed, please let me know.

Respectfully submitted,



Carl L. Harris