

ORDINANCE NO. 374 OF THE CITY OF BUCKHANNON, AN ORDINANCE:
(1) PROHIBITING VARIOUS ACTIVITIES AT THE CITY OF BUCKHANNON'S SOLID
WASTE TRANSFER STATION AND RECYCLING CENTER ON MUDLICK ROAD AND
AT THE CITY'S CROSS ROADS' RECYCLING CENTER; AND,
(2) ESTABLISHING PENALTIES FOR PERSONS VIOLATING THE
PROVISIONS OF THIS ORDINANCE

WHEREAS, the City of Buckhannon by and through its Waste Collection Board, owns, operates and maintains waste collection, waste transfer and recycling facilities within or near the City's corporate limits in Upshur County, West Virginia, all as authorized pursuant to state statutes; and,

WHEREAS, the Waste Collection Board's facilities include (1) the primary location on Mud Lick Road just to the east of Buckhannon's corporate limits, and (2) the Cross Roads recycling center immediately adjacent to the Buckhannon Walmart; and,

WHEREAS, problems have arisen respecting citizen drop-off procedures at the City's waste collection and recycling facilities; and,

WHEREAS, these problems include residents: (1) leaving general household waste and garbage at the gate of the City's Transfer Station on Mud Lick Road or at the Cross Roads' recycling Center; (2) improperly mixing recyclables, particularly at the Cross Roads' Recycling Center; or (3) failing to properly insert recyclable materials into the designated repositories; and,

WHEREAS, the City's Waste Collection Board incurs substantial cost and expense as a consequence of addressing the foregoing problems, and the City Council desires to specifically declare such activities as being unlawful; and,

WHEREAS, Chapter 8, Article 12, Section 5(58) of the West Virginia Code, grants plenary power and authority unto the City of Buckhannon's governing body to provide penalties for offenses and violations of law.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED BY THE COUNCIL OF THE CITY OF BUCKHANNON, AS FOLLOWS:

ARTICLE I – FINDINGS OF COUNCIL:

(A) Problems have arisen respecting citizen drop-off procedures at the City's waste collection and recycling facilities.

(B) These problems include residents: (1) leaving general household waste and garbage at the gate of the City's Transfer Station on Mud Lick Road or at the

Cross Roads' recycling Center; (2) improperly mixing recyclables, particularly at the Cross Roads' Recycling Center; or (3) failing to properly insert recyclable materials into the designated repositories.

(C) The City's Waste Collection Board incurs substantial cost and expense as a consequence of addressing the foregoing problems, and the City Council desires to specifically declare such activities as being unlawful.

(D) It is reasonable, necessary and appropriate for the City Council to establish penalties to deter persons from engaging in the those certain, problematic activities that are harmful to the City of Buckhannon and its citizenry.

ARTICLE II – PROHIBITED ACTIVITIES: It shall be unlawful for any person to:

(A) Deposit at any time any non-recyclable materials, garbage, refuse, debris, or solid waste of any kind either at the gate of the City's primary solid waste transfer station and recycling center at Mud Lick Road, or at the Cross Roads' Recycling Center;

(B) Deposit at any time any recyclable or non-recyclable materials of any kind at the gate of the City's primary solid waste transfer station and recycling center at Mud Lick Road;

(C) Improperly mix recyclable materials at the City's Cross Roads' Recycling Center;

(D) Fail to place any recyclable materials in their appropriate repositories at the City's Cross Roads' Recycling Center; or

(E) Fail to follow any posted instructions at either the City's primary solid waste Transfer Station and Recycling Center at Mud Lick Road, or at the Cross Roads' Recycling Center respecting the depositing of any recyclable materials.

ARTICLE III – PENALTIES:

Any person found guilty before the Municipal Court of the City of Buckhannon of violating any provision of Article II hereof shall be deemed to be guilty of a misdemeanor offense, and shall be punished by a fine as follows: \$100.00 for the first offense within a 24 month period; \$200 dollars for a second offense within a 24-month period; \$300

dollars for a third offense within a 24-month period; \$400.00 dollars for a fourth offense within a 24-month period; and \$500.00 dollars for a fifth and each subsequent offense thereafter occurring within a 24-month period.

ARTICLE IV - SEVERABILITY:

In the event that any provision(s) of this Ordinance is determined to be unconstitutional or invalid by a court exercising competent jurisdiction, such determination shall not affect the validity of this Ordinance as a whole or the provisions thereof which are not specifically determined to be unconstitutional or invalid.

ARTICLE V - EFFECTIVE DATE: This Ordinance shall be deemed effective thirty (30) days following the second (2nd) reading, passage and adoption by the Council of the City of Buckhannon, i.e., June 2, 2013.

FIRST READING: April 18, 2013

SECOND READING, PASSAGE AND ADOPTION: May 2, 2013

Kenneth T. Davidson, Mayor

CERTIFICATE OF ENACTMENT

I, Richard C. Clemens, City Recorder, do hereby certify that the foregoing Ordinance No. 374 was lawfully ordained and enacted by the Council of the City of Buckhannon during a regular session of the said Council assembled on May 2, 2013.

Richard C. Clemens, City Recorder