

ORDINANCE NO. 1658

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 RELIEF FROM THE PROVISIONS OF WEST VIRGINIA CODE §8a-7-10(c) WHICH PROHIBIT THE CITY'S ZONING ORDINANCE FROM REGULATING THE USE OR ACQUISITION OF ADDITIONAL LAND BY A FARM, INDUSTRY OR MANUFACTURER WHICH MAY BE REQUIRED FOR THE PROTECTION, CONTINUING DEVELOPMENT OR EXPANSION OF ANY AGRICULTURAL, INDUSTRIAL OR MANUFACTURING OPERATION OF ANY PRESENT OR FUTURE SATELLITE AGRICULTURAL, INDUSTRIAL OR MANUFACTURING USE.

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, the City of Fairmont has experienced a decline similar to that suffered by many West Virginia communities caused by chronic long-term economic dislocation and the loss of high wage manufacturing and mining jobs over several decades in the last century, which decline is particularly apparent in the oldest areas of the City of Fairmont, including, but not limited to the City's former industrial areas, and many of its original residential neighborhoods;

WHEREAS, the City of Fairmont has made considerable efforts to diversify its economy into technology and service based industries in order to avoid the boom/bust economy associated with its former economic base and to revitalize and rehabilitate certain of the City's former industrial areas into areas for recreational, educational and other compatible uses;

WHEREAS, in 2006, the City amended its Zoning and Land Use Planning Ordinance, in part, to aid to its revitalization efforts and to accommodate and meet the changes in land uses which had occurred as a result of the chronic long-term economic dislocation and the loss of high wage manufacturing and mining jobs.

WHEREAS, despite numerous improvement projects, the goal of revitalization and renewal of the City of Fairmont has only been partially realized, and the expansion of certain industrial activities and uses pursuant to the provisions of West Virginia Code 8A-7-10(c) in areas that are no longer zoned for such uses has proven to be a major impediment to achieving the aforementioned goal..

WHEREAS, the provisions of West Virginia Code 8A-7-10(c) are inimical to the public health and safety of the City and her citizens;

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 Thirteen, Planning and Zoning Code, Article 1303 Definitions, Section .03 Definitions *Non-conforming Uses* be and is hereby amended and supplemented as follows: (Matter to be deleted bracketed; New matter double underlined)

PART THIRTEEN PLANNING AND ZONING CODE

ARTICLE 1303 DEFINITIONS

SECTION.03 DEFINITIONS


NON-CONFORMING USES

Any actual and active use lawfully being made of any land, building, or structure not otherwise abandoned, which exists on the effective date of this Zoning Ordinance or on the effective date of any amendment thereto, and renders such existing use illegal within a district, or which does not comply in any fashion with the rules, requirements and regulations of this ordinance or any amendments thereto. If the property or structure is vacant or unused on the effective date of this Zoning Ordinance or any amendment thereto, there shall be a rebuttable presumption that any use not in compliance with this Zoning Ordinance has been abandoned for at least a year, and the property or structure shall be subject to the provisions of this Zoning Ordinance or any amendments thereto. A use or activity that was lawful prior to the adoption, revision, or amendment to the Zoning Ordinance but that fails by reason of such adoption, revisions, or amendment to conform to the present requirements of the zoning district. See also existing use.

Notwithstanding the provision of West Virginia Code §8A-7-10(c), no farm, industry or manufacturer shall alter or add to or provide for the replacement of any building or structure owned by any such farm, industry or manufacturer, or use any land presently owned by any farm, industry or manufacturer, but not used for agricultural, industrial or manufacturing purposes, unless such alteration, addition, replacement or use shall be in accordance with the provisions of this Zoning Ordinance and any amendments thereto, and the use or acquisition of additional land which may be required for the protection, continuing development or expansion of any agricultural, industrial or manufacturing operation of any present or future satellite agricultural, industrial or manufacturing use shall also be in accordance with the provisions of this Zoning Ordinance and any amendments thereto.

This ordinance shall become effective thirty (30) days after adoption.

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. 1658:

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 RELIEF FROM THE PROVISIONS OF WEST VIRGINIA CODE §8a-7-10(c) WHICH PROHIBIT THE CITY'S ZONING ORDINANCE FROM REGULATING THE USE OR ACQUISITION OF ADDITIONAL LAND BY A FARM, INDUSTRY OR MANUFACTURER WHICH MAY BE REQUIRED FOR THE PROTECTION, CONTINUING DEVELOPMENT OR EXPANSION OF ANY AGRICULTURAL, INDUSTRIAL OR MANUFACTURING OPERATION OF ANY PRESENT OR FUTURE SATELLITE AGRICULTURAL, INDUSTRIAL OR MANUFACTURING USE

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