

**ORDINANCE NO. 441 OF THE CITY OF BUCKHANNON, AN ORDINANCE
PROHIBITING THE OFFERING OR ACCEPTANCE OF LIVE ANIMALS AS PRIZES
OR INDUCEMENTS IN CARNIVAL GAMES OPERATING WITHIN THE
CORPORATE LIMITS OF THE CITY AND SETTING AN EFFECTIVE DATE**

WHEREAS, West Virginia Code §8-12-5(13) empowers a municipality to “prevent injury or annoyance to the public or individuals from anything dangerous, offensive, or unwholesome”; and,

WHEREAS, West Virginia Code §8-12-5(26) empowers a municipality to “regulate or prohibit the keeping of animals or fowls”; and,

WHEREAS, West Virginia Code §8-12-5(44) empowers a municipality to “protect and promote the public morals, safety, health, welfare and good order”; and,

WHEREAS, the City’s Animal Care & Control Commission recommends to the City Council that a municipal ordinance prohibiting the use of animals as prizes or inducements to participate in carnival games or other commercial activities be ordained and enacted by the Council; and,

WHEREAS, the Council of the City of Buckhannon recognizes that the welfare of animals, and the prevention of their keeping within circumstances that threaten their wellbeing is a matter of interest to the people as represented by their municipal government; and,

WHEREAS, the Council of the City of Buckhannon recognizes that the practice of keeping small animals, including but not limited to fish, reptiles, other vertebrates, or small mammals for purposes of using said animals as prizes or inducements for members of the public to participate in games of skill or chance within the context of carnival or other amusement games exposes said animals to adverse circumstances, ill treatment, and substantially introduces the possibility of abusive treatment of said animals; and,

WHEREAS, the Council of the City of Buckhannon does not intend by this Ordinance to regulate, prohibit, or otherwise control the activities or programs of certified youth organizations teaching animal husbandry and related disciplines such as 4-H and the Future Farmers of America; and,

WHEREAS, the Council of the City of Buckhannon has determined that the provisions of this Ordinance are reasonably designed and intended to promote public and animal welfare within the enumerated powers of the municipality as set forth in the laws of the State of West Virginia; and,

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

ARTICLE I – PROHIBITED ACTS

No person may offer or accept any live animal, reptile, fowl, livestock or wildlife as a prize for or as an inducement to enter any contest, game or other competition; or

as an inducement to enter a place of amusement; or as an incentive to enter into any business agreement whereby the offer is for the purpose of attracting trade or is a promotion for any other commercial purpose.

ARTICLE II – CERTAIN YOUTH ORGANIZATIONS EXPRESSLY EXEMPTED

The prohibition contained in Article I of this Ordinance shall not apply to fish or to animals given as prizes at a rodeo contest or livestock show or as part of a Future Farmers of America program, a 4-H project or show, or other activity of a bona-fide youth organization whose purpose and practices are designed to teach or promote animal husbandry, agriculture, or other academic fields.

ARTICLE III – PENALTIES

Any person or organization violating the provisions of Article I of this Ordinance shall be fined not less than fifty dollars (\$50.00) for a first offense, not less than one hundred dollars (\$100.00) for a second offense, and not less than two hundred fifty dollars (\$250.00) for any third or subsequent offense.

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., March 7, 2020.

FIRST READING:	January 16, 2020
SECOND READING, PASSAGE AND ADOPTION:	February 6, 2020

David W. McCauley, Mayor

CERTIFICATE OF ENACTMENT

I, Randall Sanders, City Recorder, do hereby certify that the foregoing Ordinance No. 441 was lawfully ordained and enacted by the Council of the City of Buckhannon at a regular session of the said Council assembled on February 6, 2020.

Randall Sanders, City Recorder