

ORDINANCE NO. 2016-008 OF THE CITY OF BUCKHANNON, AN ORDINANCE AMENDING, MODIFYING AND RE-ENACTING ARTICLE 361 OF THE CODIFIED ORDINANCES OF THE CITY OF BUCKHANNON, UPSHUR COUNTY, WEST VIRGINIA REGARDING PARKING

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

CHAPTER SEVEN – Parking

Art. 361. Parking Generally

ARTICLE 361

Parking Generally

361.01	Prohibition against parking on streets or highways.	361.08	Parking for certain purposes prohibited
		361.09	Parking prohibited during certain hours in downtown district
361.02	Police may remove illegally stopped vehicles.	361.10	Truck loading zones.
		361.11	Bus stops and taxicabs stands.
361.03	Prohibited stopping, standing or parking places.	361.12	Parking in alleys and narrow streets; exceptions
		361.13	Registered owner prima-facie liable for unlawful parking.
361.04	Vehicles parked on private property.	361.14	Monthly permit fees for parking vehicles in various off-street parking facilities.
361.05	Manner of angle and parallel parking.	361.15	Regulations.
361.06	Accessible parking.	361.16	Severability.
361.07	Abandoned/junk motor vehicles	361.17	Effective Date.
		361.99	Penalty.

CROSS REFERENCES

See sectional histories for similar State law Authority to regulate the standing or parking of vehicles – see W. Va. Code 17C-2-8(a)(1)
 Authority to regulate parallel and angle parking – See W. Va. Code 17C-13-4
 Impounding of abandoned vehicles - see TRAF. 303.07
 Duty to stop engine, set brake on grade and remove key – see TRAF. 349.01

361.01 PROHIBITION AGAINST PARKING ON STREETS OR HIGHWAYS.

(a) Upon any street or highway outside of a business or residence district no person shall stop, park or leave standing any vehicle, whether attended or unattended, upon the paved or main-traveled part of the street or highway when it is practicable to

stop, park or so leave such vehicle off such part of the street or highway, but in every event an unobstructed width of the street or highway opposite a standing vehicle shall be left for the free passage of other vehicles and a clear view of such stopped vehicles shall be available from a distance of 200 feet in each direction upon such highway or street.

(b) This section shall not apply to the driver of any vehicle which is disabled while on the paved or main-traveled portion of a street or highway in such a manner and to such extent that it is impossible to avoid stopping and temporarily leaving such disabled vehicle in such position. (WVaC 17-C-13-1)

361.02 POLICE MAY REMOVE ILLEGALLY STOPPED VEHICLES.

(a) Whenever any police officer finds a vehicle standing upon a street or highway in violation of Section 361.01, such officer is hereby authorized to move such vehicle or require the driver or other person in charge of the vehicle to move the same, to a position off the paved or main-traveled part of such street or highway.

(b) Whenever any police officer finds a vehicle unattended upon any bridge or causeway or in any tunnel where such vehicle constitutes an obstruction to traffic, such officer is hereby authorized to provide for the removal of such vehicle to the nearest garage or other place of safety.

(WVaC 17C-13-2)

361.03 PROHIBITED STOPPING, STANDING OR PARKING PLACES.

(a) No person shall stop, stand or park a vehicle except when necessary to avoid conflict with other traffic or in compliance with law or the directions of a police officer or traffic control device, in any of the following places:

- (1) On a sidewalk;
- (2) In front of a public or private driveway;
- (3) Within an intersection;
- (4) Within fifteen feet of a fire hydrant;
- (5) In a properly designated fire lane;
- (6) On a crosswalk;
- (7) Within twenty feet of a crosswalk at an intersection;
- (8) Within thirty feet upon the approach to any flashing beacon, stop sign or traffic control signal located at the side of a roadway;
- (9) Between a safety zone and the adjacent curb or within thirty feet of points on the curb immediately opposite the ends of a safety zone, unless a different length is indicated by signs or markings;
- (10) Within fifty feet of the nearest rail or a railroad crossing;
- (11) Within twenty feet of the driveway entrance to any fire station and on the side of a street opposite of a street to any fire station within seventy-five feet of such entrance (when properly signposted);
- (12) Alongside or opposite any street excavation or obstruction when stopping, standing or parking would obstruct traffic;
- (13) On the roadway side of a vehicle stopped or parked at the edge or curb of a street;
- (14) Upon any bridge or other elevated structure upon a street or highway or within a street or highway tunnel;
- (15) At any place where signs prohibit stopping, standing or parking or where the curbing or street is painted yellow or red, or at any place in excess of the maximum time limited by signs;
- (16) Within twenty feet of any mail receptacle served regularly by a carrier using a motor vehicle for daily deliveries if such parking interferes with or causes delay in the carrier's schedule;
- (17) Upon any controlled-access highway;

- (18) At any place on any street or highway where the safety and convenience of the traveling public is thereby endangered;
- (19) Over or across any lines or marks established by the Municipality to indicate parking spaces;
- (20) In front of a wheelchair accessible ramp or curb cut which is part of a sidewalk designed for use by the general public when the ramp or curb cut is properly marked with blue paint.

(b) No person shall move a vehicle not lawfully under his control into any such prohibited area or away from a curb such distance as is unlawful.

(WVaC 17C-13-3)

- (c) No person shall back a vehicle into a metered space. (\$5.00)

361.04 VEHICLES PARKED ON PRIVATE PROPERTY.

No driver of a vehicle shall stop, park or leave standing unattended any vehicle on a private road or driveway or on a private property without having express or implied permission from the owner, tenant or lessee of such land. The owner, tenant or lessee of such private road or driveway or private property may move, or have moved, any vehicle stopped, parked or left standing unattended on his or her private road, driveway or private road, driveway or private property as above prohibited without any liability for the cost of moving any vehicle, nor shall he or she be liable to the owner of the vehicle for any damage done to such vehicle in moving it, unless the owner, tenant or lessee of such private road or driveway or private property was negligent in removing or authorizing the removal of the vehicle. The owner of such vehicle shall be responsible to the persons removing such vehicle for paying all removal costs. Any person who removes any vehicle under the provisions of this section shall notify the State Police of C-such action, and, in addition notify the Police Department. (WVaC 17C-14-13)

361.05 MANNER OF ANGLE AND PARALLEL PARKING.

(a) Every vehicle stopped or parked upon a roadway where there is an adjacent curb shall be stopped or parked with the curb-side wheels of such vehicle parallel with and not more than eighteen inches from the curb, unless it is impossible to approach so close to the curb; in such case the stop shall be as close to the curb as possible and only for the time necessary to discharge and receive passengers or to load or unload merchandise.

(b) The subsection does not apply to streets or parts thereof where angle parking is lawfully permitted. However, no angle parking shall be permitted on a State or Federal-aid route unless approved by the State Commissioner of Highways.

(c) Upon streets where angle parking is permitted, no person shall stop, stand or park a vehicle other than at the angle to the curb or edge of the roadway as is indicated by appropriate signs or marks.

(d) No vehicle shall be stopped or parked on a road or street with the vehicle facing in the direction other than the direction of travel on that side of the road or street.

361.06 ACCESSIBLE PARKING.

(a) As used in this section, the following terms have the meanings ascribed to them in this subsection:

(1) A person or applicant with a "mobility impairment" means a person who is a citizen of West Virginia and as determined by a physician, allopath or osteopath chiropractor, advanced nurse practitioner or physician's assistant licensed to practice in West Virginia:

- A. Cannot walk two hundred feet without stopping to rest;
- B. Cannot walk without the use of or assistance from a brace, cane, crutch, prosthetic device, wheelchair, other assistive device or another person;
- C. Is restricted by lung disease to such an extent that the person's force (respiratory) expiratory volume for one second, when measured by spirometry, is less than one liter or the arterial oxygen tension is less than sixty mm/hg on room air at rest;

D. Uses portable oxygen;

E. Has a cardiac condition to such an extent that the person's functional limitations are classified in severity as Class III or Class IV according to standards established by the American heart association; or

F. Is severity limited in his or her ability to walk because of an arthritic, neurological, or other orthopedic physical condition.

(2) "Special registration plate" means a registration plate that displays the international symbol of access, as adopted by the Rehabilitation International Organization in nineteen hundred sixty-nine at its Eleventh World Congress on Rehabilitation of the Disabled, in a color that contrasts with the background, in letters and numbers the same size as those on the plate, and which may be used in lieu of regular registration plate;

(3) "Removable windshield placard" (permanent or temporary) means as two-sided hanger style placard measuring three inches by nine and one half inches, with all of the following on each side:

A. The international symbol of access, measuring at least three inches in height, centered on the placard, in white on a blue background for permanent designations and in white on a red background for temporary designations;

B. An identification number measuring one inch in height;

C. An expiration date in numbers measuring one inch in height;

and

D. The seal or other identifying symbol of the issuing authority.

(4) "Public entity" means state or local government or any other department, agency, special purpose district or other instrumentality of a state or local government.

(5) "Public facility" means all or any part of any buildings, structures, sites, complexes, roads, parking lots or other real or personal property, including the site where the facility is located.

(6) "Place(s) of public accommodation" means a facility or facilities operated by a private entity whose operations affect commerce and fall within at least one of the following categories:

A. Inns, hotels, motels and other places of lodging;

B. Restaurants, bars or other establishments serving food or drink;

C. Motion pictures houses, theaters, concert halls, stadiums or other places of exhibition or entertainment;

D. Auditoriums, convention centers, lecture halls or other places of public gatherings;

E. Bakeries, grocery stores, clothing stores, hardware stores, shopping centers or other sales or rental establishments;

F. Laundromats, dry cleaners, banks, barber and beauty shops, travel agencies, shoe repair shops, funeral parlors, gas or service stations, offices of accountants and attorneys, pharmacies, insurance offices, offices of professional health care providers, hospitals or other services establishments;

G. Terminals, depots or other stations used for public transportation;

H. Museums, libraries, galleries or other places of public display of collection;

I. Parks, zoos, amusement parks or other places of recreation;

J. Public or private nursery, elementary, secondary, undergraduate or post-graduate schools or other places of learning and day care centers, senior citizen centers, homeless shelters, food banks, adoption agencies or other social service establishments; and

K. Gymnasiums, health spas, bowling alleys, golf courses or other places of exercise or recreation.

(7) "Commercial facility" means a facility whose operations affect commerce and which are intended for nonresidential use by a private entity.

(8) "Accessible parking" formally known as "handicap parking" is the present phase consistent with language within American with Disabilities Act (ADA).

(9) "Parking enforcement personnel" includes any law enforcement officer as defined by West Virginia Code 30-29-1, and private security guards, parking personnel and other personnel authorized by a city, county or the state issue parking citations.

(b) An accessible parking space should comply with the provisions of the Americans with Disabilities Act accessibility guidelines, contained in the 28 C.F.R. 36, Appendix A, Section 4.6. In particular, the parking space should be a minimum of eight feet wide with an adjacent eight-foot access aisle for vans having side mounted hydraulic lifts or ramps of a five-foot access aisle for standard vehicles. Access aisles should be marked using diagonal two-to four-inch-wide-stripes spaced every twelve or twenty-four inches apart along with the words "no parking" in painted letters which are at least twelve inches in height. All accessible parking spaces should have a signpost in front or adjacent to the accessible parking space displaying the international symbol of access sign mounted at a minimum of eight feet above the pavement of sidewalk and the top of the sign. Lines or markings on the pavement or curbs for parking spaces and access aisles may be in any color, although blue is the generally accepted color for accessible parking.

(c) A vehicle from any other state, United States territory or foreign country displaying an officially issued special registration plate, placard or decal bearing the international symbol of access shall be recognized and accepted as meeting the requirements of this section, regardless of where the plate, placard or decal is mounted or displayed on the vehicle.

(d) Stopping, standing or parking places marked with the international symbol of access shall be designated in close proximity to all public entities including state, county and municipal buildings and facilities, places of public accommodation and commercial facilities. These parking places shall be reserved solely for persons with a mobility impairment at all times.

(e) Any person whose vehicle properly displays a valid, unexpired special registration plate or removable windshield placard may park the vehicle for unlimited periods of time in parking zones unrestricted as to length of parking time permitted; Provided, that this privilege does not mean that the vehicle may park in any zone where stopping, standing or parking is prohibited or which created parking zones for special types of vehicles or which prohibits parking during heavy traffic periods during specified rush hours or where parking would clearly present a traffic hazard. To the extent any provision of any ordinance of any political subdivision of this State is contrary to the provisions of this section, the provisions of this section take precedence and apply.

The parking privileges provide for in this subsection apply only during those times when the vehicle is being used for the loading or unloading of a person with a mobility impairment. Any person who knowingly exercises, or attempts to exercise these privileges at a time when the vehicle is not being used for the loading or unloading of a person with mobility impairment, upon first conviction thereof, in addition to any other penalty he or she may otherwise incur, shall be fined two hundred dollars (\$200.00); upon second conviction thereof, in addition to any other penalty, he or she may otherwise incur, shall be fined three hundred dollars (\$300.00); and upon third and subsequent convictions thereof, in addition to any other penalty he or she may otherwise incur, shall be fined five hundred dollars (\$500.00).

(f) Any person whose vehicle does not display a valid, special registration plate or removable windshield placard may not stop, stand or park a motor vehicle in an area designated, zoned or marked for accessible parking with signs or instructions displaying the international symbol of access, either by itself or with explanatory text. The signs may be mounted on a post or a wall in front of the accessible parking space and instructions may appear on the ground or pavement, but use of both methods is

preferred. Accessible parking spaces for vans having an eight-foot adjacent access aisle should be designated as "van accessible" but may be used by any vehicle displaying a valid special registration plate or removable windshield placard.

Any person who violates the provisions of this subsection shall be fined two hundred dollars (\$200.00); upon second conviction thereof, in addition to any other penalty he or she may otherwise incur, shall be fined three hundred dollars (\$300.00); and upon third and subsequent convictions thereof, in addition to any other penalty he or she may otherwise incur, shall be fined five hundred dollars (\$500.00).

(g) All signs that designate areas as "accessible parking" or that displays the international symbol of access shall also include the words "Up to \$500.00 fine".

(h) No person may stop, stand or park a motor vehicle in an area designated or marked off as an accessible aisle to a van-accessible parking space or regular accessible parking space. Any person, including driver of a vehicle displaying a valid removable windshield placard or special registration plate, who violates the provisions of this subsection shall be fined two hundred dollars (\$200.00); upon second conviction thereof, in addition to any other penalty he or she may otherwise incur, shall be fined three hundred dollars (\$300.00); and upon third and subsequent convictions thereof, in addition to any other penalty he or she may otherwise incur, shall be fined five hundred dollars (\$500.00).

(i) Parking enforcement personnel who otherwise enforce parking violations may issue citations for violations of this section and shall reference the number on the vehicle's license plate, since the driver normally will not be present.

(j) Law-enforcement agencies may establish a program to use trained volunteers to collection information necessary to issue citations to persons who illegally park in designated accessible parking spaces. Any law-enforcement agency choosing to establish a program shall provide for workers' compensation and liability coverage. The volunteers shall photograph the illegally parked vehicle and complete a form, to be developed by supervising law-enforcement agencies, that includes the vehicle's license plate number, date, time and location of the illegally parked vehicle. The photographs must show the vehicle in the accessible space and a readable view of the license plate. Within the discretion of the supervising law-enforcement agency, the volunteers may issue citations or the volunteers may submit the photographs of the illegally parked vehicles and the form to the supervising law-enforcement agency, who may issue a citation, which includes the photographs and the form, to the owner of the illegally parked vehicle. Volunteers shall be trained on the requirements for citations for vehicles parked in marked, zoned or designated accessible parking areas by the supervising law-enforcement agency.

(k) The Municipality in enforcing this section shall retain all fines and associated late fees. These revenues shall be used first to fund the provisions of subsection (j) of this section, if adopted by the Municipality or otherwise shall go into the Municipality's General Revenue Fund. (WVaC 17C-13-6)

361.07 ABANDONED/JUNK MOTOR VEHICLES

(a) Findings of Council. Council hereby makes the following findings:

(1) The statutory provisions of Chapter 8, Article 12, Section 5, Paragraph (10) of the West Virginia Code specifically authorize municipalities by ordinance or resolution, as the case may require, and by appropriate action based thereon, to prohibit the accumulation and require the disposal of garbage, refuse, debris, wastes, ashes, trash and other similar accumulations whether on private or public property;

(2) The statutory provisions of Chapter 8, Article 12, Section 5, Paragraph (13) of the West Virginia Code specially authorize municipalities by ordinance or resolution, as the case may require, and by appropriate action based thereon, to prevent injury of annoyance to the public individuals from anything dangerous, offensive or unwholesome;

(3) The statutory provisions of Chapter 8, Article 12, Section 5, Paragraph (23) of the West Virginia Code specifically authorize municipalities by ordinance or resolution, as the case may require, and by appropriate action based

thereon, to provide for the elimination of hazards to public health and safety and to abate or cause to be abated anything which in the opinion of a majority of the governing body is a public nuisance;

(4) The statutory provisions of Chapter 8, Article 12, Section 5, Paragraph (44) of the West Virginia Code specifically authorize municipalities by ordinance or resolution, as the case may require, and by appropriate action based thereon, to protect and promote the public morals, safety, health, welfare and good order;

(5) The statutory provisions of Chapter 8, Article 12, Section 5, Paragraph (58) of the West Virginia Code specifically authorize municipalities by ordinance or resolution, as the case may require, and by appropriate action based thereon, to provide penalties for offenses and violation of law mentioned in Chapter 8, Article 12, Section 5 of the West Virginia Code, as amended;

(6) The statutory provisions of Chapter 17, Article 24A, Section 1, et seq. of the West Virginia Code specifically address abandoned and junked motor vehicles, including the opportunity of municipal enforcement agencies such as the city of Buckhannon's Police Department to take certain actions to take custody and possession of such vehicles;

(7) Council deems the parking or storage of any motor vehicle that has been abandoned, or which otherwise is in a wrecked, junked, partially dismantled, inoperative or abandoned condition upon any public property situated within the corporate limits of the city of Buckhannon for any period of time, and upon any private property situated within the corporate limits of the City of Buckhannon for a period exceeding thirty (30) days, to constitute violations of all of the foregoing Paragraphs (10), (13), (23) and (44) of Chapter 8, Article 12, Section 5 of the West Virginia Code, as amended, unless such vehicle is stored completely within an enclosed building located upon private property only, or further unless such vehicle is so stored or parked on a private property only in connection with a duly licensed business or commercial enterprise operated and conducted pursuant to law when such parking or storage of vehicles is necessary to the operation of the business or commercial enterprise;

(8) Council further finds that the keeping of abandoned or junked motor vehicles reflects negatively upon the appearance and image of our community, impairing property values and damaging neighborhood harmony; and,

(9) Council further deems it to be reasonable and appropriate to establish specific warning notice provisions for those violating the provisions of this section by storing abandoned or junked motor vehicles upon private property, prior to the issuance of any citation that could result in the imposition of penalties that include possible fines and imposition of fees, costs and expenses incurred by the City against persons convicted of violating the provisions of this section.

(b) Definitions.

(1) "Abandoned motor vehicle" means any motor vehicle, or substantial part thereof, that is functionally or legally inoperative and that has been left unattended, discarded or deserted, on either public or private property, other than such vehicle that is kept or maintained within a fully enclosed building or within a licensed salvage yard, vehicle auction establishment, or licensed and appropriately zoned vehicle repair establishment; to avoid any possible misunderstanding, a functionally inoperative vehicle is one that cannot be driven from its stored location; and a legally inoperative motor vehicle specifically includes any vehicle that is not currently licensed, inspected, or registered, and in either case, is not kept or maintained within a fully enclosed building, licensed salvage yard, vehicle auction establishment, or licensed and appropriately zoned vehicle repair establishment or the actual possession of the demolisher or repair enterprise.

(2) "Citation" means any written order issued by any City police officer, required the cited person to appear before the City Municipal court at a later date.

(3) "Enclosed building" means a structure surrounded by connected and intersecting walls or one continuous wall, and having a roof enclosing the entire structure and includes a permanent appendage thereto.

(4) "Junked motor vehicle" means any motor vehicle, or part thereof, other than an on-premises farm utility vehicle, that is discarded, wrecked, ruined, scrapped or dismantled, and cannot pass the State inspection required by Chapter 17C, Article 16, Section 1, et seq. of the West Virginia Code, as amended.

(5) "Motor vehicle" means any motor vehicle that is or was self-propelled, including but not limited to any automobile, truck, bus, motorcycle, or all-terrain vehicle (ATV).

(6) "Municipal court" means the Municipal Court of the City of Buckhannon, West Virginia, or the judge thereof.

(7) "Person" means any natural person, corporation, firm, partnership, association or society and the plural as well as the singular.

(8) "Private property" means any public street, ally, sidewalk or other real property owned or occupied by any person whomsoever.

(9) "Public property" means any public street, sidewalk or other real property not privately owned.

(10) "Warning notice" means the thirty (30) day notice described and set forth pursuant to the statutory provisions of Chapter 17, Article 24A, Section 3 of the West Virginia State Code that requires the enforcement agency to give both the private property owner and the owner of the subject abandoned or junked motor vehicle, if ascertainable, a thirty-day, written notice by registered or certified mail that the action will be taken unless the motor vehicle is restored to a functional use and legally operative condition, or further pursuant to this section, the subject motor vehicle is otherwise brought into compliance by proper removal or being moved within an enclosed building.

(11) "Zoning and Housing Enforcement Officer" means the duly appointed zoning and housing enforcement officer of the City of Buckhannon.

(c) Warning Notice to Remove Motor Vehicle.

(1) Prior to any removal of any abandoned or junked motor vehicle from private property only, by the enforcement agency as permitted pursuant to Chapter 17, Article 24A, Section 1, et seq., of the West Virginia Code, as amended, and further prior to the issuance of any citation authorized to be issued pursuant to the provisions of this section, there shall first be given to the private property owner or other possessor of the private property who is not the owner, e.g., lessee, and the owner of the motor vehicle, if ascertainable, a thirty-day written warning notice either sent by registered mail, or served personally by any member of the City of Buckhannon Police Department, said notice providing that the removal action will be taken, and a citation issued unless the motor vehicle is otherwise brought into compliance by proper removal or being moved within an enclosed building or otherwise being brought into compliance. All thirty-day warning notices shall be prepared by the City's Zoning and Housing Enforcement Officer, and the form warning notice shall be filed with and approved by the City Council. The thirty-day warning notice period shall be deemed to commence with either the receipt date or service date of the warning notice.

(2) The foregoing provisions of subsection (c)(1) hereof shall not be deemed to apply to any abandoned or junked motor vehicle located upon public property. To avoid any possible misunderstanding, the enforcement agency, i.e., the Buckhannon Police Department, may immediately take custody and possession of any abandoned or junked motor vehicle that is kept or maintained upon public property.

(3) The officers of the City's enforcement agency, i.e., the Buckhannon Police Department, are specifically authorized hereby to undertake all measures permitted to be taken by an enforcement agency pursuant to the statutory provisions of Chapter 17, Article 24A, Section 1, et seq., of the West Virginia Code, as amended, as though those measures were set forth fully herein, without limitation, and additionally, said officers are empowered to issue citations for violations of this section pursuant to subsection (d) hereof.

(d) Criminal Actions.

(1) It shall be unlawful for any person to park, store, keep or maintain any abandoned or junked motor vehicle upon any public or private property situation within the corporate limits of Buckhannon.

(2) It shall be unlawful for any person owning or otherwise possessing private property, to permit any parking, storing, keeping or maintaining of abandoned or junked motor vehicle upon any of their private property situation within the corporate limits of Buckhannon.

(3) For purposes of administering this section, a separate citation may be issued for each abandoned or junked motor vehicle.

(4) Further for purposes of administering this section, each ensuing seven-day period following the date of issuance of any citation hereunder shall be deemed to constitute a new and separate offense under this section for which additional citations may thereafter be issued.

(e) Jurisdiction of Municipal Court; Penalties for Violations.

(1) The City of Buckhannon's Municipal Court shall have exclusive jurisdiction to hear and decide all matters pertaining to violations of this section.

(2) Any person convicted of any first offense under this section shall be fined not less than one hundred dollars (\$100.00) nor more than two hundred dollars (\$200.00) in this discretion of the Judge of the Municipal Court, plus any applicable fees, costs and expenses incurred by the Police Department or City of Buckhannon in the removal, storage or disposal of any vehicle pursuant to this section.

(3) Any person convicted of any second of subsequent offense under this section shall be fined not less than two hundred dollars (\$200.00) nor more than five hundred dollars (\$500.00) in the discretion of the Judge of the Municipal Court, plus an applicable fees, costs and expenses incurred by the Police Department or City of Buckhannon in the removal, storage or (Ord. 357. Passed 5-17-11.)

361.08 PARKING FOR CERTAIN PURPOSES PROHIBITED.

No person shall park any vehicle upon any street within the Municipality for the principal purpose of:

- (a) Displaying such vehicle for sale.
- (b) Displaying advertising.
- (c) Washing, greasing or repairing such vehicle, except repairs made necessary by an emergency.
- (d) Relieving the crowded condition of any parking lot, used car lot, automobile sale lot, repair garage, automobile sales agency or used car sales agency.

361.09 PARKING PROHIBITED DURING CERTAIN HOURS IN THE DOWNTOWN DISTRICT.

No person shall park any vehicle upon any street within the Downtown District where clearly identified by signage posted between the hours of 3:00 a.m. and 6:00 a.m. o'clock. For purposes of this section, "Downtown District," is that portion of the "C-1, Downtown Commercial District," established pursuant to the provisions of the City's Zoning Ordinance, i.e., Ordinance No. 244 and the amendatory ordinances thereto, and which "Downtown District" is more particularly depicted upon the attached map. The City's Consolidated Public Works Board as was established pursuant to Ordinance No. 263 shall have plenary authority to expand or contract the "Downtown District" from time to time, but provided that any such expansion or contraction shall be confined to real estate located within the C-1 Zone.

361.10 TRUCK LOADING ZONES.

No person shall stop, stand or park a vehicles for the purposes or length of time other than for the expeditious unloading and delivering or pickup and loading of materials in any place marked as a truck loading zone during hours when the provisions applicable to such zones are in effect. In no case shall the stop for loading and unloading of materials exceed thirty minutes.

361.11 BUS STOPS AND TAXICAB STANDS.

(a) No person shall stop, stand or park a vehicle other than a bus in a bus stop, or other than a taxicab in a taxicab stand when any such stop or stand has been officially designated and appropriately posted, except that the driver of a passenger vehicle may temporarily stop therein for the purpose of and while actually engaged in loading or unloading passengers when such stopping does not interfere with any bus or taxicab waiting to enter or about to enter such zone, and then only for a period not to exceed three minutes, if such stopping is not prohibited therein by posted signs.

(b) The operator of a bus shall not stop, stand or park such vehicle upon any street at any place for the purpose of loading or unloading passengers or their baggage other than at a bus stop so designated and posted as such, except in case of an emergency.

(c) The operator of a bus shall enter a bus stop on a public street in such a manner that the bus when stopped to load or unload passengers or baggage shall be in a position with the right front wheel of such vehicle not further than eighteen inches from the curb and the bus approximately parallel to the curb so as not to unduly impede the movement of other vehicular traffic.

(d) The operator of a taxicab shall not stand or park such vehicle upon any street at any other place other than in a taxicab stand so designated and posted as such. The provision shall not prevent the operator of a taxicab from temporarily stopping in accordance with other stopping or parking provisions at any place for the purpose of and while actually engaged in the expeditious loading or unloading of passengers.

361.12 PARKING IN ALLEYS AND NARROW STREET; EXCEPTIONS.

No person shall stop, stand or park any vehicle upon a street, other than an alley, in such a manner or under such conditions as to leave available less than ten feet of the width of the roadway for free movement of vehicular traffic, except that a driver may stop temporarily during the actual loading or unloading of passengers or when directed to by a police or traffic control signal.

Except as otherwise provided by law, no person shall stop, stand or park a vehicle within an alley except while actually loading and unloading, and then only for a period not to exceed thirty minutes.

361.13 REGISTERED OWNER PRIMA-FACIE LIABLE FOR UNLAWFUL PARKING.

In any hearing on a charge of illegally parking a motor vehicle, testimony that a vehicle bearing a certain license plate was found unlawfully parked as prohibited by the provisions of this Traffic Code, and further testimony that the records of the Department of Motor Vehicles shows that the license plate was issued to the defendant, shall be prima-facie evidence that the vehicle which was unlawfully parked was so parked by the defendant. A certified copy of registration from the Department of Motor Vehicles shall be proof of such ownership.

361.14 MONTHLY PERMIT FEES FOR PARKING VEHICLES IN VARIOUS OFF-STREET PARKING FACILITIES.

(a) Unless otherwise established by the City's Consolidated Public Works Board and clearly identified by signage posted at the facility, no charge or permit shall be required for parking any vehicle in any city-owned and/or operated off-street parking facility during the hours from 6:00 a.m. to 3:00 a.m. o'clock. Permits shall be required when parking any vehicle in these facilities from 3:00 a.m. to 6:00 a.m. o'clock.

(b) Notwithstanding any provision of this Article to the contrary, no person shall park any vehicle in the City's "Lot 2," i.e., the lot located across the street and to the immediate east of the Buckhannon Post Office on South Spring Street, at any time for any period exceeding two hours.

(c) A permit fee of \$25.00 per month shall be charged for parking any vehicle in any off-street parking facility clearly identified by signage posted at the facility from 3:00 a.m. to 6:00 a.m. o'clock.

(d) A removable windshield placard, or other city-approved means of displaying a valid permit, shall be properly placed in all vehicles parked in these facilities from 3:00 a.m. to 6:00 a.m. o'clock.

361.15. RULES AND REGULATIONS

Notwithstanding the immediately foregoing provisions, this Ordinance shall not prohibit the Consolidated Public Works Board of the City of Buckhannon from establishing, applying, and/or amending from time to time, the Board's own rules and regulations which may be promulgated to further facilitate the administration and operation of this Ordinance.

361.16. 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 held to be unconstitutional or invalid other than that provision(s) which is specifically determined to be unconstitutional or invalid.

361.17. EFFECTIVE DATE.

This Ordinance shall be effective on January 1, 2017.

361.99 PENALTY

(a) Violation of 361.03(a)(15), 361.09, or 361.14. An owner of a vehicle who violates the provisions of 361.03(a)(15), 361.09, or 361.14 of this Article on a first occasion shall receive a warning citation; whoever violates the provisions of 361.03(a)(15), 361.09, or 361.14 of this Article on a second occasion shall be sent a warning letter by certified mail, return receipt requested; and whoever violates the provisions of 361.03(a)(15), 361.09, or 361, 14 of this Article and being found guilty thereof shall be fined Fifty Dollars (\$50.00) for that offense and any subsequent offenses arising within the twenty-four (24) month period following the date of citation issuance.

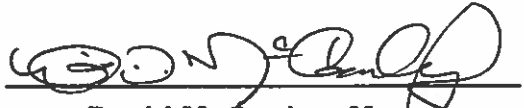
(b) General Article Penalty. Whoever violates any provision of this article for which no other penalty is provided shall be fined not less than twenty-five dollars (\$25.00) or more than one hundred dollars (\$100.00); upon a second conviction within one year thereafter shall be fined not more than two hundred dollars (\$200.00); and upon a third or subsequent conviction, shall be fined not more than five hundred dollars (\$500.00).

(c) Abandoned of Junk Vehicles. Whoever violates Section 361.07 shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than thirty days, or both.

.....
FIRST READING: August 18, 2016

SECOND READING: September 1, 2016

THIRD READING, PASSAGE AND ADOPTION: September 15, 2016



David McCauley, Mayor

CERTIFICATE OF ENACTMENT

I, Amberle Jenkins, Assistant City Recorder, do hereby certify that the foregoing Ordinance No. 2016-008 was lawfully ordained and enacted by the Council of the City of Buckhannon at a regular session of the said Council assembled on 15th day of September, 2016.



Amberle Jenkins-Assistant City Recorder