

ORDINANCE NO. 1656

AN ORDINANCE OF THE COUNCIL OF THE CITY OF FAIRMONT ENACTED PURSUANT TO THE PROVISIONS OF WEST VIRGINIA CODE §8-1-5a MUNICIPAL HOME RULE PILOT PROGRAM, AND THE CITY OF FAIRMONT'S HOME RULE PLAN APPROVED OCTOBER 6, 2014, TO PROVIDE FOR THE REDUCTION OF BUSINESS AND OCCUPATION TAX UPON SELLING TANGIBLE PROPERTY AT RETAIL AND THE ELIMINATION OF BUSINESS AND OCCUPATION TAX UPON SELLING TANGIBLE PROPERTY AT WHOLESALE.

WHEREAS, in 2013, the West Virginia Legislature expanded the Municipal Home Rule Pilot Program created pursuant to the provisions of West Virginia Code §8-1-5a, "the Home Rule Statute" to allow participation by additional municipalities;

WHEREAS, the City of Fairmont submitted its Home Rule Plan, "the City's Home Rule Plan" to the Home Rule Board, which plan was approved by the Board on October 6, 2014;

WHEREAS, pursuant to said Plan, the City has determined that it is appropriate to impose a consumer sales and service tax and a use tax pursuant to the provisions of the Home Rule Statute and in accordance with the requirements thereof proposes to reduce or eliminate the business and occupation taxes levied by the City on certain categories of businesses within the corporate limits and to reduce it on others;

WHEREAS, this ordinance is adopted pursuant to the authority of the Home Rule Statute and in furtherance of the City's Home Rule Plan.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF FAIRMONT THAT:

Pursuant to power and authority granted the City of Fairmont by the provisions of West Virginia Code §8-1-5a, and the City of Fairmont's Home Rule Plan, which plan was approved by the Home Rule Board on October 6, 2014, Part Seven, *Business and Taxation Code*, Article 761 *Business and Occupation Tax*, Section 761.05 *Business of Selling Tangible Personal Property; Exemptions* be and is hereby amended as follows: (Matter to be deleted bracketed; New matter double underlined)

SECTION.05 BUSINESS OF SELLING TANGIBLE PROPERTY; EXEMPTIONS

Upon every person engaging or continuing within this City in the business of selling tangible property whatsoever, real or personal, including the sale of food, and the services incident to the sale of food in hotels, restaurants, cafeterias, confectioneries and other public eating houses, except sales by any person engaging or continuing in the business of horticulture, agriculture, or grazing, or of selling stocks, bonds or other evidences of indebtedness, there is likewise hereby

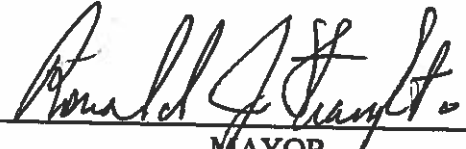
levied, and shall be collected, a tax equivalent to [thirty-nine one hundredths of one percent (.39%)] thirty-five one hundredths of one percent (.35%) of the gross income of the business[;] , [except that in the business of selling at wholesale the tax shall be equal to fifteen one hundredths of one percent (.15%) of the gross income of the business.]

Section 2. SAVINGS CLAUSE : Nothing in this Ordinance shall be construed to affect any suit, audit, tax due, administrative proceeding, or proceeding pending in any court, or rights acquired or liability incurred, or any cause or causes under any act or ordinance amended or repealed; nor shall any vested legal right or remedy of any character be lost, impaired or affected by this Ordinance or any section thereof, and to that extent but only to that extent the provisions heretofore repealed shall be saved.

Section 3. SEVERABILITY: If any section, sentence, clause, section or phrase of this ordinance shall be declared invalid or rendered inoperable for any reason whatsoever, such invalidity or inoperability shall not affect the remaining portions of this Ordinance which shall continue in full force and effect and to this end the provisions of this ordinance are hereby declared to be severable.

Section 4. EFFECTIVE DATE: This provisions of this ordinance shall become effective on the first day of July, 2016.

Adopted this the 8th day of September, 2015.


MAYOR

ATTEST:


INTERIM CITY CLERK

WE, the undersigned officials of the City of Fairmont, West Virginia, do hereby certify that Ordinance No. 1656:

AN ORDINANCE OF THE COUNCIL OF THE CITY OF FAIRMONT ENACTED PURSUANT TO THE PROVISIONS OF WEST VIRGINIA CODE §8-1-5a MUNICIPAL HOME RULE PILOT PROGRAM, AND THE CITY OF FAIRMONT'S HOME RULE PLAN APPROVED OCTOBER 6, 2014, TO PROVIDE FOR THE REDUCTION OF BUSINESS AND OCCUPATION TAX UPON SELLING TANGIBLE PROPERTY AT RETAIL AND THE ELIMINATION OF BUSINESS AND OCCUPATION TAX UPON SELLING TANGIBLE PROPERTY AT WHOLESALE

was introduced and publicly read in its entirety at the Regular Meeting of Council held August 25, 2015 and was published in the Times-West Virginian on August 31, 2015, pursuant to Charter provisions Section 2.13(d); a public hearing was held on September 8, 2015. There being no request that the proposed Ordinance be read in its entirety for a second time, the Clerk read the title only and copies were available to the public as required by Ordinance No. 499. The Ordinance was duly adopted pursuant to the Charter of the City of Fairmont and West Virginia Code; signed by the undersigned officials and filed in the office of the City Clerk.

Adopted by Council of the City of Fairmont, West Virginia, this the 8th day of September, 2015.


MAYOR

ATTEST:

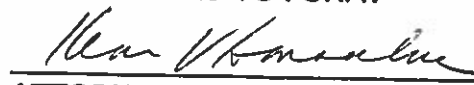

INTERIM CITY CLERK

A TRUE COPY:


MAYOR, CITY OF FAIRMONT, WEST VIRGINIA


CLERK, CITY OF FAIRMONT, WEST VIRGINIA

APPROVED AS TO FORM:


ATTORNEY, CITY OF FAIRMONT, WEST VIRGINIA