



# Town of Fayetteville

West Virginia Municipal Home Rule Application



# Table of Contents

- Introduction:**..... 2
- Section 1: Applicant Information**..... 3
  - General Information:**.....3
  - Municipal Classification:**.....3
  - Categories of Issues to be Addressed** .....3
- Section 2: Narrative**..... 4
  - Issue 1: Municipal Sales and Use Tax**.....4
    - Specific Problems created by law:** ..... 4
    - Proposed Solution:** ..... 4
    - Discussion:** ..... 4
    - Allocation:**..... 5
  - Revenue Impact:** .....6
  - Issue 2: Sale of Municipal Property without an Auction** .....7
  - Issue 3: On the Spot Citations** .....7

## 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.

## 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.