

CITY OF BUCKHANNON

**MUNICIPAL HOME RULE
PILOT PROGRAM
AMENDMENT APPLICATION**



**SUBMITTED TO THE WEST VIRGINIA
MUNICIPAL HOME RULE BOARD**

Municipal Home Rule Pilot Program APPLICATION FOR AMENDED PLAN

SECTION I: APPLICANT INFORMATION	
A. General Information	
Name of Municipality: City of Buckhannon	
Certifying Official: David W. McCauley	Title: Mayor
Contact Person: Amberle Jenkins	Title: Director of Finance
Address: 70 E. Main Street	
City, State, Zip: Buckhannon, West Virginia 26201	
Telephone Number: 304-472-1651	Fax Number: 304-472-4620
E-Mail Address: Mayor@buckhannonwv.org	
2010 Census Population: 5,639	
B. Municipal Classification	
<input type="checkbox"/> Class 1 <input type="checkbox"/> Class II <input checked="" type="checkbox"/> Class III <input type="checkbox"/> Class IV	
C. Category of Issues to be Addressed (please attach descriptions for applicable categories)	
<input checked="" type="checkbox"/> Tax <input type="checkbox"/> Organization <input type="checkbox"/> Administration <input type="checkbox"/> Personnel <input type="checkbox"/> Other	

SECTION II: NARRATIVE (written plan, including the following) See Attachments
1) Please see Page 3

SECTION III: AFFIDAVITS See Attachments
Hearing Mandate Verification Publication Mandate Verification Ordinance Authorizing Submission of Plan Fiscal Impact Worksheets/Formulas Feasibility Study (if taxes are proposed) Attorney Opinion (application complies with statutory requirements) State of West Virginia Fees Statement (none outstanding) Agreement to Requirements Statement (firearms, ammunition and firearm accessories)

Requirements Concerning Firearms, Ammunition and Firearm Accessories

Definitions: As used in this subsection:

- (A) Ammunition means fixed cartridge ammunition, shotgun shells, the individual components of fixed cartridge ammunition and shotgun shells, projectiles for muzzle-loading firearms and any propellant used in firearms or ammunition.
- (B) Firearm accessory means a device specifically designed or adapted to enable the wearing or carrying about one's person, or the storage or mounting in or a conveyance, of a firearm, or an attachment or device specifically designed or adapted to be inserted into a affixed onto a firearm to enable, alter or improve the functioning or capabilities of the firearm.

(C) Firearm has the same meaning as in W. Va. § 61-7-2.

General Rule:

- (A) Municipalities participating in the Municipal Home Rule Pilot Program may not restrict in any manner the right of any person to purchase, possess, transfer, own, carry, transport, sell or store any revolver, pistol, rifle, or shotgun, or indirectly prohibit the ownership of the ammunition, or, to restrict in any manner the right of any person to purchase, possess, transfer, own, carry, transport, sell or store any other firearm accessory or accouterment, under any order, ordinance or rule promulgated or enforced by the municipality. This rule may not be construed to prevent any law enforcement official with appropriate authority from enforcing any statute enacted by the state.
- (B) The authority of a municipality to regulate firearms, ammunition, or firearm accessories may not be inferred from its proprietary authority, home rule status or any other inherent or general power.
- (C) Any existing or future orders, ordinances, or rules promulgated or enforced in violation of this subsection are null and void.
- (D) A municipality may regulate the carrying of a firearm in municipal buildings dedicated to government operations, other than parking buildings or garages.

Applicability and Effective Dates:

Ninety days after a new municipality has been selected by the Board to participate in the pilot program, or a previously participating municipality has chosen to continue to participate in the pilot program, any municipal gun ordinances previously authorized by the provisions of section five-a, article twelve, chapter eight of this code shall no longer be of any force or effect for any municipality participating in this program, to the extent they are in conflict with the provisions of this subsection: Provided, that no provision in this subsection may be construed to limit the authority of a municipality to restrict the commercial use of real estate in designated areas through planning or zoning ordinance.

Certifying Official Signature (Mayor or designee): **David W. McCauley, Mayor**

City of Buckhannon Home Rule Amendment Application

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Background

Nestled in the heart of north central West Virginia, Buckhannon is located just miles from Interstate 79 and along U.S. Routes 119, 48 (Corridor H) and 33. Our community offers the simplicity of small town life with the benefit of specialty and antique shops, restaurants, motels, bed and breakfast establishments, Civil War heritage and cultural experiences, and an outstanding liberal arts college – West Virginia Wesleyan College, a 4-year residential college which draws many hundreds of students from other states and countries with the ancillary economic benefits to the community and the state of their faculty, staff, visitors and alumni. Buckhannon’s Main Street is a registered Historic District and hosts numerous community events year-round including the renowned West Virginia Strawberry Festival, and Festival Fridays – a new community tradition which draws crowds of hundreds into our downtown’s crown jewel park – Jawbone Park – on Friday afternoons from the late spring through early autumn to enjoy locally-sourced food and drink, live music, and camaraderie.

Buckhannon’s arts district includes a retail outlet for local artists, a micro-theatre and a performing arts center on the campus of West Virginia Wesleyan College that hosts numerous productions including Mountain Stage performances, Jazz performances and theatre productions. Every September, the Main Street Arts Festival celebrates Buckhannon’s local art organizations and talented artists. The City recently purchased the almost century-old Colonial Theatre, the restoration of which is well underway. Outdoor recreation can be found within Buckhannon’s city limits. The Buckhannon River is known as one of the best musky fishing locations in the nation and has multiple entries for small boats and kayaks. Our scenic parks are great spots for picnics, walking, biking, and more.

Though the City of Buckhannon promotes its distinctiveness and individual history, it is not too dissimilar from other cities in West Virginia. As with all cities in the state, the City of Buckhannon and its elected representatives are committed to providing every appropriate opportunity for economic growth and diversification for its residents and the businesses located within the City, as well as the municipality’s ability to fund essential public services. The City’s participation in the Municipal Home Rule Pilot Program has resulted in increased flexibility and responsiveness in meeting the City’s challenges, and city leadership is grateful for Buckhannon’s participation in the Municipal Home Rule Pilot Program.

The City of Buckhannon maintains a business and occupation tax structure unique in West Virginia. The retail component, which represents the majority of receipts, contains a three-tier structure, but more importantly includes a \$1 Million initial exemption for all retail, wholesaler, and manufacturing taxpayers; the City adopted this exemption in order to protect the smallest and most economically vulnerable enterprises from the potentially negative impacts of the tax on their operations. In addition, the existing B&O only covers certain business sectors, such as contractors, financial services, retail & wholesale sales, and manufacturing. There is no general B&O tax applicable to all licensed businesses. Indeed, Buckhannon’s B&O tax structure may be the most generous in the state by virtue of those threshold exemptions and limitations to certain business sectors.

Municipal Classification

The City of Buckhannon has a population of 5,639 (2010 U.S. Census) and is classified under West Virginia Code § 8-1-3 (3) as a Class III city.

Proposal: To implement up to a 1% municipal sales and use tax within the municipal boundaries of the City of Buckhannon

Problem: The Council of the City of Buckhannon would like to consider the implementation of a sales and use tax for any purchases made within municipal limits. West Virginia Code §8-13C-1, *et seq.* prohibits the imposition of a municipal sales and use tax without elimination of the municipality's business and occupation tax. This restriction has hampered the ability of the City of Buckhannon to maintain and enhance vital public services and threatens the ability of the City's revenues to keep up with the pace of inflation. As the municipal B&O funds approximately 25% of the City's General Fund budget, elimination of this key revenue source is not feasible.

The City certainly has alternative avenues with which to raise revenue. It may increase fire and police service fees, implement a stormwater service fee within certain watersheds, and collect a fire fee from its "first due" service area, including areas outside of the municipality. For several reasons, particularly the deeply negative impact of a first due fire fee on the remaining volunteer fire departments located throughout the rest of Upshur County, the City believes that implementation of a municipal sales and use tax is the most prudent and responsible option. Importantly, it shares the cost of certain city services – most or all of which are enjoyed by city residents and nonresidents alike – among the broader population benefitting from those services. In addition, a sales tax is a tax of choice – a person can avoid paying the tax by making a strategic decision regarding the location of their purchases¹.

While City outlays have risen over the past years as a consequence of the cost of goods and services the City uses in carrying out its mandates, Buckhannon has maintained a balanced budget by making certain changes to its operations, including adopting fleet management services in lieu of vehicle purchases, reducing payroll through attrition, and working with vendors to minimize increases in insurance costs. The City's ability to manage stagnant revenue and steadily increasing costs has reached a point where undesirable and potentially harmful cuts to city services, including public safety and infrastructure, may be required to equalize revenues and expenditures under future budgets.

Solution: If this Amendment is approved by the Municipal Home Rule Board, the City of Buckhannon will consider the enactment of an ordinance implementing a municipal retail sales and use tax at a rate up to 1%, while increasing its existing retail, wholesale, and manufacturing B&O exemptions from the first \$1 Million in sales to the first \$1.5 Million. The municipal sales and use tax would exempt any transaction exempted by West Virginia Code. With a concurrent increase of the City's current B&O exemptions on the first \$1 Million in retail, wholesale, and manufacturing sales to \$1.5 Million, resulting in a projected decrease of revenue of \$50,000 per year, the City would expect this proposal to initially generate at least an additional \$950,000.00 annually.

Any tax imposed would be administered by the West Virginia State Tax Department, as provided in West Virginia Code §11-15A-1, *et seq.*

¹ It is worth noting, however, that economic studies have demonstrated that sales tax rates have little to no impact on a consumer's choice of business patronage.

The City of Buckhannon anticipates using the increased revenues to fully fund its municipal stabilization fund, invest in public safety services, ensuring that the City's Police and Fire Departments are properly staffed, equipped, and trained, implementing the City's stormwater management plan, enhancing the City's paving and public works programs, and enhancing offerings at and making safety and capital improvements to its Stockert Youth and Community Center. The City may also consider placing a portion of sales tax revenues into a special revenue fund with which to finance long-term capital infrastructure improvements.

To the extent required by law, this Amendment shall terminate on or prior to the first day of July, 2019; however, all ordinances enacted under the provisions of this Amendment shall continue in full force and effect until repealed. Further, the City of Buckhannon will cooperate fully with any performance review conducted by the Joint Committee on Government and Finance and provide progress reports to the Municipal Home Rule Board as required.