

**ORDINANCE NO. 424 OF THE CITY OF BUCKHANNON, AMENDING
MODIFYING AND RE-ENACTING ORDINANCE NOS. 300, 397, and 420 OF THE
CITY OF BUCKHANNON, KNOWN, CITED AND REFERRED TO AS THE
“BUCKHANNON ANIMAL CARE AND CONTROL ORDINANCE”**

WHEREAS, pursuant to Chapter 8, Article 12, Section 5 (26) of the West Virginia Code, as amended, municipalities are granted plenary power and authority to regulate or prohibit the keeping of animals or fowls and to provide for impounding, sale or destruction of animals or fowls kept contrary to law or found running at large within the corporate limits; and,

WHEREAS, the Council of the City of Buckhannon, through Ordinance Nos. 300, 397, and 420 has adopted comprehensive regulations respecting animals kept, maintained or otherwise brought or coming into the corporate limits; and,

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

ARTICLE I -- The provisions of said Ordinance Nos. 300 and 397 are deemed amended and reenacted as follows:

**505.16. ANIMAL CRUELTY AND TETHERING OF DOGS PROHIBITED;
EXCEPTIONS:**

Section 1. CRUELTY TO ANIMALS

(a) No person shall cruelly mistreat, abandon or withhold proper sustenance, including food, water, shelter that protects from the elements, exercise or medical treatment, necessary to sustain normal health and fitness or to end suffering or abandon any domesticated animal to die, or intentionally, knowingly or recklessly leave an animal unattended and confined in a motor vehicle when physical injury to or death of the animal is likely to result, or ride an animal when it is physically unfit, or injure any animal for the purpose of making it perform for a person's amusement, or cruelly chain, tether or confine outside any animal or use, train or possess any domesticated animal for the purpose of seizing, detaining or mistreating any other domesticated animal.

(b) Exceptions. Nothing in subsection (a) of this subsection shall be deemed to prohibit;

(1) Any action by licensed veterinarian done in accordance with accepted standards of veterinary care;

(2) Any action by a law enforcement officer pursuant to the interest of public health and safety;

(3) Any act done in self-defense or done to defend another person or animal.

Section 2. TETHERING OF DOGS

(a) Tethering: It shall be unlawful for any person to tether, fasten, chain, tie, restrain or cause a dog to be fastened, chained, tied or restrained to houses, trees, fences, garages or other stationary or highly immobile objects by means of a rope, chain, strap or other physical restraint for the purpose of confinement, except in circumstances where all of the following requirements are met:

(1) The tethering shall be no longer than necessary for the dog's caretaker or owner to complete a temporary task that requires the dog to be physically restrained for a reasonable period of time;

(2) Notwithstanding the requirements of Article 505.16, Section 2(a) (1) above, and subject to the requirements of Section 2(b)(1) below, no dog shall be tethered for any period of time in excess of ten (10) hours in any twenty-four (24) hour period.

(3) The dog must be properly fitted with and wearing a non-choke harness or collar made of leather, nylon, or similar material. Choke or prong collars shall not be used;

(4) The tether must be attached to the dog's harness or collar and not directly to the dog's neck;

(5) The tether must be a reasonable length and weight according to the dog's weight and the size of the property.

(6) The dog is tethered so as to prevent injury, strangulation, or entanglement;

(7) The dog is not tethered outside during extreme weather, subject to the requirements of Section 2(b)(1), below;

(8) The dog is six (6) months of age or older;

(9) The dog is not a nursing mother or sick or injured;

(10) If there are multiple dogs, each dog is tethered separately;

(11) The dog (s) must be tethered at sufficient distance from any other objects to prohibit the tangling of the cable, from extending over an object or an edge that could result in injury of strangulation of the animal.

(12) A running line or trolley system, if utilized, must be at least fifteen (15) feet in length and at least four (4) feet and no more than seven (7) feet above ground;

(b) Tethering a dog under conditions which present a reasonable likelihood of serious injury or death to the dog is prohibited.

(1) The following weather conditions present a reasonable likelihood of serious injury or death to a domesticated animal which is so tethered or confined:

a) an outdoor temperature below thirty-two degrees Fahrenheit or above eighty-eight degrees Fahrenheit;

b) weather conditions which are characterized by immediate or imminent flooding within the space in which the domesticated animal is confined; or,

c) times during which the United States National Weather Service has issued a severe thunderstorm warning, a tornado warning, or a winter storm warning for the City of Buckhannon.

Section 3. FOOD, WATER, AND SHELTER

(a) Food. Animals must be provided with food of sufficient quantity and quality to allow for normal growth or the maintenance of body weight.

(b) Water. Animals must be provided with potable water in sufficient quantity to satisfy the animal's needs. Snow or ice is not an adequate water source.

(c) Shelter. Animals must be provided with adequate shelter to provide for their health and welfare. A shelter that protects the animal from inclement weather, wind, and direct rays of the sun, shelter shall be provided and accessible to each dog. Examples of inadequate shelters include, but are not limited to, lean-tos, metal

drums, standard unmodified plastic drums, cardboard or other disposable boxes, vehicles, or the area on or beneath exposed porches or exposed decks.

(d) Confinement Areas. A confinement area must provide sufficient space to allow each animal to turn about freely and to easily stand, sit and lie in a normal position. If an animal is maintained in an outdoor confinement area, that space should contain a shelter that complies with the following sections.

(1) General. A person in charge or control of any dog which is kept outdoors or kept in an unheated enclosure shall provide the dog with shelter and bedding as prescribed in this section as a minimum.

(2) Building specifications. The shelter shall include a moisture proof and windproof structure size to accommodate the dog and allow retention of body heat. It should be made of durable material with a solid, moisture-proof floor or a floor raised at least two inches from the ground. The structure shall be provided with a sufficient quantity of suitable bedding material during inclement weather to provide insulation and protection against cold and dampness and promote retention of body heat.

(3) Shade. Shade from the direct rays of sun shall be provided.

(4) Outdoor areas. Outdoor areas shall be maintained as follows:

A. Outdoor Pens. If an animal is confined in an outdoor pen, it must be of adequate and reasonable size and in no event less than a 10' x 10' (100 square feet) area per dog.

B. Extreme Weather - Dogs shall not be penned outside during extreme weather unless the pen is equipped to provide adequate protection.

(5) Surface area. The interior surfaces of all indoor confinement areas must be constructed and maintained so that they are substantially impervious to moisture, provided for adequate drainage may be readily cleaned, kept in good repair, and protect the animal from injury. Confinement areas should be ventilated sufficiently to allow for the free movement of air in and around the confinement area. All outdoor confinement area flooring should be impermeable material or well drained aggregate.

(6) Waste. A suitable method must be used to eliminate excess fluids from confinement areas. All feces should be removed and disposed of properly.

ARTICLE II – EFFECT UPON OTHER MUNICIPAL ORDINANCES:

Section 1. Any and all other ordinances of the City of Buckhannon not amended hereby, shall remain in full force and legal effect except for those provisions expressly amended pursuant to the provisions hereof.

ARTICLE III – SEVERABILITY: In the event that any section(s) or provision(s) of this Ordinance is determined to be in violation of state or federal statute or court ruling, unconstitutional, invalid or otherwise unenforceable by a Court of competent jurisdiction, such determination shall not affect the validity of this Ordinance as a whole or the sections and provisions thereof which are not specifically held to be in violation of state or federal statute or court ruling, unconstitutional, invalid or otherwise unenforceable.

ARTICLE IV – 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., July 7, 2018.

FIRST READING:

May 15, 2018

SECOND READING, PASSAGE AND ADOPTION:

June 7, 2018

David W. McCauley, Mayor

CERTIFICATE OF ENACTMENT

I, Colin Reger, City Recorder, do hereby certify that the foregoing Ordinance No. 424 was lawfully ordained and enacted by the Council of the City of Buckhannon at a regular session of the said Council assembled on June 7, 2018.

Colin Reger, City Recorder