

**ORDINANCE NO. 442 OF THE CITY OF BUCKHANNON, AMENDING MODIFYING  
AND RE-ENACTING ORDINANCE NOS. 300, 397, and 412 OF THE CITY OF  
BUCKHANNON, KNOWN, CITED AND REFERRED TO AS “THE BUCKHANNON  
ANIMAL CARE AND CONTROL ORDINANCE”**

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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 has deemed it to be reasonable and appropriate to adopt comprehensive regulations respecting animals kept, maintained or otherwise brought or coming into the corporate limits, adopting said regulations in Ordinance Nos. 300, 397, and 421 of the City of Buckhannon; and,

WHEREAS, the Council of the City of Buckhannon deems it to be reasonable and appropriate to make certain amendments and changes to the membership of the Animal Care and Control Board, as established in said Ordinances.

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

That the provisions of said Ordinance Nos. 300, 397, and 421 concerning the establishment of the Municipal Animal Care and Control Commission is deemed amended and reenacted as follows:

**ARTICLE I – ESTABLISHMENT OF MUNICIPAL ANIMAL CARE AND CONTROL COMMISSION:**

Section 1. For purposes of receiving input from the residents of the corporate limits and surrounding Upshur County respecting matters concerning the care and control of animals in general, and of the application and enforcement of the provisions of this ordinance in particular, and the policies and regulations of the City in general respecting the care and control of animals within the corporate limits, there is hereby created the Municipal Animal Care and Control Commission.

Section 2. The Commission shall for all purposes be deemed to be and shall serve as an administrative subdivision of the City of Buckhannon, and shall convene public meetings from time to time to permit local residents the opportunity to be heard upon matters involving or affecting animals within the corporate limits.

Section 3. The Commission shall not have rule-making authority, except insofar as establishing reasonable and necessary rules for the conducting of Commission meetings, but rather the Commission shall serve as a municipal agency of the City, to recommend amendments or additions to this ordinance and to the policies and regulations of the City respecting animal care and control.

Section 4. The Commission shall be convened at least annually, and shall consist of five (5) voting members constituted as follows: (1) the Mayor of the City of Buckhannon who shall serve as Chairperson; (2) a representative, named in writing, of the Lewis-Upshur Animal Control Facility; and (3) (4) and (5), three residents of Upshur County, West Virginia, duly appointed as “at large members” by the Council of the City of Buckhannon, at least one of which must be a resident of the City of Buckhannon.

The terms of service for the five (5) members shall be, in the case of the mayor, for the term of his or her office, and for all other members for a term of up to one (1) year ending at the close of business each June 30, unless otherwise specified by the Council. Members may be reappointed by the Council for unlimited terms of service. The Council may fill unexpired terms for vacated seats upon such vacancies, for the term ended June 30 annually. Additionally, the Council may from time to time appoint other non-voting members, whose terms shall similarly expire each June 30, and who may or may not be residents of the corporate limits, as nominated by the Mayor. A quorum shall be deemed to be the presence of any three (3) voting members of the Commission.

Section 5. All recommendations which the Commission seeks the Council to formally consider, shall be submitted to the Council in written form, and shall be duly considered by the Council during a regularly convened council meeting with the Commission's report to be made a part of the minutes of the Council meeting during which the recommendations are considered.

Section 6. The City Recorder of Buckhannon shall serve as the ex officio secretary of the Animal Care and Control Commission, without vote, and shall take and maintain all minutes of all meetings together with appropriate correspondence received or generated by the Commission.

ARTICLE II – EFFECT UPON OTHER MUNICIPAL ORDINANCES: 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 which are 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 (2<sup>nd</sup>) 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

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David W. McCauley, Mayor

CERTIFICATE OF ENACTMENT

I, Randall Sanders, City Recorder, do hereby certify that the foregoing Ordinance No. 442 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.

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Randall Sanders, Recorder