

ORDINANCE NO. 1657

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 ELIMINATION OF BUSINESS AND OCCUPATION TAX UPON MANUFACTURED, COMPOUNDED OR PREPARED PRODUCTS; PROCESSING OF FOOD.

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;

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Occupation Tax*, Section 761.04 *Manufactured, Compounded or Prepared Products; Processing of Food* be and is hereby repealed (Matter to be deleted bracketed; New matter double underlined)

Section 1. REPEAL: [SECTION.04 MANUFACTURED, COMPOUNDED OR PREPARED PRODUCTS; PROCESSING OF FOOD

Upon every person engaging or continuing within this City in the business of manufacturing, compounding or preparing for sale, profit or commercial use, either directly or through the activity of others in whole or in part, any articles, substances or commodities, or electric power produced by public utilities or others, and not taxed under other provisions of this article, the amount of the tax referred in in Section 761.02 shall be equal to the value of the article, substance, commodity or electric power manufactured, compounded or prepared for sale, as shown

by the gross proceeds derived from the sale thereof by the manufacturer or person compounding or preparing the same, except as otherwise provided, multiplied by a rate of twenty-two hundredths of one percent (.22%). The measure of this tax is the value of the entire product manufactured, compounded or prepared in this City for sale, profit or commercial use, regardless of the place of sale or the fact that deliveries may be made to points outside the City. However, the dressing and processing of food by a person, which food is to be sold on a wholesale basis by such person shall not be considered as manufacturing or compounding, but the sale of these products on a wholesale basis shall be subject to the same tax as is imposed on the business of selling at wholesale as provided in Section 761.05.

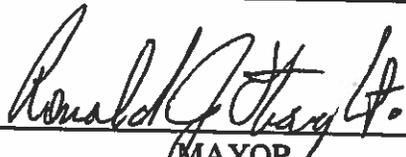
It is further provided, however, that in those instances in which the same person partially manufactures, compounds or prepares products within this City and partially manufactures, compounds or prepares such products outside of this City, the measure of his tax under this section shall be that proportion of the sale price of the product that the payroll cost of manufacturing within the City bears to the entire payroll cost of manufacturing the product; or, at the option of the taxpayer, the measure of his tax under this section shall be the full cost of manufacture of the articles.]

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.

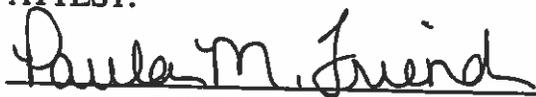
Section 4. EFFECTIVE DATE: This provisions of this ordinance shall become effective on the first day of July, 2016.

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. 1657:

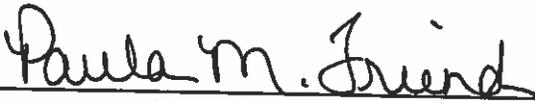
AN ORDINANCE OF THE COUNCIL OF THE CITY OF FAIRMONT ENACTED PURSUANT TO THE PROVISIONS OF WEST VIRGINIA CODE §8-1-5a MUNICIPAL HOME RULE PILOT PROGRAM, AND THE CITY OF FAIRMONT'S HOME RULE PLAN APPROVED OCTOBER 6, 2014, TO PROVIDE FOR THE ELIMINATION OF BUSINESS AND OCCUPATION TAX UPON MANUFACTURED, COMPOUNDED OR PREPARED PRODUCTS; PROCESSING OF FOOD

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.

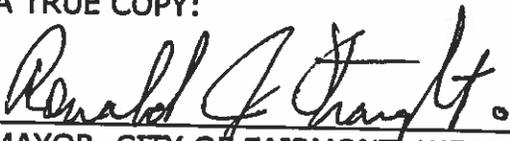
Adopted by Council of the City of Fairmont, West Virginia, this the 8th day of September, 2015.

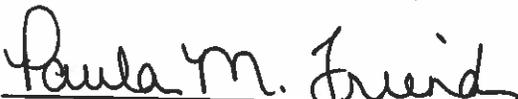

MAYOR

ATTEST:

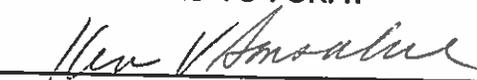

INTERIM CITY CLERK

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