

ORDINANCE NO. 415 OF THE CITY OF BUCKHANNON, AN ORDINANCE TO PROVIDE FOR AND ESTABLISH GENERAL RULES, REGULATIONS, PROHIBITIONS, AND REQUIREMENTS RELATIVE TO THE CITY'S STORM WATER SYSTEM AND THE COLLECTION AND TRANSPORTATION OF STORMWATER, AND TO AUTHORIZE THE SANITARY BOARD OF THE CITY OF BUCKHANNON TO MANAGE, CONTROL, REGULATE, AND OPERATE A STORMWATER COLLECTION AND CONTROL SYSTEM

WHEREAS, West Virginia Code §16-13-1(a)(2) authorizes the City of Buckhannon to own, acquire, construct, equip, operate, and maintain, within and/or without the corporate limits, a stormwater collection system and control system, including all lines, pumping station and all other facilities and appurtenances necessary or useful and convenient for the collection and control of stormwater, and an associated stormwater management program; and,

WHEREAS, West Virginia Code §16-13-2 provides that the construction, acquisition, improvement, equipment, custody, operation and maintenance of any works for the collection and control of stormwater and the collection of revenues therefrom for the service rendered thereby shall be under the supervision and control of a sanitary board; and,

WHEREAS, by those Ordinances enacted by the Council of the City of Buckhannon as an Ordinance enacted October 17, 1957, and well as subsequent ordinances identified as Ordinance No. 104 and Ordinance No. 106, the Sanitary Board of the City of Buckhannon was established and empowered to carry out its functions in providing for sanitary sewer and treatment facilities, and extensions thereto; and,

WHEREAS, by Ordinance No. 263, the City of Buckhannon established the Consolidated Public Works Board, and tasked it with certain functions, including the management of a storm water drainage and culvert systems, and a dam and flood control system; and,

WHEREAS, the Congress of the United States of America has enacted the Clean Water Act and pursuant to the provisions thereof, the United States Environmental Protection Agency has mandated that certain municipalities manage and control stormwater runoff within their jurisdictions; and,

WHEREAS, in light of the aforementioned, the Council of the City of Buckhannon finds that there is a public need to protect life, property and the water environment from loss, injury and damage caused by storm and surface water, and it is the responsibility of the City of Buckhannon, as a trustee of the water environment for future generations, to provide such protection; and

WHEREAS, in light of the aforementioned, the Council of the City of Buckhannon finds that there is a public need to vest the City's Sanitary Board with the power to plan, acquire, improve, construct, inspect, develop, install, modify, manage, operate, maintain, repair, replace, control, demolish, abandon, regulate, and fund a stormwater collection system and control system, including

all lines, pumping stations and all other facilities and appurtenances necessary or useful and convenient for the collection and control of stormwater, and an associated stormwater management program within and without the corporate limits of said City as provided by West Virginia Code §16-13-1 *et seq.*

WHEREAS, the Council of the City of Buckhannon finds that it is necessary and appropriate to amend the Ordinance enacted October 17, 1957, and Ordinance Nos. 104, 106, 263, and 332 so as to provide the said Sanitary Board of the City of Buckhannon with the maximum authority to manage and control stormwater within and without the corporate limits of the City as provided under West Virginia Code §16-13-1, *et seq.*,

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

The Ordinance enacted October 17, 1957, and Ordinance Nos. 104, 106, 263, and 332 are hereby amended to provide as follows:

ARTICLE I – AUTHORIZATION OF SANITARY BOARD CONCERNING STORMWATER:

The Sanitary Board of the City of Buckhannon is hereby authorized, in addition to its current or continuing functions related to its sanitary sewer system, to own, acquire, construct, equip, operate, regulate and maintain, within and/or without the corporate limits, a stormwater collection system and control system, including all lines, pumping station and all other facilities and appurtenances necessary or useful and convenient for the collection and control of stormwater, and an associated stormwater management program, (hereafter, “stormwater functions”), to the maximum extent provided by the laws of the State of West Virginia, and those of the United States of America, and any rules promulgated thereunder by any state or federal agency, including those described in West Virginia Code §16-13-22. For purposes of this Ordinance, the term “stormwater functions” shall include activities related to 1) drainage, and 2) control of stormwater contamination. The Sanitary Board shall establish such stormwater management projects, and the prioritization thereof, and a comprehensive stormwater management plan, as it may deem appropriate in the execution of the mandate established in this Ordinance.

ARTICLE II – SEGREGATION OF FUNCTIONS, REVENUES AND EXPENSES:

The stormwater functions of the Sanitary Board of the City of Buckhannon shall be strictly segregated from the sanitary sewer functions of that Board; the Sanitary Board shall maintain a separate department or division for stormwater functions, as well as separate accounts and accounting procedures for the revenues generated and expenses incurred in the carrying out

of its stormwater functions, and shall separately account for its expenses arising therefrom, including but not limited to the use personnel and equipment. No revenues generated from fees or charges under the sanitary sewer system shall be used in the discharge of stormwater functions under this ordinance.

ARTICLE III – RATES:

The Sanitary Board is authorized and empowered to set, charge, and collect rates, fees, and charges under the authority of this Ordinance, to those areas both within and without the corporate limits of the City which benefit from the stormwater functions of the Board, which rates shall be reasonable and sufficient to adequately fund the stormwater functions of the Board, as provided by West Virginia Code §16-13-16 and §16-13-17. All such fees shall be established by the Council of the City of Buckhannon by ordinance.

ARTICLE IV – ACCEPTANCE OF GRANT FUNDING:

The Sanitary Board, in the discharge of its stormwater functions, may seek and accept grants, loans, or other available funding from the United States of America, the State of West Virginia, or any agency or subdivision thereof.

ARTICLE V – RULEMAKING:

The Sanitary Board, in the discharge of its stormwater functions, is authorized and empowered to provide applicable stormwater management rules and regulations, which shall be adopted by the Sanitary Board; *Provided*, that any user fees charged, or bonds issued, shall be enacted by the Council of the City of Buckhannon by Ordinance.

ARTICLE VI – MUTUAL COOPERATION:

The Sanitary Board is authorized to contract with other political subdivisions of the State of West Virginia to achieve the purposes of this ordinance as provided in West Virginia Code §16-13-19.

ARTICLE VII – DEBT FINANCING:

The Sanitary Board is authorized to incur secured debt in the discharge of its stormwater functions as contemplated in West Virginia Code §16-13-22g. And such debt obligations shall not attach without the approval of the Council of the City of Buckhannon.

ARTICLE VIII – CONSTRUCTION:

The provisions of this Ordinance shall be construed liberally so as to authorize the Sanitary Board to accomplish the objectives stated herein, and the Board shall be deemed authorized to exercise the powers granted concerning stormwater facilities, services, and

enforcement in Article Thirteen, Chapter Sixteen of the Code of West Virginia, 1931, as amended, to the maximum extent permissible under law.

ARTICLE IX – ADMINISTRATIVE DISCLAIMER:

The Sanitary Board, in the exercise of its stormwater functions under this Ordinance, shall not be charged with the administration, regulation, function, or oversight of: 1) any dam situate within the Buckhannon River; 2) any flood control function within the Buckhannon River itself; or 3) any activities subject to the jurisdiction of the Federal Emergency Management Agency.

ARTICLE X – SEVERABILITY:

Should any Article, or part thereof, of this Ordinance be deemed invalid or unenforceable, it shall not affect the remaining portions of this Ordinance not so deemed, which shall continue in full force and effect.

FIRST READING:	March 2, 2017
PUBLIC HEARING, SECOND READING, PASSAGE & ADOPTION:	March 16, 2017

David W. McCauley, Mayor

CERTIFICATE OF ENACTMENT

I, Susan Aloi, City Recorder, do hereby certify that the foregoing Ordinance No. 415 was lawfully ordained and enacted by the Council of the City of Buckhannon during a regular session of the said Council assembled on March 16, 2017.

Susan Aloi, City Recorder